Sunset and Legislative Oversight

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Texas Sunset Advisory Commission
What is Sunset?

- Sunset is the regular assessment of the continuing need for a state agency or program to exist.
- The Sunset process works by setting an automatic termination (Sunset) date on which an agency will be abolished unless a bill is passed to continue it.
- The process creates a unique opportunity and powerful incentive for the Legislature and stakeholders to look closely at each agency and make key improvements to how state government works.
Commission membership and reviews

- 5 senators appointed by the lieutenant governor and 5 representatives appointed by the speaker of the house (4-year terms)
- 2 public members who “[act] on behalf of the legislature,” one each appointed by the lieutenant governor and speaker of the house (2-year terms)
- About 140 agencies are subject to Sunset review usually every 12 years
  - Most are subject to abolishment if not continued through legislation
- The independent, nonpartisan Sunset staff performs background research and presents recommendations on whether to continue each agency and how to improve effectiveness to the commission members
### Sunset's Impact Since 1977

<table>
<thead>
<tr>
<th>Streamlining State Government</th>
<th>Saving Taxpayer Money</th>
<th>Providing Effective Oversight</th>
</tr>
</thead>
<tbody>
<tr>
<td>39 agencies/programs abolished outright</td>
<td>$981 million in savings and increased revenues</td>
<td>Conducted more than 500 reviews of state agencies/programs in education, public safety, natural resources, transportation, and other aspects of state government</td>
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<td>46 agencies/programs consolidated</td>
<td>Returned about $21 for every $1 spent on Sunset</td>
<td>About 80 percent of the Sunset Commission’s recommendations typically become law</td>
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Evaluate the need to continue the agency and its operations
- Determine if less restrictive methods of performing any function could adequately protect the public
- Assess the agency’s complaint resolution and administrative hearings processes
- Assess the agency’s authority related to fees, inspections, enforcement, and penalties
- Review the agency’s rulemaking process and the extent to which it encourages public participation
- Identify any activities of the agency in addition to those granted by statute
- For agencies that license an occupation or profession, determine the extent to which licensure criteria ensure competency and the impact of those criteria on competition, consumer choice, and costs
Recommendations

Commission members may modify, adopt, or not adopt any staff recommendations, and may make additional recommendations for the commission to consider.

Statutory changes are put into a bill and must be approved by the Senate and House as ordinary legislation. Management actions take effect immediately upon adoption.

- **Fairness**
  - Do processes account for due process, objectivity, and reasonableness?

- **Effectiveness**
  - Is the state getting its money’s worth?

- **Efficiency**
  - Is there a more cost effective, less cumbersome, or more cohesive way of performing a certain function?

- **Accountability**
  - Is the public able to participate in government? Is the agency transparent to stakeholders, the Legislature, and executive leadership?
Major Impacts

- **Texas Alcoholic Beverage Commission (86R)**
  - Major modernization of alcohol regulation in Texas

- **Driver License Administration and Motor Vehicle Theft (86R)**
  - Customer service and public protection through DPS and TxDMV

- **Prescription Monitoring Program (85R)**
  - Addressing opioid prescription practices through educational and regulatory tools

- **Health and Human Services Agencies (84R)**
  - Consolidation and functional reorganization of public health agencies into the Health and Human Services Commission

- **Occupational Regulatory Oversight**
  - Nationally recognized model for evaluating best practices of state licensing and regulatory programs
Legislative Oversight after N.C. Dental

- **N.C. Dental Board v. FTC**, 135 S. Ct. 1101
  - To claim antitrust immunity, first, the state agency must show (1) a clearly articulated policy to allow the anticompetitive conduct, and (2) that the State provides active supervision of the anticompetitive conduct.

- Sunset made recommendations to address potentially anticompetitive conduct, including to:
  - update agency board member training to include provisions regarding potentially anticompetitive behavior; and
  - adjust the TxDMV board’s administrative processes and training to ensure increased public participation.

- The Legislature enacted S.B. 1995 to provide for the review of agency rules that affect market competition by the Office of the Governor.
Any Questions?

For more information, visit our website
https://www.sunset.texas.gov/

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