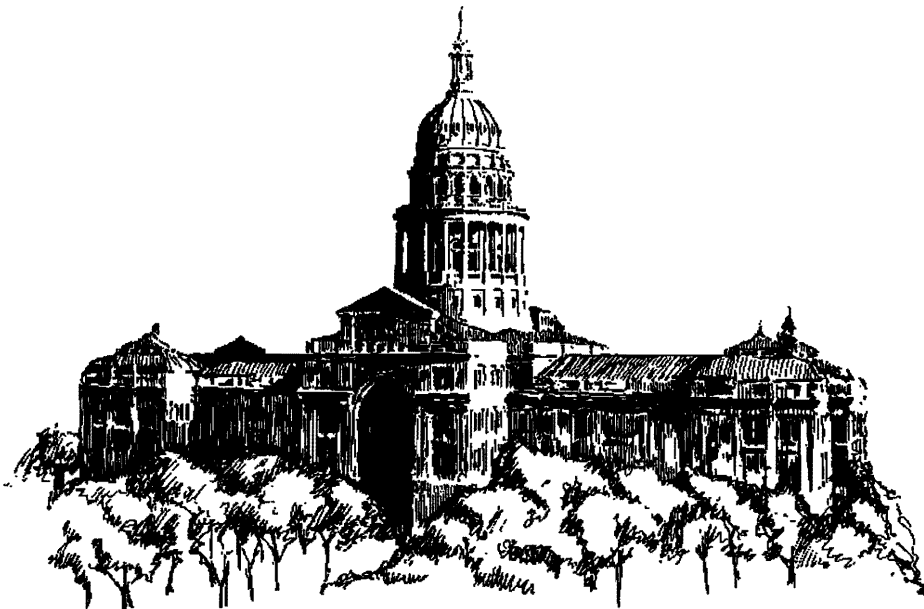


Analysis of Sunset Legislation

73rd Legislative Session



1400 North Congress
Room E2.002
Capitol Extension
P.O. Box 13066
Austin, Texas 78701
(512) 463-1300

Sunset Advisory Commission

September 1993

TEXAS SUNSET ADVISORY COMMISSION

Membership

Representative David Cain, Chair

Senator Carl Parker, Vice-Chair

Representative Layton Black

Senator Steve Carriker

Representative David Counts

Senator O.H. (Ike) Harris

Representative Ashley Smith

Senator Mike Moncrief

Charles Edmonds, Public Member

Paul Wageman, Public Member

Staff of the Sunset Advisory Commission

Bill Wells, Director

Karl Spock, Assistant Director

Ron Allen

Susan Kinney

Cindy Atkinson

Roland Leal

Ann Blevins

Ken Levine

Charla Ann Baker

Joey Longley

Merrell Foote

Ginny McKay

Susan Gennusa

Cyndie Schmitt

Rachelle Hill

Ying Tang

David Holland

Dawn Volcik

John Hubbard

Joe Walraven

Barbara Hunley

Sunset Advisory Commission

**ANALYSIS OF
SUNSET LEGISLATION**

September 1993

Table of Contents

Summary 1

Exhibit 1 - Sunset Legislation and Sponsors 5

Exhibit 2 - Commission and Legislative Recommendations
in Sunset Legislation 7

Exhibit 3 - Fiscal Impact of Sunset Legislation 9

**Analysis of
Legislation**

Agencies That Were Continued

Texas Alcoholic Beverage Commission 11

Bill Summary 15

Texas Department of Commerce 23

Bill Summary 27

Employees Retirement System of Texas 31

Bill Summary 35

General Services Commission 41

Bill Summary 45

Texas Department of Insurance/
Office of Public Insurance Counsel 53

Bill Summary 61

Texas Department of Public Safety 85

Bill Summary 89

Midwifery Board 93

Bill Summary 95

Texas State Board of Examiners of Dietitians 97

Bill Summary 101

Texas State Board of Examiners of Psychologists 105

Bill Summary 109

Table of Contents (cont.)

Texas State Board of Examiners of Marriage and Family Therapists	113
Bill Summary	117
Texas State Board of Social Work Examiners	121
Bill Summary	125
Texas State Board of Examiners of Professional Counselors	129
Bill Summary	133
Board of Vocational Nurse Examiners	137
Bill Summary	141
Board of Nurse Examiners	145
Bill Summary	149
Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids	153
Bill Summary	157
 <i><u>Agencies That Were Continued</u></i>	
State Committee of Examiners for Speech-Language Pathology and Audiology	161
Bill Summary	165
Texas Board of Chiropractic Examiners	169
Bill Summary	173
Texas State Board of Medical Examiners	177
Bill Summary	181
Texas Optometry Board	191
Bill Summary	195
Texas State Board of Pharmacy	203
Bill Summary	207
Texas State Board of Podiatry Examiners	213
Bill Summary	217

Table of Contents (cont.)

Texas State Board of Veterinary Medical Examiners	221
Bill Summary	225
Health Professions Council	231
<u>Agencies That Were Merged</u>	
Executive Council of Physical Therapy and Occupational Therapy Examiners	233
Bill Summary	237
Texas Board of Licensure for Nursing Home Administrators	245
Bill Summary	249
<u>Agencies Required to be Re-Reviewed in 1995</u>	
Public Utility Commission of Texas/Office of Public Utility Counsel	255
Bill Summary	257
Teacher Retirement System of Texas	259
Bill Summary	261
<u>Agencies That Had No Legislation</u>	
Texas State Board of Dental Examiners	269
Sunset Staff Assigned to Agency Reviews	273

SUMMARY

SUMMARY

The Sunset Commission reviewed 30 agencies during the 1992-93 biennium. All but two of the agencies were scheduled to be abolished unless the 73rd Legislature passed bills continuing them. The two agencies that were reviewed under the Sunset Act but not automatically abolished were the Employees Retirement System and the Teacher Retirement System.

Sunset bills were dealt with differently by the House of Representative during the 73rd session. Instead of referring all sunset legislation to one committee (in past sessions the Government Organization Committee handled sunset legislation) the House referred the sunset bills to the substantive committees. This produced interesting results for those sunset bills dealing with insurance, regulation of public utilities and health licensing agencies. The Senate continued its past practice of referring Sunset bills to substantive committees. However, the Senate did change its rules to limit the scope of amendments that could be added to a sunset bill during floor debate. The rule prohibited floor amendments dealing with any subject matter that had not been considered in committee.

During the course of the session, the sunset process itself came under fire. S.B. 389 by O.H. Harris and H.B. 1642 by Stiles would have abolished the commission. Neither bill passed, but they did generate fresh discussion about the purpose of sunset and whether or not the purpose was best served by limiting or expanding the possibility of changing state policy through sunset. This discussion occurred against the backdrop of the Sunset Commission's recommendations to the 73rd Legislature. The recommendations continued to follow the path of looking broadly at policies that underlie state agencies rather than restricting its recommendations to "administrative" issues. A series of recommendations dealing with substantive policy changes resulted from this approach.

A primary policy change recommended by the sunset commission dealt with a series of mergers of health licensing agencies. The mergers were designed to avoid the continuing problem of agencies spending time "reinventing government" in a vacuum and a new and growing problem resulting from health professionals overlapping fields of practice. Of the 11 agencies recommended for merger eight managed to convince the legislature that they should be spared the awful fate of merger. The three that were merged, the Texas Board of Physical Therapy Examiners with the Texas Advisory board of Occupational Therapy Examiners and the Texas Board of Licensure for Nursing Home Administrators with the Texas Department of Health, actually used the sunset process and the merger to strengthen their regulatory framework.

Although merger on a large scale was not acceptable to the legislature, one action was taken which will put an end to the ability of a health licensing agency to act in blissful ignorance of the impact those actions may have on other health licensing agencies. The legislature agreed with the Sunset Commission that it was not good public policy to continue to allow licensing agencies to operate in isolation. The commission proposed, and the legislature approved, the creation of a Health Professions Council. The council will serve as a forum for 25 to 30 health licensing agencies to discuss common problems and approaches.

The commission proposed reorganization not only for smaller licensing agencies but for three major regulatory agencies as well. The commission recommended and the legislature adopted the restructuring of the State Board of Insurance to eliminate the current three full-time members, replacing them with a single commissioner appointed by the Governor.

As a result of the review of the Public Utility Commission the commission recommended a major realignment which would have: 1) transferred the hearings of rate cases to the State Office of Administrative Hearings, 2) abolished the function of the general counsel and, 3) strengthened the Office of Public Utility Counsel. Since a final piece of legislation could not be agreed on the reorganization elements were not adopted. The agency will once again be subject to sunset in 1995 and it remains to be seen what, if any, action the 74th legislature will take on the reorganization recommendations.

The Texas Alcoholic Beverage Commission was the third large regulatory agency under review which was changed significantly through reorganization. The Sunset Commission recommended and the legislature approved both the transfer of the hearings function to the State Office of Administrative Hearings and the collection and auditing of alcoholic beverage taxes to the Comptroller of Public Accounts.

The final results of sunset legislation were generally positive. As shown in Exhibit 1, twenty-six agencies were continued, three agencies were merged and one agency, the Texas Board of Dental Examiners, was abolished. A number of significant changes to current state policy were made in the statutes of the agencies that were continued. Examples of these changes are described below.

- ▶ House Bill 1445 by Wilson, the sunset bill for the Texas Alcoholic Beverage Commission, significantly changed the state's policies for regulating and taxing alcoholic beverages. For example, effective January 1, 1994, the new law transfers the responsibility for collecting and auditing the mixed beverage tax from the Alcoholic Beverage Commission to the Comptroller. Over time, it is expected that the comptroller will need less personnel to carry out the transferred duties. This reduction may occur because his office already carries out other similar functions. The transfer continues a trend toward consolidating the state's tax collection activities in the comptroller's office.
- ▶ House Bill 2711 by Johnson, the sunset bill for the Teacher Retirement System, continued an effort begun in the 72nd Legislature to improve the availability of health insurance for public school employees. The 72nd Legislature in 1991 assigned initial responsibility for working on this policy area to the Employees Retirement System. The legislature directed the ERS to establish a statewide health insurance plan for school districts. The ERS ran into difficulties in getting this program up and running for a variety of reasons. These reasons included lack of funding for the program and the likely harmful impact of the proposed program on the actuarial soundness of other health insurance programs run by the state. The 73rd Legislature recognized these problems. H.B. 2711 shifted responsibility for developing a health insurance program for public school employees from the ERS to the TRS. The bill directs the TRS to

study the degree of interest in this type of program and to recommend a structure for the program to the Legislative Budget Board and the governor by June 1994. The TRS will collect a fee from school district employees to fund the study.

- ▶ Senate Bill 510 by Moncrief, the sunset bill for the Texas Department of Public Safety, contained provisions to make sure the agency has effective enforcement tools and to make some state laws tougher. Of particular importance, the bill's provisions help in the fight to stop young drivers from driving while intoxicated. Under the new law, drivers under the age of 21 will be considered intoxicated when tests show a lower concentration of alcohol in their blood than before. In addition, the bill increases the minimum suspension time, upon conviction, from 90 days to one year.
- ▶ House Bill 2626 by Black, the sunset bill for the General Services Commission, streamlined and strengthened the state's policies for purchasing and space allocation. The bill made substantial changes to strengthen the state's historically underutilized business program. Before, the responsibility for identifying these businesses for placement on the GSC's bidders list was split between the Department of Commerce and the GSC. The new law consolidates the effort in the GSC. Consolidation simplifies the process for historically underutilized businesses by reducing the number of agencies they have to work with. The bill also requires the comptroller to conduct a study to decide if the state's contracting process discriminates against historically underutilized businesses. The bill further emphasizes the state's commitment to promoting these businesses by increasing the goal for their participation in state contracts from 10 to 30 percent.
- ▶ The legislation also restructured the state's policy for encouraging "privatization." The policy used to be carried out through the Competitive Cost Review Program. The goal of the program was to compare a state agency's cost for providing a service with its equivalent cost in the private sector. Where state costs exceeded private sector costs by more than 10 percent, the state program could be restructured or the service could be put out for bid. This program did not work well for a variety of reasons. The new legislation abolished the program but established in its place a program headed up by the new State Council on Competitive Government. The council should serve as a point for focusing and directing the program in the future.
- ▶ House Bill 1461 by Counts, the sunset bill for the Texas Department of Insurance and the Office of Public Insurance Counsel, significantly altered insurance regulation in the state. The legislature has been wrestling with problems in insurance regulation for several years. Through the sunset bill the legislature acted to streamline decision-making for the department and to give the governor more direct policy control to solve ongoing problems. The sunset bill eliminate the full-time insurance board and provides for the governor to appoint a commissioner of insurance. The commissioner is to be solely responsible for all insurance regulation, including the setting of all insurance rates. In another policy area, the legislature also restructured the program established for drivers who are unable to obtain automobile insurance through ordinary

means. This program, called the Texas Automobile Insurance Plan, is particularly important since all motorists must have liability insurance for renewal of a driver's license, for auto inspection, and for vehicle registration. One of these changes requires public members to be on the Plan's governing committee for the first time. The committee will now be expanded from 10 industry members to 15 members, five of whom represent the public.

- ▶ Senate Bill 405 by Carriker, the sunset bill for the Texas Department of Commerce, added support to the trend to shift the cost of state programs from the general taxpaying public to those who benefit from use of government services. The department provides services to help individual businesses become more profitable. The bill now requires the department to charge fees to recover the cost of services it provides to help businesses. The bill also continues the effort to help historically underutilized businesses in the state. The sunset legislation requires the agency to identify sources of financial assistance available to these businesses and to establish additional financing programs to help them overcome financial barriers.

- ▶ Senate Bill 1181 by Barrientos, the sunset bill for the Employees Retirement System of Texas, made several policy changes to make the system work better for its members. One major change allows people who have worked under both the ERS and the Teacher Retirement System to add their years of service in each system together for retirement credit. A person would be treated as if he had been in one system throughout his career. Before, a person would have to take a proportion of his retirement from each system. Under this old approach, persons having worked in both systems could end up being penalized by receiving a lower benefit than a person working the same amount of time in one system. This issue had been identified and studied before. The sunset process added the momentum to finally resolve the actuarial problems involved in the change.

These examples deal with only a few of the policy changes made through sunset. Exhibit 2 shows the total number of statutory changes, excluding the commissions' standard recommendations, made by the commission and the legislature. The detail on specific recommendations is covered in the bill summaries for each agency later in the report.

The statutory changes developed through the sunset process will result in a net overall gain to state revenues of \$45.9 million for the 1994-1995 biennium. It also represents a return of \$45 for each \$1 spent on the sunset reviews. The net costs and revenues are shown in Exhibit 3.

Exhibit 1
SUNSET LEGISLATION AND SPONSORS

Agency	Bill	Sponsor
<i>Agencies That Were Continued</i>		
1. Texas Alcoholic Beverage Commission	HB 1445	Representative Wilson
2. Texas Department of Commerce	SB 405	Senator Carriker
3. Employees Retirement System of Texas	SB 1181	Senator Barrientos
4. General Services Commission	HB 2626	Representative Black
*5. Texas Department of Insurance/ Office of Public Insurance Counsel	HB 1461	Representative Counts
6. Texas Department of Public Safety	SB 510	Senator Moncrief
7. Midwifery Board	SB 1433	Senator Moncrief
8. Texas State Board of Examiners of Dietitians	SB 1434	Senator Moncrief
9. Texas State Board of Examiners of Psychologists	SB 1424	Senator Parker
10. Texas State Board of Examiners of Marriage and Family Therapists	SB 1425	Senator Parker
11. Texas State Board of Social Work Examiners	SB 1426	Senator Parker
12. Texas State Board of Examiners of Professional Counselors	HB 2741	Representative Rodriguez
13. Board of Vocational Nurse Examiners	SB 839	Senator Moncrief
14. Board of Nurse Examiners	HB 2180	Representative Black
15. Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids	SB 953	Senator Wentworth
16. State Committee of Examiners for Speech-Language Pathology and Audiology	SB 1077	Senator I. Harris
17. Texas Board of Chiropractic Examiners	SB 1061	Senator Parker/ Senator Moncrief
18. Texas State Board of Medical Examiners	SB 1062	Senator Parker/ Senator Moncrief
19. Texas Optometry Board	HB 1479	Representative Cain
20. Texas State Board of Pharmacy	SB 621	Senator Carriker

Exhibit 1
SUNSET LEGISLATION AND SPONSORS
 (cont.)

Agency	Bill	Sponsor
<i>Agencies That Were Continued</i>		
21. Texas State Board of Podiatry Examiners	SB 1080	Senator I. Harris
22. Texas State Board of Veterinary Medical Examiners	SB 623	Senator Carriker
23. Health Professions Council	SB 674	Senator Moncrief
<i>Agencies That Were Merged</i>		
24. Executive Council of Physical Therapy and Occupational Therapy Examiners	SB 690	Senator Carriker
25. Texas Board of Licensure for Nursing Home Administrators	SB 674	Senator Moncrief
<i>Agencies Required to be Re-Reviewed in 1995</i>		
*26. Public Utility Commission of Texas/ Office of Public Utility Counsel	SB 498	Senator Parker
27. Teacher Retirement System of Texas	HB 2711	Representative Johnson
<i>Agencies That Had No Legislation</i>		
28. Texas State Board of Dental Examiners	SB 673	Senator Moncrief

* Counted as one agency for exhibit.

Exhibit 2
COMMISSION AND LEGISLATIVE RECOMMENDATIONS
IN SUNSET LEGISLATION

	Sunset Commission Recommendations	Additional Legislative Issues
<i>Agencies That Were Continued</i>		
1. Texas Alcoholic Beverage Commission	16	54
2. Texas Department of Commerce	12	6
3. Employees Retirement System of Texas	4	24
4. General Services Commission	14	27
*5. Texas Department of Insurance/ Office of Public Insurance Counsel	26 2	90 1
6. Department of Public Safety	9	8
7. Midwifery Board	6	0
8. Texas State Board of Examiners of Dietitians	8	5
9. Texas State Board of Examiners of Psychologists	11	8
10. Texas State Board of Examiners of Marriage and Family Therapists	9	5
11. Council for Social Work Certification	10	7
12. Texas State Board of Examiners of Professional Counselors	9	13
13. Board of Vocational Nurse Examiners	12	4
14. Board of Nurse Examiners	13	4
15. Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids	8	17
16. State Committee of Examiners for Examiners for Speech-Language Pathology and Audiology	12	19
17. Texas Board of Chiropractic Examiners	14	5

Exhibit 2
COMMISSION AND LEGISLATIVE RECOMMENDATIONS
IN SUNSET LEGISLATION
 (cont.)

	Sunset Commission Recommendations	Additional Legislative Issues
<i>Agencies That Were Continued</i>		
18. Texas State Board of Medical Examiners	21	25
19. Texas Optometry Board	18	15
20. Texas State Board of Pharmacy	17	1
21. Texas State Board of Podiatry Examiners	9	2
22. Texas State Board of Veterinary Medical Examiners	12	16
23. Health Professions Council	3	6
<i>Agencies That Were Merged</i>		
24. Texas Advisory Board of Occupational Therapy Examiners/Texas State Board of Physical Therapy Examiners	17	12
25. Texas Board of Licensure for Nursing Home Administrators	8	0
<i>Agencies Required to be Re-Reviewed in 1995</i>		
*26. Public Utility Commission/ Office of Public Utility Counsel	1 1	0 0
27. Teacher Retirement System of Texas	1	41
<i>Agencies That Had No Legislation</i>		
28. Texas State Board of Dental Examiners		

*Counted as one agency for exhibit.

Exhibit 3

FISCAL IMPACT OF SUNSET LEGISLATION - 73rd LEGISLATURE

Agency	Fiscal Year 1994			Fiscal Year 1995			FY 1994-1995 Total Net Fiscal Impact
	Net Gain	Net Loss	Net Fiscal Impact	Net Gain	Net Loss	Net Fiscal Impact	
<i>Agencies That Were Continued</i>							
1. Texas Alcoholic Beverage Commission	\$6,037,915	\$1,027,725	\$5,010,190	\$5,995,376	\$116,485	\$5,878,891	\$10,889,081
2. Texas Department of Commerce	399,000	0	399,000	399,000	0	399,000	798,000
3. Employees Retirement System of Texas	25,508,300	26,587,000	(1,078,700)	25,506,300	26,974,000	(1,467,700)	(2,546,400)
4. General Services Commission	6,265,535	224,950	6,040,585	12,885,431	224,950	12,660,481	18,701,066
*5. Texas Department of Insurance/ Office of Public Insurance Counsel	7,480,638	3,898,051	3,582,587	2,685,690	2,157,725	527,965	4,110,552
6. Texas Department of Public Safety	3,209,800	793,662	2,416,138	2,736,900	745,571	1,991,329	4,407,467
7. Midwifery Board	3,900	0	3,900	3,900	0	3,900	7,800
8. Texas State Board of Examiners of Dietitians	36,319	36,319	0	30,246	30,246	0	0
9. Texas State Board of Examiners of Psychologists	125,405	125,405	0	98,510	98,510	0	0
10. Texas State Board of Examiners of Marriage and Family Therapists	0	0	0	0	0	0	0
11. Texas State Board of Social Work Examiners	0	0	0	0	0	0	0
12. Texas State Board of Examiners of Professional Counselors	0	0	0	0	0	0	0
13. Board of Vocational Nurse Examiners	4,125	36,420	(32,295)	4,125	36,420	(32,295)	(64,590)
14. Board of Nurse Examiners	0	46,367	(46,367)	0	46,367	(46,367)	(92,734)
15. Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids	9,840	0	9,840	8,080	0	8,080	17,920
16. State Committee of Examiners for Speech-Language Pathology and Audiology	12,900	12,900	0	1,075	1,075	0	0

Exhibit 3
FISCAL IMPACT OF SUNSET LEGISLATION - 73rd LEGISLATURE
(cont.)

Agency	Fiscal Year 1994			Fiscal Year 1995			FY 1994-1995 Total Net Fiscal Impact
	Net Gain	Net Loss	Net Fiscal Impact	Net Gain	Net Loss	Net Fiscal Impact	
17. Texas Board of Chiropractic Examiners	307,398	9,800	297,598	305,778	6,560	299,218	596,816
18. Texas State Board of Medical Examiners	321,790	321,790	0	222,527	222,527	0	0
19. Texas Optometry Board	82,393	82,393	0	68,735	68,735	0	0
20. Texas State Board of Pharmacy	152,771	152,771	0	130,661	130,661	0	0
21. Texas State Board of Podiatry Examiners	31,539	31,539	0	30,247	30,247	0	0
22. Texas State Board of Veterinary Medical Examiners	30,500	30,500	0	13,000	13,000	0	0
23. Health Professions Council	123,256	123,256	0	105,856	105,856	0	0
<i>Agencies That Were Merged</i>							
24. Executive Council of Physical Therapy and Occupational Therapy Examiners	293,768	293,768	0	263,678	263,678	0	0
25. Texas Board of Licensure for Nursing Home Administrators	104,061	0	104,061	105,353	0	105,353	209,414
<i>Agencies Required to be Re-Reviewed in 1995</i>							
*26. Public Utility Commission of Texas/ Office of Public Utility Counsel	0	0	0	0	0	0	0
27. Teacher Retirement System of Texas	4,000,000	0	4,000,000	4,000,000	0	4,000,000	8,000,000
<i>Agencies That Had No Legislation</i>							
28. Texas State Board of Dental Examiners	0	0	0	872,691	0	872,691	872,691
TOTAL	\$54,541,153	\$33,834,616	\$20,706,537	\$56,473,159	\$31,272,613	\$25,200,546	\$45,907,083

* Counted as one agency for this exhibit.

ANALYSIS OF LEGISLATION

Texas Alcoholic Beverage Commission

Final Action: ***The Texas Alcoholic Beverage Commission was continued for a 12-year period with changes.***

HB 1445 by Wilson

Analysis of Major Provisions in the Final Bill

House Bill 1445, as introduced, contained the Sunset Commission's recommendations for the Texas Alcoholic Beverage Commission. Many of these recommendations remained in the final version of the bill, along with a number of new provisions added by the legislature. The major provisions in the final bill are discussed below.

Transfer the responsibility for collecting and auditing the mixed beverage tax from TABC to the comptroller. The legislature added language transferring TABC's mixed beverage tax collection and auditing activities to the comptroller's office on January 1, 1994. All employees with mixed beverage tax responsibilities would transfer initially. However, it is expected that the comptroller will need less personnel to carry out the transferred duties due to duplication of some functions as well as other factors. This transfer, along with the transfer of the collection of insurance taxes set out in the sunset bill on the Department of Insurance, continues a trend toward consolidating the state's tax collection activities in the comptroller's office.

Give the TABC the power to add surcharges to current license and permit fees to cover the state's full cost of regulating the alcoholic beverage industry. The legislature modified a recommendation of the Sunset Commission requiring the agency to recover costs of regulating the alcoholic beverage industry through fees. Under the legislature's approach, the agency is still required to recover costs of regulating the industry, but would do so through surcharges added to the existing fees set out in the alcoholic beverage code. The Sunset Commission had recommended allowing the agency to adjust the fees themselves. Having the TABC set these surcharges prevents the legislature from having to enact fee-related legislation just to keep up with inflation and increases in the costs of regulation. The legislature also required the commission to include the costs of the mixed beverage tax collection activities that were transferred to the comptroller in determining the fee surcharges.

Strengthen the agency's ability to enforce statutes relating to the sale of alcoholic beverages to minors. Based on a recommendation of the Sunset Commission, the legislature clarified "sale to a minor" laws to set out one consistent standard that must be proven when a sale to a minor occurs. Since 1987, standards that had to be proved varied depending on whether criminal or administrative sanctions were to be applied. The different standards made it difficult for the TABC to take administrative action against licensees and permittees.

The code now sets "criminal negligence" as the standard that must be proven to take either criminal or administrative action against persons selling alcoholic beverages to minors.

Allow the TABC to outlaw the possession of open containers and consumption of alcohol on public property in downtown areas of cities. The Sunset Commission recommended that cities be authorized to enact ordinances regulating the possession of open containers and consumption of alcoholic beverages on public property such as streets and sidewalks. The legislature modified the commission's approach by authorizing cities to request the TABC to issue an order prohibiting consumption and possession of alcoholic beverages in their central business district. If a city's request meets certain requirements, the TABC must issue the order. The order may only apply to a central business district. In addition, the legislature prohibited possession of an open container or consumption of alcoholic beverages within 600 feet of schools.

Change the law that requires retail licenses and permits be at least 51 percent Texas owned. Based on a recommendation of the Sunset Commission, licenses or permits for bars and restaurants and for businesses such as convenience stores no longer have to have 51 percent Texas ownership. Instead, the corporation must be incorporated in Texas and its board of directors must have lived in Texas for at least a year. There are no residency requirements for the owners of the corporation. The legislature continued the 51 percent Texas ownership requirement for package stores, wholesalers and distributors, but the requirement for determining a "Texas" owner was reduced from three years or Texas residency to one year.

Comparison of Sunset Commission Legislation with Final Legislation

A comparison of H.B. 1445 with the original sunset bill as introduced shows that all standard Sunset Commission across-the-board recommendations proposed by the commission were included in the final bill.

Most of the Sunset Commission's specific recommendations remained in the final bill. However, several significant recommendations were deleted during the legislative process.

Provide TABC clear license suspension authority and the power to impose administrative fines for violations of the alcoholic beverage code. The Sunset Commission recommended authorizing the agency to set administrative penalties to fit the severity of the violation. The method for setting penalties would have been based on the framework set up by the legislature for many of the state's regulatory agencies. In addition, the option currently provided to a violator to pay a fine in lieu of suspension would have been removed and clear suspension authority granted to the TABC. The legislature did not enact these changes because it was found that the flexibility of the current method for fining licensees and permittees works adequately for alcoholic beverage regulation.

Establish a citizens advisory committee on community problems related to the sale of alcoholic beverages. The Sunset Commission recommended creating a citizens advisory committee in statute. The committee would have been composed of nine members representing public groups, local communities, local police enforcement agencies and the

on the needs and problems of communities relating to the sale and consumption of alcoholic beverages and to comment on TABC rule changes. The provision was dropped because of concerns that a standing advisory committee was not necessary. The commission has the authority to appoint advisory committees on an as-needed basis.

Increase opportunities for charities that conduct bingo to boost earnings. The commission made several recommendations aimed at ensuring that charities running bingo games retain as much bingo revenue as possible. The recommendations included requiring the TABC to develop rules governing the determination of fair and reasonable rent for charities, authorizing associations of charitable organizations to co-own buildings to hold bingo games, and giving the TABC the power to impose fines for violations of the Bingo Enabling Act. The legislature, in a separate bill, transferred the regulation of bingo from the TABC to the new Lottery Commission. As a result, the sunset recommendations concerning bingo were removed from the TABC sunset bill.

Fiscal Impact

Fiscal Year	Gain to the General Revenue Fund
1994	\$5,010,190
1995	5,878,891
1996	6,818,456
1997	6,600,175
1998	7,592,079

The gain to the General Revenue Fund primarily results from two bill provisions. The first provision requires the TABC to add surcharges to current license and permit fees to cover the state's cost of regulating the alcoholic beverage industry. This provision will increase TABC revenue about \$3.8 million to \$5.5 million per year. The second provision with a significant fiscal impact transfers the collection and auditing of the mixed beverage taxes to the state comptroller. It is estimated that savings of over \$2 million per year will result from the transfer, although there will be about \$900,000 in moving expenses in fiscal year 1994.

Bill Summary - Enrolled Version
Texas Alcoholic Beverage Commission
HB 1445 by Wilson

Bill Reference	Bill Provision
Page 1, Line 12 Page 59, Line 25 Page 73, Line 11	Authorize the sale of low-alcohol wine and spirit coolers and allow transport by wholesalers.
Page 2, Line 3 Page 49, Line 16 Page 54, Line 18 Page 71, Line 21 Page 73, Line 11	Clarify the sale to minor statute to use a consistent standard of proof.
Page 2, Line 14	Continue the agency for a 12-year period.
Page 2, Line 18	Provide that a person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the board or serve as a member of the commission. (ATB)
Page 2, Line 25 thru Page 3, Line 10	Require specific provisions relating to conflicts of interest for commission members. (ATB)
Page 3, Line 13	Require the board to establish skill-oriented career ladders. (ATB)
Page 3, Line 18	Require a system of merit pay based on documented employee performance. (ATB)
Page 3, Line 25 thru Page 5, Line 3	Require development of an equal employment opportunity policy. (ATB)
Page 5, Line 7 thru Page 6, Line 7	Improve minority hiring by creating a human resources section and strengthening the agency's recruiting program.
Page 6, Line 10	Require the agency to provide information on standards of conduct to commission members and employees. (ATB)
Page 6, Line 21 Page 98, Line 13	Require that the policy body of an agency develop and implement policies which clearly separate commission and staff functions. (ATB)
Page 6, Line 26 thru Page 7, Line 6	Provide for the TABC to retain proceeds from forfeited contraband.
Page 7, Line 9 Page 96, Line 26 thru Page 97, Line 8	Transfer the TABC hearings functions to SOAH.
Page 8, Line 1	Require TABC to assess surcharges to current fees to cover the costs of regulating the alcoholic beverage industry.

**Bill Summary - Enrolled Version
Texas Alcoholic Beverage Commission
HB 1445 by Wilson**

Page 8, Line 17	Require files to be maintained on complaints. (ATB)
Page 8, Line 18	Require that all parties to formal complaints be periodically informed in writing as to the status of the complaint. (ATB)
Page 8, Line 20	Require development of accessibility plan. (ATB)
Page 8, Line 27 thru Page 9, Line 12	Provide for notification and information to the public concerning commission activities. (ATB)
Page 10, Line 4 thru Page 14, Line 23 Page 20, Line 3 Page 24, Line 16 Page 46, Line 7 Page 79, Line 17 Page 79, Line 25 Page 82, Line 3 thru Page 83, Line 23	Remove the requirement that all retail licenses or permits, except for package stores, be at least 51 percent Texas-owned and be a Texas corporation. Reduce citizenship requirements for all segments of the alcoholic beverage industry from three years to one year, with the above exceptions.
Page 14, Line 24 thru Page 15, Line 10	Allow a 10-day grace period on renewals of licenses and permits.
Page 15, Line 13	Provide for out-of-state corporations to also be liable for dram shop violations by businesses they own.
Page 15, Line 20 Page 97, Line 18	Provide for hearings on issuance or renewal of permits in the county of issuance.
Page 16, Line 1 thru Page 17, Line 19 Page 41, Line 15 thru Page 43, Line 6	Require a \$5,000 surety bond for license/permit holders in the city of Houston to ensure conformance with alcoholic beverage laws.
Page 17, Line 27 thru Page 18, Line 18	Require a hearing before granting or refusing to issue a new or renewal license or permit to a sexually-oriented business. Hearings on renewal of licenses or permits only required if 50 percent of the residents residing within 300 ft. of the business request a hearing.
Page 20, Line 7 Page 48, Line 2	Allow a permit to be issued once an adequate building is provided.
Page 20, Line 24 Page 47, Line 2	Allow the TABC to refuse to issue a mixed beverage permit to a location where a permit has been revoked for certain illegal acts.

**Bill Summary - Enrolled Version
Texas Alcoholic Beverage Commission
HB 1445 by Wilson**

Page 21, Line 3	Require licensed establishments to be reviewed for compliance with the Americans with Disabilities Act and be given information about compliance with that Act.
Page 21, Line 19 thru Page 22, Line 11 Page 55, Line 13	Require a permit hearing under certain circumstances, in cities of 1,500,000 or more, if a bar is within 300 feet of schools, residences, churches, hospitals, day care and social service facilities.
Page 24, Line 25 thru Page 25, Line 11 Page 52, Line 20 thru Page 53, Line 6	Require a license or permit to be canceled if permittee knowingly allows an unauthorized firearm on the premise.
Page 25, Line 21 Page 97, Line 9	Place a \$25,000 cap on civil fines for violations of the Alcoholic Beverage Code.
Page 26, Line 2	Allow manufacturers of ale that produce less than 75,000 barrels annually to distribute their own product. Combines the production of beer and ale to meet the limit for distributing their own product.
Page 27, Line 4	Allow wineries to make up to 50 gallons for individuals under a private label.
Page 27, Line 12 Page 40, Line 2 thru Page 41, Line 4 Page 90, Line 6	Modernize regulation of wine regarding sampling, labeling, bonding, transportation and storage.
Page 27, Line 18	Allow on and off premise sales at wineries in cities located in three or more counties and that has an international airport.
Page 28, Line 1 Page 28, Line 6 Page 43, Line 9 thru Page 45, Line 17	Authorize product tastings in package stores.
Page 28, Line 19	Allow wine and beer licensees to also sell sherry and port.
Page 29, Line 7	Authorize historic preservation societies to obtain temporary alcoholic beverage permits.
Page 29, Line 12 thru Page 30, Line 13	Authorize three-day wine and beer permits for special events conducted by charitable and civic groups.
Page 31, Line 8	Delete bond requirements when ownership of a premise is transferred.

**Bill Summary - Enrolled Version
Texas Alcoholic Beverage Commission
HB 1445 by Wilson**

Page 31, Line 16	Require permittees to purchase liquor from a local distributor in that county, or if none, in the nearest county.
Page 32, Line 11	Prohibit bars from substituting requesting brands without notice and make the bar liable in a civil suit if they do so.
Page 33, Line 3 Page 38, Line 10 thru Page 39, Line 11	Require liquor bottles in bars and private clubs to have an appropriate stamp.
Page 33, Line 16 thru Page 34, Line 4 Page 38, Line 23 thru Page 39, Line 11	Prohibit issuance of private club permits to establishments that have had a permit revoked due to obtaining liquor through improper channels.
Page 34, Line 5 Page 39, Line 12	Authorize summary suspension of permittees and private clubs who do not pay their taxes.
Page 35, Line 6	Allow a person with a mixed beverage permit to obtain up to 10 temporary permits per year instead of the current limit of two permits.
Page 35, Line 13	Allow a holder of caterers permit to sell temporarily in dry areas of certain counties.
Page 36, Line 5	Require private club fees to be based on levels of membership.
Page 37, Line 22 thru Page 38, Line 5 Page 68, Line 25 thru Page 69, Line 1 Page 69, Line 15	Allow mixed beverages and beer to be sold starting at 10am instead of noon on Sundays, if served with food.
Page 47, Line 7	Allow hotel minibars to be restocked at any time that a mixed beverage establishment can be open.
Page 54, Line 26 thru Page 55, Line 10	Allow manufacturers, operating under the "Shiner exemption", to obtain a warehouse license and to deliver beer to the warehouse from out of state.
Page 56, Line 7	Limit manufacturer's agents from representing themselves as acting on behalf of distributors or wholesalers.
Page 56, Line 20 thru Page 59, Line 18	Authorize restaurants/bars to brew and sell on-premise, up to 5,000 barrels of beer annually.
Page 60, Line 20	Allow the strength of a product to be advertised on the label.

Bill Summary - Enrolled Version
Texas Alcoholic Beverage Commission
HB 1445 by Wilson

Page 61, Line 8	Allow 355 milliliter containers for spirit coolers.
Page 61, Line 15 thru Page 62, Line 1	Prohibit consumption of alcoholic beverages and possession of an open container within 600 feet of a public or private school that provides all or part of kindergarten through 12th grade.
Page 62, Line 4	Allow wholesalers to provide samples of products to retailers.
Page 63, Line 9 thru Page 65, Line 27	Change advertising provisions to clearly prohibit the use of coupons, clarify that Texans can participate in national sweepstakes sponsored by the alcoholic beverage industry, and allow the alcoholic beverage industry to advertise at racetracks and supplement purses.
Page 63, Line 19	Technical correction to delete outdated language.
Page 66, Line 3	Allow wholesalers and distributors to restock merchants shelves.
Page 66, Line 20	Clarify that beer distributors can only sell in an authorized territory.
Page 67, Line 3 thru Page 68, Line 13	Require beer retailers to sell beer only in original packages and allow distributors to withdraw aging stock from retailers. Prohibit wholesalers and distributors from giving a refund or replacing alcoholic beverages damaged in a retailer's possession.
Page 68, Line 18	Allow liquor distributors to deliver orders between 5am and 9pm.
Page 69, Line 23	Allow beer retailers with a late hours license to not use all of the extended hours available.
Page 70, Line 8	Allow deliveries of beer starting at 5am on any day except Sunday.
Page 70, Line 18 Page 71, Line 10 Page 71, Line 16 Page 71, Line 26 thru Page 73, Line 4	Increase penalty for second offenses by minors purchasing, consuming, or possessing alcoholic beverages and require their attendance at alcohol awareness courses.
Page 70, Line 21 thru Page 71, Line 4	Establish a fine for minors who attempt to purchase alcoholic beverages.
Page 73, Line 18	Allow the TABC to approve in-house hotel seller training programs for hotel employees.
Page 74, Line 2	Allow wholesalers to list all products they sell on one invoice.

**Bill Summary - Enrolled Version
Texas Alcoholic Beverage Commission
HB 1445 by Wilson**

Page 74, Line 23 thru Page 75, Line 2	Allow importation of personal wine collections.
Page 75, Line 11	Allow distillers and wineries to sponsor events like the beer industry can now do.
Page 75, Line 18 thru Page 76, Line 1	Authorize the use of national sweepstakes promotions in Texas by the alcoholic beverage industry.
Page 76, Line 4	Allow advertising by the alcoholic beverage industry in municipally-owned professional sports facilities.
Page 77, Line 13	Allow alcoholic beverage advertising on bicycles.
Page 77, Line 24 thru Page 78, Line 6	Prohibit manufacturers, wholesalers, and distributors from forcing retailers to exclusively buy their products.
Page 78, Line 9 thru Page 79, Line 12	Require the TABC, upon request of a city, to prohibit the possession of an open container or consumption of alcoholic beverages on public property in the central business district of a city.
Page 83, Line 26 thru Page 84, Line 4 Page 96, Line 22	Remove prohibitions on charitable contributions by the alcoholic beverage industry.
Page 84, Line 7	"Grandfathers" current permit holders from new statutory distance requirements or from changes in neighborhood composition that would affect their permit status.
Page 84, Line 22 thru Page 85, Line 1	Require separate alcoholic beverage purchases for each permitted premise.
Page 85, Line 4	Prohibit action against permittee if tax payment or report is late and permittee was not at fault.
Page 85, Line 12 Page 86, Line 1 thru Page 87, Line 3	Authorize summary suspensions for non-payment of excise taxes.
Page 87, Line 13 thru Page 88, Line 19	Delete requirement for mixed beverage permittees to maintain tax security for failure to pay alcoholic beverage taxes.
Page 88, Line 21 thru Page 89, Line 17	Add " <u>or tax security</u> " to bond requirements in several sections of the Act to clarify current practice.
Page 89, Line 23	Add " <u>letters of credit or certificates of deposit</u> " following "bonds" in the subsection of the Act. Section 204.03 (d) to clarify current practice.

**Bill Summary - Enrolled Version
Texas Alcoholic Beverage Commission
HB 1445 by Wilson**

Page 90, Line 22	Require permittees to keep records for four years instead of the current two years.
Page 90, Line 27 thru Page 91, Line 26	Require in-house review and informal and formal hearings if requested by a taxpayer contesting a demand for tax payment.
Page 92, Line 10	Increase the number of signatures needed to get a local option election from 35 percent of the votes cast in the last governor's election to 35 percent of registered voters.
Page 93, Line 18	Include the TABC in the list of agencies allowed to have their own attorneys.
Page 93, Line 21 thru Page 96, Line 17 Page 97, Line 23 thru Page 98, Line 12 Page 98, Line 13 Page 98, Line 18	Transfers the TABC mixed beverage tax and auditing functions to the comptroller's office effective January 1, 1994.
Page 96, Line 18	Authorize the comptroller to charge a 10 percent penalty on unpaid mixed beverage taxes identified in an audit.
Page 98, Line 13	Repeal authority for the TABC to issue Limousine Beverage Service permits.
Page 98, Line 13	Remove the requirement that fingerprints be submitted to the county judge.
Page 98, Line 18	Sets September 1, 1993 as the effective date of the Act, except for provisions related to transfer of the tax function to the comptroller, which takes effect January 1, 1994.
Page 98, Line 21	Emergency clause.

Texas Department of Commerce

Final Action: The Texas Department of Commerce was continued for an eight-year period with changes.

SB 405 by Carriker

Analysis of Major Provisions in the Final Bill

Senate Bill 405, as introduced, contained the Sunset Commission's recommendations for the continuation of the Texas Department of Commerce. Most of these recommendations remained in the final version of the bill, along with a number of new provisions added by the legislature. The major provisions in the final bill are discussed below.

Continue the enterprise zone program and authorize state tax incentives for the creation and retention of 8,000 jobs in the up-coming biennium. Require the state auditor to conduct a one-time study of the costs and benefits of the program to the state since its creation. The legislature modified the Sunset Commission's recommendation to continue the enterprise zone program. The commission recommended continuing the program and expanding the use of state tax incentives from the current use of job creation to also include job retention. The commission also recommended that the number of jobs eligible for state tax incentives be set in the appropriations bill each biennium instead of general law. The state tax incentives authorized in the previous biennium totalled approximately \$20 million and the commission intended that such a large spending decision should be part of the state's budget process. Instead, the legislature continued the approach of setting the number of incentives available in general law and authorized incentives to create or retain 8,000 jobs in the up-coming biennium. The legislature also added the requirement that the state auditor conduct a one-time retrospective study of the costs and benefits of the program since its creation. The study is to be submitted to the legislature by October 1, 1994, and is intended to provide important information about the relative benefits of the program to help the legislature make future decisions on the amount of state incentives that should be made available to best meet the needs of the state.

Require the department to develop agreements with other state agencies that provide economic development services and workforce training to improve coordination of services and eliminate duplication. Based on a recommendation of the Sunset Commission, the legislature required the department to develop agreements with other state agencies that provide economic development services and workforce training to improve coordination and eliminate any duplication of services. The Sunset Commission identified five agencies with which the department would be required to develop agreements. The legislature expanded the number of agencies that the department would develop agreements with to 13 by including agreements with agencies such as the General Services Commission, universities and the Alternative Fuels Council.

Allow the department to operate its rural business loan guarantee program in a way that better leverages available state funds. The department will be allowed to guarantee up to two dollars in loan value for every one dollar it has on deposit depending on the stability of the loans. The legislature adopted a recommendation of the Sunset Commission which will increase the amount of rural business loans the department can guarantee. The department may guarantee up to two dollars in loan value for every one dollar it has on deposit as reserve. The state auditor is required to review the loan guarantee program and make recommendations to the department about the program and the actual guarantee-to-reserve ratio to be set. Based on the state auditor's recommendations, the policy board is required to set the guarantee-to-reserve ratio each year. This change authorizes the board to offer up to \$3.5 million in additional loan guarantees available for rural businesses without additional state spending.

Require the department to charge fees to recover the cost of the services provided to help individual businesses become more profitable. The legislature adopted the recommendation of the Sunset Commission to require the department to charge fees to recover the cost of services it provides to help businesses become more profitable. Fees are required for direct services to individual businesses like management training and individual technical assistance on exporting and marketing.

Encourage the department to focus on the economic concerns of rural communities by requiring one member of the board to be a resident of a county with a population under 30,000 and requiring the department to establish an Office of Rural Affairs. The legislature adopted the recommendation of the Sunset Commission to establish an office of rural affairs within the department. This office will help rural communities and businesses fully utilize the department's services. The legislature also changed the composition of the board to strengthen the board's perspective on rural needs. The bill as finally adopted requires that one member of the board be a resident of a county with a population under 30,000.

Require the department to establish additional finance programs for historically underutilized businesses in the state. Based on a recommendation of the Sunset Commission, the legislature required the department to focus more effort on addressing the problem of financing for businesses owned by minorities and women. These businesses are defined by state law as historically underutilized businesses. The department is required to identify financial barriers that exist for these businesses and sources of financial assistance available. The department is also required to establish additional financing programs for these businesses to help them overcome the financial barriers identified.

Authorize the department to generate additional revenue by selling advertising space in its promotional material. The legislature expanded a recommendation of the Sunset Commission to provide the department with the broad authority to generate revenue by selling advertising space in any of its promotional material. The Sunset Commission had recommended the authority to sell advertising in the department's tourism publications that promote travel to Texas. This authority has been given to other state agencies that publish similar promotional publications. This change was intended to allow the department, when feasible, to generate revenue to support part of its efforts to promote the state. The

legislature expanded the recommendation to include any type of promotional material, not just tourism promotion publications.

Require the department to attempt to provide at least 50 percent of the contract funds in the Smart Jobs program to small businesses and establish a legislative review committee to monitor the program and make recommendations. The legislature added a provision related to the Smart Jobs program which was created by a bill adopted earlier in the session. The Smart Jobs program was established to use idle unemployment tax funds to provide grants to businesses for customized worker training as an incentive to create or retain jobs in Texas. The provision adopted in the bill as finally passed requires the department to attempt to provide at least 50 percent of grant funds to small businesses. In addition, the bill establishes a legislative review committee to study the program and advise the department in its operation.

Comparison of Sunset Legislation with Final Legislation

A comparison of S.B. 405, as introduced, with the bill as finally passed shows that all standard Sunset Commission across-the-board recommendations proposed by the commission were included in the final bill.

All of the Sunset Commission's specific program recommendations that were in the introduced version of the bill remained in the bill as finally passed, even though as noted above some were modified. However, one commission recommendation was omitted from the introduced version of the bill. That recommendation is described below.

The requirements of the work force development incentive program should be changed to increase services within existing resources and increase the accountability of the program. The Sunset Commission recommended several changes for the work force development incentive program including more stringent matching contribution requirements for businesses and increased reporting requirements. Early in the session, the legislature adopted a bill which repealed the enabling statute for the work force development incentive program and replaced it with the Smart Jobs program. Both programs authorize grants to businesses for customized worker training as an incentive to create or retain jobs in Texas. Many of the provisions recommended by the commission were incorporated into the Smart Jobs legislation. In light of the adoption of the Smart Jobs bill, all provisions relating to the previous worker training program were removed from S.B. 405 before the bill was introduced.

Fiscal Impact

Fiscal Year	Gain (Loss) to the General Revenue Fund
1994	\$ 399,000 (gain)
1995	\$ 399,000 (gain)
1996	(\$ 20,601,000) (cost)
1997	(\$ 399,000) (gain)
1998	(\$ 399,000) (gain)

The majority of the gain to the general revenue fund is from the fees charged for services provided to individual businesses. The substantial loss in fiscal year 1996 results from the continuation of the enterprise zone program and the authorization for the department to issue state tax incentives for the creation or retention of 8,000 jobs. The enterprise zone program provides state incentives to businesses that locate in state-approved zones. These incentives include refunds of state sales taxes and reductions of state franchise taxes paid by businesses in the zones.

**Bill Summary - Enrolled Version
Texas Department of Commerce
SB 405 by Carriker**

Bill Reference	Bill Provisions
Page 1, Line 9	Updates the department's sunset date to 2001 to provide for an eight-year review period to allow the Texas Department of Commerce (TDOC) to be reviewed with state agencies that serve a similar function.
Page 1, Line 12	Requires one member of the policy board to be a resident of a county with a population under 30,000.
Page 1, Line 18 thru Page 2, Line 3	Defines grounds for removing a board member and requires the executive director to notify the board chair if the director has knowledge that a potential ground for removal exists. Affirms that an action of the board is valid even if it is taken when a ground for removal exists. (ATB - Updated)
Page 2, Line 9 thru Page 4, Line 11	Requires public membership on the policy board. Modifies existing conflict of interest provisions for employees and board members to eliminate unusually restrictive provisions and better track the standard language usually applied to state agencies. (ATB - Updated)
Page 4, Line 21 Page 27, Line 19	Clarifies the rulemaking responsibility of the policy board for department programs. Requires the board to review and either adopt or repeal any rule previously adopted by the executive director.
Page 5, Line 18	Requires the internal auditor to report directly to the policy board instead of the governor and allows the internal auditor to consult with the executive director or the executive director's designee. (ATB - Updated)
Page 5, Line 24 thru Page 6, Line 14	Requires the executive director or a designee to prepare and maintain an equal employment opportunity policy and to report findings to the Human Rights Commission and the governor's office. (ATB - Updated)
Page 6, Line 17	Requires the executive director, instead of the department, to file an annual written report to the governor and the legislature detailing the department's financial actions. (ATB - Updated)

**Bill Summary - Enrolled Version
Texas Department of Commerce
SB 405 by Carriker**

Bill Reference	Bill Provisions
Page 6, Line 27 thru Page 7, Line 5	Requires the department to develop a plan that describes how non-English speaking persons can be provided reasonable access to department programs. Requires the department to comply with federal and state laws for program and facility accessibility. (ATB - Updated)
Page 7, Line 6	Requires the department to prepare and distribute information to the public concerning the department's functions and complaint procedures. (ATB)
Page 7, Line 25 thru Page 8, Line 5	Authorizes the TDOC to hold patents, copyrights, or trademarks.
Page 8, Line 4 Page 21, Line 20 thru Page 22, Line 6	Authorizes the department to generate additional revenue by selling advertising space in any of its promotional materials. Requires the board to adopt rules covering the sale of advertising space in the TDOC tourism promotions and dedicates the revenue to the special account for tourism promotion in the General Revenue Fund.
Page 8, Line 7	Places agency funds in the treasury to ensure legislative review of agency expenditures through the appropriation process. (ATB - Updated)
Page 8, Line 21	Changes language concerning the location of the department's offices in foreign counties by eliminating the requirement to maintain those offices in specific regions. Instead, the department is required to maintain offices in locations specified in the appropriations bill.
Page 9, Line 2 thru Page 10, Line 18	Requires memoranda of understanding (MOU) concerning coordination of state economic development efforts. Separate MOUs are required between the TDOC and the Department of Agriculture, General Land Office, Department of Housing and Community Development, Air Control Board, office of the state comptroller, Historical Commission, Department of Human Services, Texas Water Commission, General Services Commission, Alternative Fuels Council, Texas Employment Commission, Higher Education Coordinating Board, institutions of higher education, Central Education Agency, Department of Transportation, and Parks and Wildlife Department.

**Bill Summary - Enrolled Version
Texas Department of Commerce
SB 405 by Carriker**

Bill Reference	Bill Provisions
Page 10, Line 21	Requires the department to recover the costs of management training and direct technical assistance whenever reasonable and practical.
Page 11, Line 6	Expands the application of specific conflict of interest provisions which apply only to employees who work in the rural business finance program. The change expands the provisions to cover employees that work with all department finance programs.
Page 12, Line 9	Requires the department to maintain an office of rural affairs and specifies the duties of the office.
Page 12, Line 18 thru Page 14, Line 5 Page 26, Line 24 thru Page 27, Line 7	Modifies the provisions for the rural loan guarantee program to allow the department to guarantee up to \$2 for every \$1 on deposit in the fund based on recommendations by the state auditor after an annual review of the fund.
Page 14, Line 8 thru Page 20, Line 14 Page 23, Line 4	Requires the department to establish additional business finance programs for small and historically underutilized business. Updates the term "disadvantaged business" to "historically underutilized business."
Page 20, Line 18 thru Page 21, Line 17	Requires the TDOC to attempt to allocate 50 percent of Smart Jobs contract funds to small businesses. Establishes a legislative review committee and requires the department to report to the committee.
Page 23, Line 16 thru Page 24, Line 23 Page 25, Line 17 thru Page 26, Line 23	Modifies provisions relating to the state Enterprise Zone Program. Changes include: expands the use of incentives to include the retention and creation of jobs, eliminates the prohibition against the TDOC certifying businesses for state tax incentives after September 1, 1993, adds authority for the TDOC to issue state incentives for the creation or retention of 8,000 jobs in the 1994-95 biennium, and requires the TDOC to conduct an annual cost-benefit study with review and comment by the state auditor. Also, requires the state auditor to conduct a one-time study of the impact of the program since creation and submit a report to the governor, lieutenant governor, and speaker of the house.

**Bill Summary - Enrolled Version
Texas Department of Commerce
SB 405 by Carriker**

Bill Reference	Bill Provisions
Page 24, Line 27 thru Page 25, Line 14 Page 27, Line 26 thru Page 28, Line 8	Clarifies the policy board's responsibility for rulemaking for the administration of the state Job Training Partnership Act (JTPA) program. Requires the policy board to review and adopt or repeal all policy issuances of the JTPA program by September 1, 1994. Exempts the JTPA program from the contested case provisions of the Administrative Procedure and Texas Register Act.
Page 27, Line 8	Changes provisions that establish the special account for tourism promotion in the General Revenue Fund. The changes exempt the account from the funds consolidation effort.
Page 27, Line 18	Establishes the effective date of the Act as September 1, 1993.
Page 28, Line 9	Emergency clause.

Employees Retirement System of Texas

Final Action: *The legislature passed legislation containing changes to improve the operations of the Employees Retirement System of Texas and removed the system from further sunset review.*

SB 1181 by Barrientos

Analysis of Major Provisions in the Final Bill

Senate Bill 1181, as introduced, contained the Sunset Commission's recommendations for the Employees Retirement System. Most of these recommendations remained in the final version of the bill, along with new provisions that were added by the legislature. The system is reviewed but does not terminate under sunset. The major provisions of the final bill are discussed below.

Provide retirees with one additional retirement payment in fiscal year 1994. The legislature authorized a one-time cost of living bonus for people receiving ERS retirement payments. Under this provision, each retiree will receive one payment equal to 10 percent of one month's annuity for each year an annuity was paid before the beginning of fiscal year 1994. The supplement will be paid out of the retirement annuity reserve account. The board of trustees can authorize a similar payment in fiscal year 1995 by rule.

Allow people who have worked under both the ERS and the Teacher Retirement System (TRS) to combine their years of service for retirement credit. The legislature adopted the Sunset Commission's recommendation to authorize the transfer of retirement credit between the ERS and the TRS. Currently employees transferring between the public schools and universities covered by the TRS and state agencies covered by the ERS are only eligible for proportionate retirement benefits from each system. This change would allow such employees full credit for their combined years of public service, as if they had been in one system throughout their career. Under this provision, funds will be transferred between the two systems at the time the person who has credit in both systems retires.

Move the Public School Employees Group Insurance Program from the ERS to the TRS. The legislature modified the Sunset Commission's recommendation that the school employees insurance plan be transferred from the ERS to the TRS. Instead, in legislation dealing with the TRS, the legislature adopted a provision to require the TRS to study the degree of interest in such a program and to make recommendations to the Legislative Budget Board and the governor by June 1994. School district employees will be required to pay a \$10 annual fee to the TRS to provide up to \$100,000 for the study, with the remainder being used as start-up funds if such a program is created or being refunded if no program is created. The TRS is also required to examine possible inclusion of its current

health insurance program for retired public school employees in the new program. The requirement for the ERS to provide a school district employees' health insurance plan was removed from law.

Allow the ERS to combine any funds it manages for the purpose of making investments.

Based on a recommendation by the Sunset Commission, the legislature authorized the ERS to combine all of its various funds for investment purposes in order to reduce the management costs of each of those funds. Under this provision, the ERS may invest its assets without distinguishing among the funds they belong to. The return on the investment of all assets will be distributed to the various funds in proportion to the amount of total ERS assets they make up. This provision will save the Judicial Retirement Fund II about \$87,300 per year and the Law Enforcement and Custodial Officers' Supplemental Retirement Fund (LECOSRF) about \$78,400 per year.

Allow the Law Enforcement and Custodial Officers' Supplemental Retirement Fund to be invested like other ERS-managed funds.

As recommended by the Sunset Commission, the legislature removed restrictions in place on the LECOSRF which only allowed the fund to be invested in certain types of bonds designated by statute. Under this provision, the LECOSRF will be authorized to invest in the same kinds of investments as the Employees Retirement Fund and the Judicial Retirement Fund II. This provision could increase earnings to the LECOSRF by up to \$1.2 million dollars per year.

Fund the LECOSRF on an actuarial basis instead of from a percentage of motor vehicle inspection fees. Starting September 1, 1995, the state contribution to the LECOSRF will equal 2.13 percent of the salary of state custodial and law officers.

The legislature added language that stops contributions to the LECOSRF from motor vehicle inspection fees. Deposits to the LECOSRF from motor vehicle inspection fee revenue have not been based on the actuarial need of the fund. Under this provision, the general revenue fund will keep this portion of the motor vehicle inspection fees from now on. In addition, the LECOSRF will be funded through a state contribution equal to 2.13 percent of the salary of state custodial and law officers beginning September 1, 1995. This change will result in savings to the general revenue fund for the 1994-1995 biennium of over \$50 million since direct state contributions to the LECOSRF will not begin until the 1996-1997 biennium.

Comparison of Sunset Commission Legislation with Final Legislation

A comparison of S.B. 1181 with the original sunset bill as introduced shows that the specific program recommendations and all standard Sunset Commission across-the-board recommendations proposed by the commission were included in the final bill.

Fiscal Impact

Fiscal Year	Gain to the General Revenue Fund	Loss to the LECOSRF	Gain to the Judicial Retirement Plan II Fund
1994	\$25,421,000	\$26,587,000	\$87,300
1995	\$25,419,000	\$26,974,000	\$87,300
1996	\$8,240,000	\$10,213,000	\$87,300
1997	\$6,863,000	\$9,287,000	\$87,300
1998	\$5,359,000	\$8,267,000	\$87,300

Most of the revenue gains and losses in the upcoming biennium result from providing a two-year hold on state contributions to the LECOSRF and funding it directly from general revenue beginning in 1996. The LECOSRF would also benefit from \$1.2 million in annual savings due to the provision authorizing its assets to be invested in the same type of investments as the other ERS funds. In addition, savings also occur due to the provision authorizing the ERS to combine its various funds for investment purposes. The LECOSRF is expected to save about \$78,000 annually and the current judicial retirement system, JRS-II, is expected to save about \$87,300 annually as a result of this provision.

One cost of the bill results from making the retirement eligibility guidelines of the current judicial retirement system, JRS-II, similar to those of the previous judicial retirement system, JRS-I. This provision is expected to cost the general revenue fund about \$1 million for each of the next five years.

**Bill Summary - Enrolled Version
Employees Retirement System of Texas
SB 1181 - Barrientos**

Bill Reference	Bill Provision
Page 1, Line 7 thru Page 2, Line 1	Authorizes a current member of the ERS to reestablish credit, previously canceled in another system administered by the ERS, such as the judicial system, providing the member has held membership in the ERS for at least 12 months.
Page 2, Line 4 thru Page 8, Line 3 Page 30, Line 5	Authorizes the transfer of retirement service credit between the ERS and the TRS for employees who have worked under both systems.
Page 8, Line 6 thru Page 9, Line 1 Page 30, Line 10 thru Page 31, Line 5 Page 32, Line 24 thru Page 33, Line 19	Allows a non-contributing member to purchase credit by making payments that consist of the contribution required to establish or reestablish at least one year of service credit including any interest and membership fees rather than lump-sum payments. Includes provisions for the ERS, JRS-I and JRS-II.
Page 9, Line 4 thru Page 11, Line 1 Page 31, Line 8 thru Page 32, Line 21 Page 33, Line 22 thru Page 35, Line 10	Allows a contributing member to purchase credit by making payments that consist of a monthly payroll deduction not less than one-twelfth of the contribution required to establish or reestablish at least one year of service credit including any interest and membership fees rather than lump-sum payments. Includes provisions for ERS, JRS-I and JRS-II.
Page 11, Line 7	Reduces from 10 years to five years, the number of years of service credit required of a member of the ERS before military service credit can be used in computing retirement benefits.
Page 11, Line 13	Allows a member to reestablish canceled service credit after returning to the system for six months instead of two years.
Page 11, Line 22	Allows retirees to earn one month of service credit for 20 days of remaining sick leave as opposed to the current 40 days of remaining sick leave.
Page 12, Line 2 thru Page 13, Line 13	Allows employees with county welfare board service to purchase that service credit.
Page 13, Line 16 thru Page 14, Line 17	Requires the ERS to make a one-time supplemental annuity payment to the ERS retirees. The supplement is equal to 10 percent of one months annuity, times the number of fiscal years prior to September 1, 1992 that the person has been retired.

**Bill Summary - Enrolled Version
Employees Retirement System of Texas
SB 1181 - Barrientos**

Bill Reference	Bill Provision
Page 14, Line 20	Requires that appointments to the board be made without regard to race, color, disability, sex, religion, age, or national origin. (ATB)
Page 14, Line 25 thru Page 15, Line 8	Prohibits appointment to the board of people who conduct business with the system, or otherwise have financial ties to the system. (ATB-modified)
Page 15, Line 9 thru Page 16, Line 3	Prohibits board members or their spouses and employees compensated at or above Group 17 in the appropriations act or their spouses from being an officer or employee of a related trade association. Also defines trade association. (ATB)
Page 16, Line 4	Prohibits registered lobbyists from serving as a member of the board or from being employed as general counsel to the board. (ATB)
Page 16, Line 11 thru Page 17, Line 4	Defines grounds for removing a board member and requires the executive director to notify the board chair if the director has knowledge that a potential ground for removal exists. Affirms that an action of the board is valid even if it is taken when a ground for removal exists. (ATB-modified)
Page 17, Line 7	Requires the board to provide information to its members and employees on the qualifications for office or employment and each person's responsibilities under the law. (ATB)
Page 17, Line 12	Requires the board to develop and implement policies that clearly define the respective responsibilities of the board and the staff. (ATB)
Page 17, Line 15	Requires the system to prepare and distribute information to its members concerning the agency's functions and complaint procedures. (ATB-modified)
Page 17, Line 24 thru Page 18, Line 2	Requires the board to provide the public with reasonable opportunity to appear before it regarding issues under its jurisdiction. (ATB)
Page 18, Line 3	Requires the agency to develop a plan that describes how non-English speaking persons can be provided reasonable access to the agency's programs. Also requires the board to comply with federal and state laws for program and facility accessibility. (ATB)

**Bill Summary - Enrolled Version
Employees Retirement System of Texas
SB 1181 - Barrientos**

Bill Reference	Bill Provision
Page 18, Line 10	Requires the executive director or a designee to develop an intra-agency career ladder program and requires intra-agency posting of job openings concurrently with any public posting. (ATB)
Page 18, Line 15	Requires the executive director or a designee to develop an annual job performance evaluation system upon which merit salary increases must be based. (ATB)
Page 18, Line 19 thru Page 19, Line 17	Requires the executive director or a designee to prepare and maintain an equal employment opportunity policy and to report findings to the Human Rights Commission and the governor's office. (ATB)
Page 19, Line 21 Page 58, Line 3	Removes the constraints on LECOSRF investments which prevent the fund from being invested like other ERS-managed funds.
Page 20, Line 7 Page 39, Line 11	Allows the ERS to combine any funds it manages for the purpose of making investments.
Page 21, Line 3 Page 22, Line 19 Page 58, Line 2	Removes the benefit increase reserve account from the list of accounts the ERS uses for the purpose of holding assets, and removes automatic transfers to that account.
Page 23, Line 8	Authorizes the ERS to apply any membership fee paid by the state on behalf of each contributing member toward the administration of any program run by the board of trustees.
Page 23, Line 21 thru Page 25, Line 19 Page 28, Line 4 Page 56, Line 9 thru Page 57, Line 9 Page 57, Line 18 Page 59, Line 4 Page 59, Line 14	Removes the state contribution made to the LECOSRF from motor vehicle inspection fees and places the inspection fee revenues in the general revenue fund. Starting September 1, 1995, requires a biennial state contribution to LECOSRF equal to 2.13 percent of the compensation of state custodial and law officers. Requires agencies to tell the ERS names of all law enforcement and custodial officers in their employ.
Page 25, Line 22 thru Page 26, Line 9 Page 39, Line 18 thru Page 40, Line 5	Authorizes the ERS to perform a trustee-to-trustee transfer to allow eligible members of the ERS or JRS-II to roll-over their retirement funds into an eligible retirement plan if they leave state employment.
Page 26, Line 12	Requires the agency to maintain files on complaints that the agency has the authority to resolve. (ATB)

**Bill Summary - Enrolled Version
Employees Retirement System of Texas
SB 1181 - Barrientos**

Bill Reference	Bill Provision
Page 26, Line 15	Requires the agency to periodically provide written notice to all parties to a formal complaint of the status of the complaint. (ATB)
Page 26, Line 22 thru Page 27, Line 8	Authorizes the ERS board to establish advisory committees at will. The members of these committees will serve at the pleasure of the board and receive compensation or expense reimbursement as determined by the board.
Page 27, Line 9 thru Page 28, Line 3	Requires the ERS to submit an annual report to the governor, the lieutenant governor, the speaker of the house, the executive director of the Pension Review Board, the appropriate oversight committees of the house and senate, and the Legislative Budget Board. The report would provide the current end-of-month market value, the current book value, the asset allocation, and the investment performance of the employees retirement trust fund.
Page 28, Line 15 thru Page 29, Line 10	Transfers, on August 31, 1993, the retirement accounts of employees of the Texas Rehabilitation Commission that are members of the TRS from the TRS to the ERS in the manner established in SECTION 2 of the bill.
Page 29, Line 11 thru Page 30, Line 4	Authorizes retirees of the ERS who have 25 years of service and are an executive head of a legislative agency, or are elected officers of the senate with 28 years of service and are over age 50, to retire as if their service credit were performed as a member of the elected class of the ERS.
Page 36, Line 6 thru Page 37, Line 20	Reduces, from 25 to 20, the number of service credit years necessary to qualify for JRS-II service retirement. Changes the basis for calculating annuities for judges retiring under JRS-II to 50 percent of a judge's salary of that classification at the time of retirement.
Page 38, Line 4 thru Page 39, Line 6	Requires a valuation of the JRS-II Fund be made before November 2 of each even-numbered year to determine if any type of benefit increase would cause the amortization period for the unfunded actuarial liabilities of the JRS-II fund to exceed 30 years. Forbids any benefit increase which would cause the unfunded actuarial liabilities of the JRS-II fund to exceed 30 years.

**Bill Summary - Enrolled Version
Employees Retirement System of Texas
SB 1181 - Barrientos**

Bill Reference	Bill Provision
Page 40, Line 8 Page 58, Line 2	Requires the ERS to administer the JRS-II plan so that it is considered a qualified plan under Section 401, Internal Revenue Code of 1986 (26 U.S.C. 401) and authorizes the board to adopt rules necessary to ensure qualification under that statute.
Page 40 Line 24 thru Page 52, Line 8 Page 58, Line 5	Deletes provisions regarding the school district employees' health insurance plan to allow the program to be recreated at the TRS.
Page 42, Line 17	Adds state college and university boards of regents and the State Board of Education to the definition of state employees for the purpose of participating in the employees health plan.
Page 50, Line 20	Prohibits overlapping state health insurance contributions for employees covered both through a university and the ERS.
Page 52, Line 14 thru Page 54, Line 3	Increases size of the Group Benefits Advisory Committee (GBAC) from 25 to 27 members. Adds a representative of the General Land Office to the GBAC. Allows the seven largest universities to each elect a member to the GBAC.
Page 54, Line 16 thru Page 55, Line 7	Allows dependents of a retiree receiving health benefits through the ERS to retain those benefits after the retiree's death.
Page 55, Line 14	Allows agencies to set up 457(f) deferred compensation plans.
Page 59, Line 12	Establishes the effective date of the bill as September 1, 1993 except for SECTIONS 2 and 30 which take effect immediately, and SECTIONS 22 and 23 which take effect September 1, 1995.
Page 59, Line 17	Emergency clause.

General Services Commission

Final Action: *The General Services Commission was continued for an eight-year period with changes.*

HB 2626 by Black

Analysis of Major Provisions in the Final Bill

House Bill 2626, as introduced, contained the Sunset Commission's recommendations for the General Services Commission. All of these recommendations remained in the final version of the bill, along with a number of new provisions added by the legislature. The major provisions of the bill are discussed below.

Strengthen the state's historically underutilized business program. Based on a recommendation of the Sunset Commission, the legislature transferred the Texas Department of Commerce's responsibilities for certifying and reporting on historically underutilized businesses to the General Services Commission (GSC). Previously, both the Texas Department of Commerce and the GSC were identifying historically underutilized businesses, and encouraging them to be certified and placed on the GSC's bidders list. This change will consolidate the responsibilities in the GSC and reduce the number of agencies these businesses have to work with. The legislature added several provisions to further strengthen the state's program. First, the legislature directed the comptroller to conduct a disparity study to determine if the state's contracting process discriminates against historically underutilized businesses and to report the results of the study by June 1, 1994. Second, the state's goal for historically underutilized business participation in state contracts was increased from 10 to 30 percent. Third, to determine if state agencies are reaching the 30 percent goal, the legislature expanded the state agency reporting requirements and created a legislative monitoring committee. State agencies are required to report to the GSC twice each year on the purchases they have made from historically underutilized businesses. The GSC is required to analyze the state agency reports and submit consolidated reports to the legislative monitoring committee and the legislature.

Expand the use of competitive sealed proposals. The GSC and medical and dental units of institutions of higher education would be authorized to use this alternative in limited situations. Competitive sealed proposals are an alternative purchasing method to competitive bidding. The legislature adopted two separate provisions related to the use of competitive sealed proposals. First, existing law already allows the GSC and institutions of higher education to purchase certain telecommunications and computer equipment using competitive sealed proposals. The law sets up a particular process for making these purchases. The GSC sunset bill expanded the current process so that medical and dental units of universities can also purchase certain types of medical equipment through this existing process. The medical equipment being purchased is either a new design that is not widely available or equipment too complex to be effectively bid on a competitive basis. The

second change in the law set up a new process for using competitive sealed proposals for purchasing goods and routine services. The new law only authorizes the GSC and not other state agencies and institutions to purchase goods and routine services through this process. The GSC board is required to determine when competitive sealed proposals should be used for these purchases.

Require all state agencies to switch from individual bidders lists to a centralized bidders list developed by the GSC. The legislature adopted a recommendation of the Sunset Commission to require all state agencies to use one centralized bidders list developed and maintained by the GSC. Over the next two years, the GSC will be consolidating all of the state agencies' individual bidders lists into a consolidated list and making that list available to all state agencies. Consolidating the individual bidders lists will eliminate the duplicate listings of vendors on each state agency's bidders list and will allow vendors to be placed on one bidders list to do business with all state agencies.

Create a catalogue purchasing procedure to streamline the purchase of automated information systems. The legislature added a provision to allow state agencies to purchase automated information systems using a catalogue purchasing procedure. Under a catalogue purchasing process, the vendors of automated information systems apply to the GSC to be designated as a "qualified information systems vendor." After being approved by the GSC, the vendor produces a catalogue that contains all of the products and services it provides and the price of those products and services. These catalogues are provided to all state agencies. When an agency needs one of these products or services, it simply places an order with the vendor.

Set up a two-year pilot program that would subject the GSC's construction contracts to resolution through binding arbitration. The legislature added a provision to resolve the GSC's construction contract disputes through binding arbitration rather than through the court system for the next two years. Once a dispute arises and parties have been notified, the parties have 30 days to informally resolve the dispute. After the 30-day period has expired, either party may request the dispute be resolved through binding arbitration. The legislature placed a "sunset date" of September 1, 1995, on the pilot program and required the comptroller, with the assistance of the Center for Public Policy Dispute Resolution at The University of Texas School of Law, to study the program and report its findings to the 74th Legislature.

Increase participation of small contractors in public works contracts through creation of the small contractor participation assistance program. The legislature added a provision to create the small contractor participation assistance program. The purpose of the program is to improve the opportunity for small contractors to participate in state public works projects. The program targets public works projects of more than \$20 million. The General Services Commission is required to provide an outreach program to encourage small contractors to participate in these projects. The GSC is also required to provide a system for the centralized purchase of various types of insurance and performance bonds, technical assistance to the small contractors, and assistance in obtaining the financial arrangements necessary for small contractors to participate in the program.

Create the State Council on Competitive Government to review commercially available services performed by state agencies to determine if those services could be better provided by the private sector. The legislature added a provision to abolish the current competitive cost review program and replace it with the State Council on Competitive Government. The council was created to encourage competition, innovation and creativity among service providers. To carry out its mission the council is required to identify commercially available services that are currently performed by state agencies and to determine if the services could be better performed by private providers or other state agencies. In making its determination, the council is required to consider certain factors. These factors include the cost to the state of supervising the private service provider; the indirect costs associated with providing the service, such as the cost of voucher processing by the comptroller; and an analysis of health care benefits and worker's compensation insurance. If the council determines that a service could be better provided by a private service provider or another state agency, it may require the service to be competitively bid or obtained in some other manner that creates competition with private commercial sources.

Allow the state to purchase larger passenger vehicles in situations where it will speed up the conversion of those cars to alternative fuels. Based on the recommendation of the Sunset Commission, the legislature adopted a provision to allow state agencies to purchase larger passenger vehicles when those vehicles will be converted to alternative fuels. The legislature created a program in 1989 to convert the state's vehicles to operate on alternative fuels. To convert a vehicle to alternative fuels, the vehicle must be modified to accommodate several pieces of equipment. This equipment is usually placed in the rear of the vehicle below the trunk and increases the vehicle's weight by as much as 450 pounds with full fuel tanks. This change will allow agencies to purchase larger vehicles that are more easily converted to alternative fuels because they have additional space in the rear of the vehicle and have the additional horsepower needed to pull the additional weight.

Reduce state space needs by limiting the amount of space that most state agencies can occupy to 153 square feet per employee per location. Based on a recommendation of the Sunset Commission, the legislature reduced the amount of space that most state agencies can occupy. The Sunset Commission recommended a standard of 200 square feet per employee per location; however, the legislature reduced the amount of space to 153 square feet per employee per location. The standard space requirement applies to office space with exceptions for locations with fewer than 15 employees or where the reduction in space would sacrifice public or client services. This change will allow the state to increase the use of state-owned space and reduce the amount of space leased to house state agencies.

Transfer the GSC's fire and safety section to the Texas Commission on Fire Protection. The legislature adopted the Sunset Commission recommendation to transfer the GSC's fire and safety section to the Texas Commission on Fire Protection. The Texas Commission on Fire Protection was created by the 72nd Legislature to consolidate the state's programs related to fire prevention and protection. Transfer of the fire and safety section, which performs a variety of fire related activities, further consolidates the state's fire prevention and protection programs in the Texas Commission on Fire Protection.

Clarify that the long-distance telecommunications services provided by the commission to state agencies and political subdivisions are not regulated by the Public Utility Commission. The legislature added a provision to clarify that the GSC's long-distance telecommunications services for state agencies and political subdivisions are not subject to the Public Utility Regulatory Act. The GSC had long assumed its exempt status. A recent case at the Public Utility Commission called this assumption into question. The provision in the GSC bill settles the issue by stating the long-distance services of the GSC are exempt. This exempt status gives the GSC the ability to save money through contracting procedures which would otherwise not be available for its use.

Comparison of Sunset Legislation with Final Legislation

A comparison of H.B. 2626 with the original sunset bill, as introduced, shows that all standard Sunset Commission across-the-board recommendations proposed by the commission were included in the final bill. In addition, all of the Sunset Commission's specific program recommendations remained in the final bill.

Fiscal Impact

Fiscal Year	Gain to All State Funds/Accounts	Loss to the General Revenue Fund
1994	\$ 6,145,646	\$ 105,061
1995	\$ 12,765,542	\$ 105,061
1996	\$ 13,011,542	\$ 105,861
1997	\$ 16,011,542	\$ 105,061
1998	\$ 19,011,542	\$ 105,061

Several provisions in the bill resulted in fiscal impacts that could be estimated, but the specific funds that would be affected could not be clearly identified. The fiscal impact of these provisions result in gains show to all state funds in the chart above. Three provisions make up the majority of the gain to all state funds. These provisions include switching from individual bidders lists to a centralized bidders list; reducing the amount of space occupied by state agencies; and clarifying that the GSC's long-distance telecommunications services are not regulated by the Public Utility Commission. The remaining provisions of the bill having fiscal impact affect only the general revenue fund. The payment of the bonds issued to renovate and furnish the Texas School for the Deaf and the Texas School for the Blind and Visually Impaired make up the majority of the cost to the general revenue fund. The cost of the bonds is offset somewhat by a savings of approximately \$45,000 from removing the GSC from the interagency contracting process.

**Bill Summary - Enrolled Version
General Services Commission
HB 2626 - Black**

Bill Reference	Bill Provision
Page 1, Line 12 thru Page 2, Line 13	Modifies the definition of historically underutilized business to require the individual affiliated with a historically underutilized group to demonstrate active participation in the business.
Page 1, Line 12 thru Page 2, Line 20 Page 4, Line 12 thru Page 8, Line 10 Page 19, Line 1 Page 22, Line 3 Page 32, Line 22	Updates the term disadvantaged business to historically underutilized business.
Page 3, Line 1 thru Page 4, Line 8 Page 15, Line 21 thru Page 18, Line 23	Creates a catalogue purchase procedure for vendors who sell or lease automated information systems.
Page 4, Line 12 thru Page 8, Line 2 Page 55, Line 4	Transfers the Texas Department of Commerce's role in certifying and reporting on historically underutilized businesses for state contracting to the General Services Commission. Requires additional reporting by the comptroller and each state agency; requires the GSC to analyze these reports and to make its own report; and specifies other duties of the department, commission and comptroller.
Page 8, Line 19	Requires that appointments to the commission be made without regard to race, color, disability, sex, religion, age, or national origin. (ATB)
Page 9, Line 16 thru Page 10, Line 9	Requires the executive director or a designee to prepare and maintain an equal employment opportunity policy and to report findings to the Human Rights Commission and the governor's office. (ATB)
Page 10, Line 18	Updates the commission's sunset date to 2001 to provide for an eight-year review period to allow the GSC to be reviewed with the appropriate functional group.
Page 10, Line 23	Requires the agency to develop a plan that describes how non-English speaking persons can be provided reasonable access to the agency's programs. Also requires the commission to comply with federal and state laws for program and facility accessibility. (ATB)

**Bill Summary - Enrolled Version
General Services Commission
HB 2626 - Black**

Bill Reference	Bill Provision
Page 11, Line 4	Clarifies the exemption for the purchase of care and treatment services by the Texas Youth Commission for its wards. Specifies that the purchases shall be negotiated to achieve fair and reasonable rates which do not exceed any maximum provided by law; and requires the selection of providers be based on the qualifications and competence of the provider.
Page 11, Line 13	Allows medical and dental units of institutions of higher education to purchase certain types of equipment using the competitive sealed proposal process currently used for the procurement of telecommunications and computer equipment.
Page 12, Line 4 thru Page 14, Line 8	Expands the GSC's use of competitive sealed proposals to purchase goods and services. Specifies the process to be used by the GSC which requires the GSC board to determine when to use competitive sealed proposals, and requires the GSC and personnel from the agency making the purchase to work together to develop the specifications.
Page 14, Line 13	Allows mental health and mental retardation community centers that receive state funds to purchase goods and services through the commission.
Page 14, Line 23 thru Page 15, Line 11	Allows institutions of higher education to purchase goods through group purchasing programs that offer discount prices to institutions of higher education. Requires the commission to adopt rules allowing institutions to purchase through these programs unless the commission determines that a lower price is available through the commission. Requires the commission to adopt rules to determine the compliance with state law and rules regarding purchasing with historically underutilized businesses.
Page 18, Line 27 thru Page 19, Line 8 Page 32, Line 23	Increases the historically underutilized business participation in state purchasing goal from 10 to 30 percent.
Page 19, Line 14 thru Page 22, Line 9 Page 54, Line 11	Requires the use of one centralized master bidders list at the GSC and requires the list be available electronically as well as in other formats for agencies that are not able to access the on-line system. Allows state agencies to supplement the centralized list with historically underutilized businesses.
Page 20, Line 26	Modifies the vendor solicitation requirements by raising the threshold for soliciting all vendors on the bidders list from \$5,000 to \$15,000.

**Bill Summary - Enrolled Version
General Services Commission
HB 2626 - Black**

Bill Reference	Bill Provision
Page 22, Line 18 Page 51, Line 16 thru Page 52, Line 24 Page 60, Line 17 thru Page 61, Line 8	Removes the GSC from the interagency contracting process.
Page 22, Line 27 thru Page 23, Line 9	Increases the size of passenger vehicles the state can purchase to maximum wheel base of 116 inches and horsepower of 280 when those vehicles will be converted to alternative fuels.
Page 23, Line 21 Page 49, Line 1 Page 50, Line 23 thru Page 51, Line 3 Page 53, Line 11 thru Page 54, Line 5	Transfers the GSC's fire and safety section to the Texas Commission on Fire Protection Commission.
Page 24, Line 3	Creates the Texas Judicial Complex within the capitol complex and limits the agencies that can be assigned space in the Texas Judicial Complex.
Page 25, Line 3	Specifies that the space in the old State Board of Insurance office building is allocated to the legislature and legislative agencies for their use and that the presiding officers jointly allocate space within the building.
Page 25, Line 13	Technical correction to transfer the statutory language for all responsibilities and functions contained in section 4.13 that have been transferred to the DPS in H.B. 39, 72nd Legislature, S.C.S. (1991).
Page 26, Line 7 Page 27, Line 23	Requires the GSC to review all energy alternatives when constructing or renovating state buildings.
Page 28, Line 8	Waives requirements for hiring architects and engineers in emergency situations and defines emergency situation.
Page 29, Line 5 thru Page 30, Line 1 Page 54, Line 19 thru Page 55, Line 3	Modifies the composition and increases the size of the uniform general conditions review committee.

**Bill Summary - Enrolled Version
General Services Commission
HB 2626 - Black**

Bill Reference	Bill Provision
Page 30, Line 5 thru Page 31, Line 16 Page 57, Line 19	Specifies that any contract subject to the uniform general conditions, with some exceptions, is considered to have an arbitration clause and specifies how the arbitration process would work. Requires the comptroller, with the assistance of the Center for Public Policy Dispute Resolution, to review the arbitration process and report to the 75th Legislature; provides for the expiration of arbitration clauses in construction contracts and the arbitration process on September 1, 1995; and provides for the resolution of arbitration proceedings that have not been completed by the expiration date.
Page 31, Line 20 thru Page 32, Line 13	Updates the definition of solar energy and requires the economic feasibility of solar energy to be determined in an open meeting and clarifies how the determine is to be made.
Page 33, Line 5 thru Page 35, Line 8 Page 54, Line 6	Creates the small contractor participation assistance program to ensure full opportunity for participation in public works projects by small contractors. Requires the program to include: (1) the centralized purchase of workers' compensation, employer's liability, payment and performance bonds, and commercial general and excess liability insurance; (2) public outreach to provide information and encourage participation in the program; (3) technical assistance to small contractors; and (4) financing assistance to small contracts to obtain necessary financing arrangements so they may participate.
Page 35, Line 18	Allows the Texas Youth Commission to lease its own residential space.
Page 35, Line 25 thru Page 37, Line 2	Requires the GSC to conduct a space utilization study to determine the varying space needs for state agencies; requires the GSC to use the results of this study to allocate space in the future; directs the GSC to define usable office space; limits the maximum space allocation to 153 square feet per employee per location for most state agencies; provides exemptions for locations with fewer than 15 employees and for situations where the reduction would result in the sacrifice of public or client services; and clarifies that the legislature is not subject to the maximum space allocation.
Page 37, Line 9	Technical correction to remove unnecessary language related to an obsolete process used for disposal of certain types surplus and salvage property.

Bill Summary - Enrolled Version
General Services Commission
HB 2626 - Black

Bill Reference	Bill Provision
Page 38, Line 1	Requires the acquisition of transmission facilities or facilities or equipment necessary to provide telecommunications services by the GSC, DIR and comptroller as part of the statewide telecommunications system be made in accordance with Article 3 (Purchasing) of the State Purchasing Act.
Page 38, Line 8 Page 53, Line 5	Improves coordination to eliminate non-compatible telecommunications systems by adding the Texas Education Agency and Higher Education Coordinating Board to the planning process for the statewide telecommunications system.
Page 38, Line 27 thru Page 39, Line 6	Clarifies that the long-distance telecommunications services provided by the commission to state agencies and political subdivisions are not regulated by the Public Utility Commission.
Page 39, Line 11	Technical correction to increase the time allowed to produce the state telephone directory. February does not allow enough time to publish the directory after election years.
Page 39, Line 18	Technical correction to change the name to better reflect the operations of the section.
Page 40, Line 3	Technical correction to remove language that limits initial services to Travis county agencies. This language is obsolete and conflicts with new language in subsection (c).
Page 40, Line 18 thru Page 44, Line 10 Page 58, Line 23 thru Page 59, Line 27	Replaces the competitive cost review program with the State Council on Competitive Government. Specifies the composition of the council. Requires the council to identify commercially available services currently being performed by state agencies; to determine if the services could be better provided through competition; and to require state agencies to provide the services in competition with private sources or other state agency service providers. Requires the council to take certain costs into account and to perform certain analyses. Requires the council to conduct a study no later than December 1, 1993 evaluating the services performed by or for state agencies to identify at least \$3 million of savings and enhanced revenues from competition with private sources or other state agency providers. Requires the council to certify the savings it identifies and report this information to the LBB. Requires the LBB to evaluate the information and pass it along to the comptroller, who shall reduce appropriations and transfer the savings to the general revenue fund. Requires the council to comply with the open meetings and open records statutes.

**Bill Summary - Enrolled Version
General Services Commission
HB 2626 - Black**

Bill Reference	Bill Provision
Page 44, Line 20 thru Page 45, Line 7	Exempts the legislature, legislative agencies, and certain judicial agencies from the Public Finance Authority Act.
Page 45, Line 17 Page 55, Line 27 thru Page 57, Line 18	Authorizes the GSC to purchase and renovate a building in McLennan county at a maximum cost of \$5 million, and authorizes the sale of bonds to finance the purchase of the building. Restricts the GSC's purchasing authority by requiring that the total cost of purchasing a building be less than or equal to the cost of continuing to lease space. Specifies that any unspent lease payments appropriated to agencies housed in the purchased building would be directed to repaying the bonds.
Page 46, Line 12 thru Page 47, Line 4	Requires the commission to purchase and renovate the TEC buildings and parking facilities at an estimated cost of \$46 million financed by bonds. Specifies that these buildings would be allocated to the legislature and legislative agencies for their use; and that the presiding officers jointly allocate space within the facilities.
Page 47, Line 13 thru Page 48, Line 18	Authorizes the TPFA to issue and sell revenue bonds for the renovation and furnishings for the Texas School for the Deaf with an estimated project cost of \$500,000 and authorizes the TPFA to issue and sell revenue bonds for the renovation and furnishings for the Texas School for the Blind and Visually Impaired with an estimated project cost of \$600,000.
Page 49, Line 5 Page 50, Line 26	Technical correction to recognize the Texas Commission on Fire Protection's responsibility for safety of employees and the public.
Page 49, Line 10	Exempts the legislature, legislative agencies and certain judicial agencies from the Consulting Services Act.
Page 49, Line 23 thru Page 50, Line 20	Exempts the legislature, legislative agencies, and certain judicial agencies from the standards and specifications included in the state's elimination of architectural barriers statute for the lease or rental of buildings.
Page 52, Line 13	Raises the threshold for requiring a written interagency contract from \$2,500 to \$50,000 and requires informal letters of agreement or memoranda.

**Bill Summary - Enrolled Version
General Services Commission
HB 2626 - Black**

Bill Reference	Bill Provision
Page 58, Line 1	Requires the implementation of historically underutilized business goals to be monitored by a joint legislative committee appointed by the Lt. governor and the speaker. Specifies that the committee is composed of five house members and five senate members and requires the committee to make recommendations to the legislature for any necessary action or remedies for the next regular legislative session. Requires state agencies to cooperate with the committee and allows the committee to review the records of state agencies.
Page 58, Line 14	Requires the comptroller to complete a disparity study regarding state contracting that meets the requirements of the supreme court no later than June 1, 1994; requires state agencies to assist the comptroller; and requires the commission to adopt rules to take effect on September 1, 1994 based on the results of the disparity study.
Page 60, Line 1	Transfers the charge and control of the comptroller's training center in Kerrville to the Texas Railroad Commission when the comptroller vacates the facility. The Railroad Commission may make the center available to other entities.
Page 61, Line 9	Establishes September 1, 1993 as the effective date of the Act.
Page 61, Line 10	Emergency clause.

Texas Department of Insurance and Office of Public Insurance Counsel

Final Action: *The Texas Department of Insurance and Office of Public Insurance Counsel were continued for a 12-year period with changes.*

HB 1461 by Counts

Analysis of Major Provisions in the Final Bill

House Bill 1461, as introduced, contained the Sunset Commission's recommendations for the Texas Department of Insurance and the Office of Public Insurance Counsel. Most of these recommendations remained in the final version of the bill, along with new provisions added by the legislature. The major provisions of the bill are discussed below.

Eliminate the full-time insurance board. The legislature modified a recommendation of the Sunset Commission that would have replaced the current full-time board with a single commissioner of insurance responsible for running the department and a six-member, part-time rate board responsible for setting rates. The legislature deleted the provision for the part-time rate board and provided for a commissioner of insurance to be solely responsible for all insurance regulation, including the setting of insurance rates. The legislature established a one-year transition period for phasing out the existing board by September 1, 1994. During this period, the board has responsibility only for establishing and approving insurance rates and policy forms. The governor must appoint the new insurance commissioner by March 1, 1994, to serve a two-year term, subject to senate confirmation. The legislature also tightened the experience requirements for the commissioner by requiring ten years of experience as an executive in the administration of business or government or as a practicing attorney or certified public accountant. In addition, at least five years of this experience must be in the field of insurance or insurance regulation. These changes were intended to simplify and improve the administration of the department and to promote accountability for the regulation of insurance in the state.

Transfer the department's tax, hearings, and other functions. Based on recommendations by the Sunset Commission, the legislature enacted several provisions transferring functions from the department to other agencies more directly responsible for those activities. The responsibility for collecting, reporting, and administering insurance taxes and certain fees will be transferred from the department to the comptroller's office, which operates as the state's tax collector. The responsibility for conducting administrative hearings, generally related to enforcement matters involving licensees, will be transferred to the newly-created State Office of Administrative Hearings (SOAH). The legislature added a provision for SOAH to assume responsibility for rate promulgation proceedings and contested rate filings

by individual insurers subject to final approval by the commissioner after the full-time board is abolished. Finally, the legislature enacted a proposal by the Sunset Commission to transfer responsibility for collecting information from employers regarding workers' compensation coverage from the department to the Texas Workers' Compensation Commission. These changes were adopted to better focus the department on its mission of regulating insurance and to place these activities with agencies directly responsible for similar functions.

Create a select committee on rate and form regulation. The legislature modified a recommendation by the Sunset Commission that would create a select committee to study the future of insurance rate and form regulation by the department. The original sunset recommendation was to create a nine-member select committee to study whether the department's focus should be shifted from regulating insurance rates and forms to monitoring insurers' financial condition and market conduct. The legislature added language expanding the duties of the committee to include a study of underserved markets with regard to the availability of motor vehicle insurance in the state. The legislature also added provisions for the committee to contract with independent consultants to evaluate the activities of advisory organizations providing insurance data for the department and insurers as well as to assess the costs and benefits of data collection systems established by the department and statistical agents. The committee will be composed of three members appointed by the governor, three members of the senate appointed by the lieutenant governor, and three members of the house of representatives appointed by the speaker of the house. The committee will report to the legislature before the next session on the impact of the recent regulatory changes and will make recommendations regarding insurance regulation in the state.

Continue the authority for advisory organizations to receive and provide insurance data. The legislature modified a recommendation of the Sunset Commission to continue the authority of advisory organizations to receive and provide insurance data to insurers and the department. These advisory organizations provide information such as historical data, prospective loss cost, and supplementary rating information that is necessary to establish insurance rates. As part of insurance reforms enacted in 1991, the role of these advisory organizations was to be eliminated after September 1, 1993. The Sunset Commission adopted a proposal to continue advisory organizations without an expiration date, but only for providing loss cost data. The legislature enacted an alternative approach extending the authority from 1993 to 1997 for advisory organizations to receive and provide insurance data for insurers in the state, establishing oversight requirements for these organizations, and limiting their authority to provide information only to commercial lines of insurance. Oversight requirements for these advisory organizations include annual audits by the department, the establishment of offices in Texas, and expanded representation on governing boards. In addition, the commissioner may request information related to actuarial assumptions, economic factors and other criteria used to develop data for companies operating in Texas. Insurers who wish to use data provided by these organizations must first explain their need for this information on the grounds that they cannot provide it themselves. Finally, these advisory organizations may not provide loss cost information for personal automobile, homeowners', or dwelling fire insurance. These changes were enacted to

address concerns that the department is not yet ready to develop information adequate for its needs in establishing insurance rates. By providing some oversight of advisory organizations, these changes also address concerns regarding the potential for collusion or other abuse by insurers in compiling or using this data. As discussed above, the select committee on rate and form regulation is to contract with an independent consultant to further evaluate the advisory organizations and make recommendations for their future role in Texas.

Establish parallel statistical data collection efforts. The legislature added a provision establishing a parallel statistical data collection system between the department and the existing services by the statistical agents established by insurers. Under one system, the commissioner must contract with a qualified data collection entity to independently compile and maintain historical premium and loss data for each line of insurance according to the statistical data plan currently in use and approved by the department. A second system allows insurers to continue the current practice of providing data to a statistical agent designated by the department before April 1, 1993. This provision was adopted as a compromise to provide two methods for the collection of statistical data used by the department in setting rates. As discussed earlier, the committee on rate and form regulation is to contract with an independent consultant to evaluate the costs and benefits of each of these systems and make recommendations for future data collection.

Allow insurance trade associations to participate in rate hearings on behalf of small and medium-sized insurers. The legislature modified a recommendation by the Sunset Commission that would allow certain trade associations to participate in rate hearings. The Sunset Commission recommended allowing trade associations to represent small and medium-sized insurers as defined by the commissioner in rate hearings. The legislature added language to clarify that an association may have larger insurers as members, but it may only represent small and medium-sized insurers in rate hearings. The legislature also specified that these associations do not have immunity from antitrust liability if they present ratemaking data or make recommendations to the commissioner at a hearing. This change would allow small and medium-sized insurers to be represented collectively rather than individually in rate matters.

Relax rate and form regulation for certain lines of insurance. The legislature added language relaxing rate and form regulation for commercial casualty, excluding automobile insurance, and medical professional liability insurance. Insurers writing commercial casualty or medical liability insurance do not need board approval for the rates they charge, but they may simply file their rates with the department and use them subject only to limited oversight by the board or commissioner after the rates are in-place. Policy forms for these lines of insurance will be subject to approval by the department before they could go into effect. The legislature also changed the regulation of forms used by mortgage guaranty insurers from a procedure requiring prior approval by the board to a file and use procedure in which forms must be filed with the board before they become effective and board approval is not required. The regulation of forms for mortgage pool insurance will be deregulated so that insurers may use forms and file them after--not before--they are to become effective. These changes will make it easier for insurance companies to implement

rates and forms for specialty lines of insurance where strict board or department oversight is not necessary.

Restructure the Texas Automobile Insurance Plan. The legislature added a series of provisions to restructure the Texas Automobile Insurance Plan (TAIP). The TAIP is a statutorily-directed effort by the insurance companies to provide automobile insurance to drivers who are unable to obtain insurance through ordinary means in the voluntary market. The importance of the TAIP was highlighted after the 1991 session, when the legislature strengthened enforcement of the financial responsibility requirements for motorists by requiring proof of liability insurance for renewal of a driver's license, for auto inspection, and for vehicle registration. With the greater significance of the TAIP in the auto insurance market came calls to change its structure and operations. Among the changes enacted by the legislature were the following provisions:

- Require public membership for the first time on the TAIP's governing committee. The legislature expanded the governing committee from 10 industry members to 15 members, consisting of eight insurers, five public members, and two agents.
- Establish new guidelines for the TAIP plan of operations. The legislature made the governing committee responsible for administering the TAIP through a plan of operation, but the adoption of the plan and amendments to the plan by the committee are subject to the approval of the insurance commissioner. In addition, the plan must contain incentive programs approved by the commissioner to encourage insurers to write insurance on a voluntary basis and to minimize the use of the TAIP.
- Define eligibility for insurance through the TAIP. Drivers must be rejected by at least two insurers--including insurers who are not rate regulated--before they are eligible for insurance through the TAIP. In addition, persons who obtain excess liability coverage over the amount required by law are ineligible for insurance from the TAIP.
- Establish guidelines for determining rates for insurance through the TAIP. A rate hearing must be conducted each year, and the TAIP may participate as a party to the proceedings. Rates must be just, reasonable, adequate, not excessive, not confiscatory and not discriminatory for the risks covered. The rates must also be at an amount to carry all claims to maturity and to meet expenses incurred in writing the business.

Change the statute governing the Texas Catastrophe Property Insurance Pool (CATPOOL). The legislature added language modifying the statute governing the CATPOOL, which provides windstorm insurance as a market of last resort for persons along the Texas coast. The most significant changes include the following provisions:

- Increase rates for residential windstorm insurance through the CATPOOL by tying them in statute to the top of the flexibility band for extended coverage for homeowners' insurance. This change will assure that insurance provided through the CATPOOL will not be lower than rates established for homeowners' insurance through the voluntary market.

- Establish a new reinsurance program under the authority of the department to help cover insured losses under the CATPOOL. This change will shift the authority for the reinsurance program from the insurance companies to the state, safeguarding money in the reinsurance program from the threat of federal taxes and making it available to protect policyholders.
- Change the formula for paying insured losses that are greater than premium and other revenue of the CATPOOL. First, insurers in the CATPOOL would pay the first \$100 million of losses. Second, funds available from the new reinsurance program established by the CATPOOL would be used to cover losses. In June of 1993, insurers in the CATPOOL had about \$110 million in their reinsurance fund. Third, an additional \$200 million would be assessed against the insurer members of the CATPOOL to cover losses. Losses above these levels would be paid by insurers subject to credits against the amount of premium taxes they must pay the state. Because current law only requires insurers to cover the first \$100 million in losses before they may receive premium tax credits, this change will require insurers to cover an additional \$200 million in losses before state revenues may be adversely affected.

Assess insurers to pay for windstorm inspection program for coastal counties. The legislature added language requiring the department to assess property insurers in coastal counties to cover the department's cost of administering a windstorm and hail inspection program along the coast. The windstorm inspection program was established by the legislature in 1987 to provide that all structures built or modified in coastal counties after January 1, 1988, meet certain building specifications to be considered insurable for windstorm insurance from the CATPOOL. Currently, the board of insurance may charge an inspection fee not to exceed 50 percent of the cost of the inspection, not including training and general administrative costs. This change will allow the department to collect the remaining cost of administering the program.

Study participation by health providers in health insurance policies and health maintenance organizations (HMOs). The legislature added a provision to study the impact of requiring health insurance policies and HMOs to allow any qualified health care provider to participate as a contracting provider under the policy or HMO. Currently, health insurers and HMOs may deny participation by qualified providers in policies and plans. During the session, the legislature considered a provision that would have allowed any qualified provider to participate in any health insurance policy or HMO if the provider chooses to participate. Because of concerns that such a change could increase costs for health insurance and HMOs, the legislature adopted a provision calling for a study. The study is to be conducted by a select committee of three members of both the house and senate and is to be completed by December 1, 1994.

Amend the statutes governing certain guaranty associations. The legislature added language amending the statutes governing the Texas Property and Casualty Insurance Guaranty Association and the Title Insurance Guaranty Association. The changes basically clarify the obligation of these associations regarding claims against impaired insurers and facilitate the guaranty associations' ability to pay covered claims against impaired insurers.

The provisions were adopted in an effort to clean up and make other needed changes to the guaranty association statutes after their major revision in House Bill 62 in the second called session of the 72nd Legislature.

Allow insurers to exclude coverage for damage to foundations or slabs. The legislature added a provision to require the commissioner to adopt an endorsement form that excludes coverage for damage to foundations or slabs of insured dwellings, with the exception of specified catastrophic events. This endorsement may be attached only if the insured dwelling is more than 10 years old. This provision was designed to address insurance companies' concerns about providing insurance coverage for cracking foundations and slabs in certain parts of the state.

Limit the public counsel's participation in certain matters. The legislature modified a Sunset Commission recommendation to limit participation by the public counsel in commercial insurance matters. The Sunset Commission recommended limiting the public counsel to representing only a class of commercial insurance consumers who paid less than \$250,000 in total insurance premiums in the previous year. The legislature modified this recommendation to direct the public counsel to represent small commercial insurance consumers as a class only if the public counsel determines that they are in need of representation. The legislature also added language to clarify that the public counsel cannot participate in any regulatory matter affecting individual insurers or agents. These changes were enacted to address concerns about the public counsel acting as a separate regulatory agency on certain insurance matters and to focus the public counsel's efforts on behalf of noncommercial consumers.

Comparison of Sunset Legislation with Final Legislation

A comparison of HB 1461 with the original sunset bill as introduced shows that only one Sunset Commission across-the-board recommendation proposed by the commission was deleted from the final bill. The deleted across-the-board recommendation would have updated language authorizing the commissioner to establish methods for notifying consumers of the department's address and phone number for the purpose of directing complaints to the department. No major sunset provisions were deleted from the bill.

Fiscal Impact

Fiscal Year	Gain to the General Revenue Fund
1994	\$3,582,051
1995	\$ 527,965
1996	\$ 948,108
1997	\$ 948,108
1998	\$ 948,108

The largest fiscal impact would result from a change in the due date for the payment of premium taxes, causing a one-time gain to general revenue of \$4.6 million in FY 1994. Significant savings will result from the elimination of the full-time board and the transfer of responsibility for collecting workers' compensation data. Additional costs will result from transferring tax and audit functions to the comptroller and a provision in the bill establishing an admissions process for alien insurers. In addition, the windstorm inspection program established in the bill will result in significant costs, but these costs should be completely offset by assessments against property insurers in coastal counties.

Bill Summary - Enrolled Version
Texas Department of Insurance and Office of Public Insurance Counsel
HB 1461 - Counts

Bill Reference	Bill Provision
<p>ARTICLE 1. ORGANIZATION OF TEXAS DEPARTMENT OF INSURANCE; FUNCTIONS OF COMMISSIONER; ELIMINATION OF STATE BOARD OF INSURANCE</p>	
<p>Page 1, Line 11 thru Page 3, Line 1 Page 3, Line 6 Page 6, Line 1 thru Page 10, Line 6 Page 11, Line 26 Page 12, Line 15 thru Page 13, Line 12 Page 13, Line 16 Page 16, Line 15 thru Page 27, Line 27 Page 29, Line 15 thru Page 32, Line 4 Page 37, Line 7 thru Page 39, Line 21 Page 127, Line 4 thru Page 131, Line 9 Page 258, Line 21 Page 269, Line 15 Page 274, Line 21 Page 287, Line 24 Page 290, Line 25 Page 418, Line 14 Page 419, Line 16 thru Page 422, Line 17</p>	<p>Eliminates the current three-member, full-time insurance board and provides for an insurance commissioner to run the department. The commissioner is appointed by the governor to a two-year term and must meet statutory requirements to qualify for appointment.</p>
<p>Page 3, Line 5</p>	<p>Updates the department's sunset date to 2005 to provide the usual 12-year review.</p>
<p>Page 3, Line 26 thru Page 5, Line 8 Page 5, Line 17</p>	<p>Requires the commissioner or a designee to prepare and maintain an equal employment opportunity policy and to report findings to the Human Rights Commission and the governor's office. (ATB)</p>
<p>Page 5, Line 9</p>	<p>Requires the commissioner to develop and implement policies that clearly define the respective responsibilities of the commissioner and staff. (ATB)</p>

Bill Summary - Enrolled Version
Texas Department of Insurance and Office of Public Insurance Counsel
HB 1461 - Counts

Page 5, Line 12	Requires the commissioner to provide information to employees on the qualifications for office or employment and each person's responsibilities under the law. (ATB)
Page 7, Line 13	Provides for the commissioner to adopt rules for conducting the department's duties only as authorized in statute.
Page 10, Line 18	Requires the commissioner to develop a plan that describes how non-English speaking persons can be provided reasonable access to the department's programs. Also requires the department to comply with federal and state laws for program and facility accessibility. (ATB)
Page 10, Line 23	Requires the commissioner to provide the public with reasonable opportunity to appear before the commissioner regarding issues under the commissioner's jurisdiction. (ATB)
Page 11, Line 3	Prohibits the commissioner or spouse and employees compensated at or above Group 17 in the appropriations act or their spouses from being an officer or employee of a related trade association. Also defines trade association. (ATB)
Page 12, Line 5	Prohibits registered lobbyists from serving as commissioner or from being employed as general counsel to the commissioner. (ATB)
Page 13, Line 13	Requires appointment of the commissioner to be made without regard to race, color, disability, sex, religion, age, or national origin. (ATB)
Page 13, Line 18 thru Page 14, Line 5	Prohibits appointment as commissioner if the person or the person's spouse is a licensee, conducts business with the agency, or otherwise has financial ties to the regulated industry. (ATB)
Page 14, Line 13	Establishes statutory qualifications for appointment as an associate or deputy commissioner.
Page 14, Line 22 thru Page 15, Line 8	Requires the commissioner or a designee to develop an intra-agency career ladder program and requires intra-agency posting of job openings concurrently with any public posting. (ATB)

Bill Summary - Enrolled Version
Texas Department of Insurance and Office of Public Insurance Counsel
HB 1461 - Counts

Page 15, Line 9	Requires the commissioner or a designee to develop an annual job performance evaluation system upon which merit salary increases must be based. (ATB)
Page 15, Line 14 thru Page 16, Line 1	Defines grounds for removing the commissioner. Affirms that an action of the board and commissioner is valid even if it is taken when a ground for removal exists. (ATB)
Page 16, Line 4	Removes language authorizing the attorney general to represent the public interest in rate and policy form proceedings if OPIC is not authorized to appear.
Page 20, Line 13	Allows a person to agree to disciplinary sanctions in an informal disposition or consent order without admitting to a violation and provides for the existence of the violation to continue to be in dispute if an agreement is reached.
Page 22, Line 19 thru Page 23, Line 5	Requires the department to file an annual report with the governor and the legislature detailing the department's financial transactions. (ATB)
Page 27, Line 1	Requires the department to maintain files on complaints that concern an activity regulated by the department. (ATB)
Page 27, Line 8	Requires the department to periodically provide written notice to all parties to a formal complaint of the status of the complaint. (ATB)
Page 28, Line 5 thru Page 29, Line 5	Allows the department and OPIC to receive insurers' underwriting guidelines, but provides for confidentiality. Allows the department and public counsel to disclose a summary of these guidelines in a way that does not disclose the insurer providing the guidelines. Also, allows the use of guidelines to prosecute a violation of the code.
Page 29, Line 6	Provides that the application of NAIC rules or standards by the department must be specifically authorized by statute and approved by the commissioner.
Page 32, Line 16	Specifies that notice of compliant procedures for policy holder must include the department's name and toll-free telephone number.
Page 32, Line 26 thru Page 33, Line 10	Limits the information the department may provide through its toll-free telephone number.

**Bill Summary - Enrolled Version
Texas Department of Insurance and Office of Public Insurance Counsel
HB 1461 - Counts**

Page 33, Line 14	Requires the department to prepare and distribute information to the public concerning the department's functions and complaint procedures. (ATB)
Page 33, Line 24 thru Page 34, Line 24	Creates a statute of limitations for disciplinary actions against an insurer, agent, or other licensee by requiring the department to take action on violations and fraudulent activities within specific deadlines.
Page 34, Line 27 thru Page 35, Line 10	Provides for voiding department rules if the actual costs of the rule exceed the estimated costs in the department's fiscal note or benefit-cost note by 25 percent or more.
Page 35, Line 13	Requires the Texas Legislative Council to recodify the insurance code for the 75th Legislature, upon direction of the lieutenant governor and the speaker of the house.
Page 35, Line 23 thru Page 37, line 6	Transfers the collection of workers' compensation insurance data from the department to the Texas Workers' Compensation Commission.
ARTICLE 2. TRANSFER OF CERTAIN FUNCTIONS TO STATE OFFICE OF ADMINISTRATIVE HEARINGS	
Page 39, Line 26 thru Page 46, Line 19	Transfers the department's hearings functions to the State Office of Administrative Hearings, other than proceedings relating to individual rate filings (unless contested), rules, policy forms and endorsements, organizational plans of operation, and insurance taxes.
Page 44, Line 10 thru Page 45, Line 23	Relaxes revolving door restrictions for members of the former board of insurance and certain department employees and extends these new revolving door restrictions to include employees of SOAH involved in hearing insurance cases.
ARTICLE 3. TRANSFER OF CERTAIN TAX COLLECTION AND AUDIT FUNCTIONS TO OFFICE OF THE COMPTROLLER	
Page 46, Line 24 thru Page 101, Line 24 Page 12, Line 21 Page 27, Line 25 Page 29, Line 25 Page 32, Line 4 Page 238, Line 16	Transfers the department's tax and audit functions to the comptroller's office.

**Bill Summary - Enrolled Version
Texas Department of Insurance and Office of Public Insurance Counsel
HB 1461 - Counts**

Page 50, Line 3 thru Page 51, Line 25	Specifies that management and accounting activities of certain insurers providing insurance for parent or affiliated companies are not to be considered as insurance business for regulatory purposes. Also, specifies that these insurers must pay applicable premium taxes.
Page 69, Line 19	Exempts farm mutuals, mutual aid associations and burial associations from being subject to the franchise tax.
Page 83, Line 2	For purposes of the maintenance tax on workers' compensation premiums, specifies that gross workers' compensation premiums include the actual modified premium before applying the premium credit for a deductible.
Page 87, Line 2 thru Page 88, Line 27	Changes the maintenance tax on title insurance to a maintenance "fee" and specifies that the fee is not a tax.
ARTICLE 4. APPEAL OF DECISIONS OF COMMISSIONER	
Page 102, Line 2 thru Page 108, Line 26 Page 244, Line 11 thru Page 245, Line 3 Page 247, Line 2 Page 250, Line 9 Page 329, Line 8	Provides that court review of certain actions or decisions of the commissioner are by substantial evidence instead of trial de novo. Review of actions by receiver regarding liquidation, rehabilitation, or conservation of insurers will continue to be de novo instead of substantial evidence.
ARTICLE 5. ADMINISTRATIVE PENALTIES	
Page 109, Line 4 thru Page 118, Line 11 Page 19, Line 16 Page 20, Line 1 Page 238, Line 2	Provides the department with clear guidelines for assessing administrative penalties and maintains the existing \$25,000 maximum penalty.
Page 116, Line 5	Allows insurance agents to take legal action for damages suffered by the cancellation of agency contracts by fire and casualty insurance companies regardless of whether the department has found that a violation has occurred.
ARTICLE 6. RATE AND POLICY FORM REGULATION	
Page 118, Line 15	Requires the department to study and implement provisions that will streamline insurance rate proceedings while ensuring due process for all parties.

Bill Summary - Enrolled Version
Texas Department of Insurance and Office of Public Insurance Counsel
HB 1461 - Counts

<p>Page 118, Line 23 thru Page 122, Line 1 Page 441, Line 13 Page 442, Line 20</p>	<p>Establishes a nine-member select committee to study whether insurance regulation should be changed from regulating rates and forms to monitoring insurers' financial condition and market conduct and to study the availability of motor vehicle insurance. The committee must also appoint an independent consultant to evaluate the activities of advisory organizations providing insurance data for the department and insurers and to assess the costs and benefits of data collection systems established by the department and statistical agents.</p>
<p>Page 122, Line 4</p>	<p>Requires insurance companies to report data on health and long-term care insurance to the department.</p>
<p>Page 123, Line 10</p>	<p>Allows trade associations to participate in rate hearings on behalf of members who are small and medium-sized insurers. Also specifies that these associations are not exempt from antitrust liability if they present ratemaking data or make recommendations at a hearing.</p>
<p>Page 124, Line 16</p>	<p>Authorizes department staff to present evidence in certain types of rate filing cases.</p>
<p>Page 125, Line 2</p>	<p>Requires the department to develop and implement provisions for improving its approval process for life insurance policies.</p>
<p>Page 125, Line 6 thru Page 126, Line 5 Page 130, Line 22 thru Page 131, Line 15</p>	<p>Creates a file and use system for rates and prior approval of policy forms for all commercial casualty and medical professional liability insurance. Specifically excludes automobile insurance from these relaxed rate regulations. Also, eliminates large risk policy forms from prior approval.</p>
<p>Page 126, Line 11</p>	<p>Includes premium discount and rating plans such as experience, schedule, and retrospective rating in the definition of "supplementary rating information."</p>
<p>Page 141, Line 14</p>	<p>Adds an association or trust of individuals prearranging their funerals to the list of groups specifically authorized for group life insurance.</p>

Bill Summary - Enrolled Version
Texas Department of Insurance and Office of Public Insurance Counsel
HB 1461 - Counts

ARTICLE 7. FINANCIAL SUPERVISION OF ENTITIES REGULATED BY TEXAS DEPARTMENT OF INSURANCE	
Page 149, Line 14 Page 151, Line 3 thru Page 152, Line 1	Requires opinions regarding reserves and other actuarial items held by life insurance companies to be filed by a qualified actuary. Specifies that the department must accept submitted actuarial opinions unless controverted.
Page 150, Line 19	Provides discretion for the board to exempt companies from life insurance reserve requirements adopted by the National Association of Insurance Commissioners.
Page 152, Line 4 Page 153, Line 18	Requires the department to adopt audit and compliance standards and to use audits and work papers prepared by certified public accountants when available. Also allows the department to conduct its own audits when necessary.
Page 152, Line 24 thru Page 153, Line 6	Provides for the confidentiality of final or preliminary examination reports if the insurer being examined is under supervision or conservation. Specifies that the confidentiality does not apply to an examination conducted in connection with a liquidation or a receivership.
Page 153, Line 7	Allows the department to examine financially sound insurance companies every five years instead of every three years.
Page 153, Line 25 thru Page 154, Line 5	Provides for confidentiality of information regarding the department's early warning system.
Page 154, Line 10 thru Page 156, Line 16 Page 183, Line 19	Increases capital and surplus requirements for surplus lines insurers from \$6 million to \$15 million and phases in the increase over time. Also requires the commissioner to exempt insurers based on the amount of premiums they write or if insurers meet other specified conditions.
Page 157, Line 13 Page 183, Line 26 thru Page 184, Line 4	Prohibits the board from computing assessments for examination expenses based on insurance premiums contracted for by a state or federal government agency for certain benefits, such as welfare.
Page 158, Line 3 thru Page 159, Line 22 Page 184, Line 5	Modifies provisions for subordinated indebtedness by allowing insurers to repay a loan or advance from a specified portion of the insurer's surplus. Also, deletes requirement for commissioner's approval before an insurer may assume a subordinated liability.

Bill Summary - Enrolled Version
Texas Department of Insurance and Office of Public Insurance Counsel
HB 1461 - Counts

Page 160, Line 19 thru Page 178, Line 19 Page 184, Line 8	Expands the types of investments and loans that insurers are allowed to make.
Page 178, Line 26 thru Page 179, Line 19	Changes requirements for reporting certain transactions between a domestic insurer and its holding company system. Requires the commissioner to establish procedures for considering prepayment notice promptly, reviewing annually all reported ordinary dividends paid, and taking appropriate action as authorized by other provisions of the code.
Page 180, Line 25	Requires the evaluation of the adequacy of an insurer's surplus to consider the quality of the insurer's earnings and the extent to which the insurer's reported earnings include extraordinary items.
Page 181, Line 3	Specifies that the Asset Protection Act does not apply to a reinsurance agreement.
Page 181, Line 15	Allows insurers to issue securities kept under a custodial agreement with a federal home loan bank.
Page 182, Line 9 thru Page 183, Line 18	Allows insurers to show ownership of uncertificated securities as defined in the Business and Commerce Code and under department rules for showing ownership of securities without a certificate.
Page 185, Line 1	Allows a group of insurers that includes unincorporated individual insurers to maintain a trust fund instead of minimum capital and surplus requirement for surplus lines.
ARTICLE 8. CONSOLIDATION, LIQUIDATION, REHABILITATION, REORGANIZATION, OR CONSERVATION OF INSURERS	
Page 185, Line 26 thru Page 196, Line 27	Allows courts to relax reporting requirements for the business plan for receivership of impaired insurers by special deputy receiver. Establishes procedures for liquidators and special deputy receivers to disburse assets of impaired insurers to guaranty associations having claims against the estates of the insurers.
Page 187, Line 4 thru Page 188, Line 8	Clarifies offset rights of creditors in an insurance company insolvency proceeding.

Bill Summary - Enrolled Version
Texas Department of Insurance and Office of Public Insurance Counsel
HB 1461 - Counts

Page 197, Line 22 thru Page 198, Line 2	Extends the time period for insurance companies to comply with the commissioner's supervision requirements from 60 to 180 days and removes the provision for the commissioner to extend the supervision for an additional 30 days.
Page 199, Line 3	Specifies that information relating to the supervision or conservatorship of a company is confidential until the period of supervision or conservatorship is terminated.
Page 200, Line 3	Allows insurers to employ attorneys, actuaries, and accountants during supervision or conservatorship proceedings and provides for the payment of reasonable fees for those services.
Page 200, Line 21	Requires the department to use the employees of the entity being rehabilitated as much as possible to minimize the expense of rehabilitation.
Page 201, Line 1	Repeals provisions regarding liability insurers' claims reports and the reporting of statistical data by workers' compensation insurers.
Page 201, Line 12	Allows reporting of closed claim data in the form of sampling instead of the filing of reports.
Page 201, Line 18	Allows the board to establish an electronic data base and provide for access to the data.
ARTICLE 9. TEXAS PROPERTY AND CASUALTY INSURANCE GUARANTY ASSOCIATION	
Page 202, Line 2 thru Page 218, Line 5	Changes definitions and makes technical and other changes to the Property and Casualty Insurance Guaranty Act. Also changes the obligations of the guaranty association regarding claims against an impaired insurer.
Page 205, Line 5	Specifies that "net direct written premiums" include the modified premium before applying the premium credit for a deductible for purposes of assessments against workers compensation lines of business for making payments on behalf of impaired insurers.
Page 206, Line 7	Prohibits the director of the association, a member company or other entities from accepting money or valuables for an action on behalf of an impaired insurer.

Bill Summary - Enrolled Version
Texas Department of Insurance and Office of Public Insurance Counsel
HB 1461 - Counts

Page 209, Line 8	Allows the guaranty association's board to hold an open meeting by telephone conference call.
Page 215, Line 3	Provides immunity from liability for statements made in good faith about impaired insurers by the association's employees, directors, and member insurers and by the commissioner. Also provides immunity from liability for any good faith action by the receiver.
Page 215, Line 11	Requires the association to submit an annual financial statement to the state auditor, rather than the insurance commissioner, and requires the state auditor to approve a form for the statement.
Page 217, Line 1	Authorizes the association to assess a fee against workers' compensation insurers of not more than three percent of the previous year's net direct written premiums. The assessment is to be used for making payments on behalf of impaired insurers.
ARTICLE 10. LIFE, ACCIDENT, HEALTH AND HOSPITAL SERVICE INSURANCE GUARANTY ASSOCIATION	
Page 218, Line 10	Prohibits the director of the association, a member company or other entities from accepting money or valuables for an action on behalf of an impaired insurer.
Page 219, Line 2	Provides immunity from liability for any good faith action by the receiver.
ARTICLE 11. TITLE INSURANCE GUARANTY ASSOCIATION	
Page 219, Line 19 thru Page 234, Line 25	Changes definitions and makes technical and other changes to the Title Insurance Guaranty Act. Also changes the obligations of the guaranty association regarding claims against an impaired insurer and provides for judicial review of actions taken regarding impaired insurers.
Page 222, Line 1	Authorizes the insurance commissioner to assess an administrative penalty against insurers who fail to pay an assessment when due and sets maximum penalties.
Page 229, Line 1	Allows the guaranty association's board to hold an open meeting by telephone conference call.
Page 230, Line 27	Provides immunity from liability for any good faith action taken by the receiver.

Bill Summary - Enrolled Version
Texas Department of Insurance and Office of Public Insurance Counsel
HB 1461 - Counts

ARTICLE 12. REGULATION OF CERTAIN LICENSE HOLDERS	
<p>Page 235, Line 2 thru Page 236, Line 3</p>	<p>Specifies the department's licensing programs that are subject to the standard language developed by the Sunset Commission and added throughout the rest of the article.</p>
<p>Page 236, Line 4 thru Page 237, Line 3 Page 239, Line 6 Page 242, Line 17 Page 252, Line 6 Page 272, Line 24 thru Page 273, Line 11 Page 286, Line 24 thru Page 287, Line 12 Page 291, Line 25 thru Page 292, Line 11 Page 293, Line 24 thru Page 294, Line 10 Page 297, Line 23 Page 297, Line 24 Page 297, Line 27 Page 298, Line 3 Page 298, Line 5 Page 298, Line 15 Page 298, Line 20 Page 299, Line 3 Page 299, Line 17</p>	<p>Establishes method for license renewal maintaining the existing 90-day renewal time frame and penalty structure for delinquent renewals. (ATB)</p>
<p>Page 237, Line 4 Page 242, Line 7 Page 243, Line 4 Page 245, Line 7 Page 247, Line 24 Page 248, Line 17 Page 251, Line 13 Page 262, line 12 Page 272, Line 16 Page 273, Line 12 Page 277, Line 11 Page 286, Line 15 Page 287, Line 13 Page 291, Line 14</p>	<p>Authorizes the commissioner to adopt a staggered license renewal system, but provides for persons with more than one license to renew all licenses in a single process. (ATB)</p>

Bill Summary - Enrolled Version
Texas Department of Insurance and Office of Public Insurance Counsel
HB 1461 - Counts

<p>Page 293, Line 18 Page 297, Line 24 Page 297, Line 27 Page 298, Line 3 Page 298, Line 5 Page 298, Line 15 Page 298, Line 20 Page 298, Line 23 Page 299, Line 3 Page 299, Line 17</p>	<p>Staggered license renewal ATB. (cont.)</p>
<p>Page 237, Line 14</p>	<p>Excludes third party administrators from the standard sunset provisions regarding renewal of licenses.</p>
<p>Page 237, Line 16 Page 297, Line 24 Page 297, Line 27 Page 298, Line 3 Page 298, Line 5 Page 298, Line 8 Page 298, Line 13 Page 298, Line 18 Page 298, Line 23 Page 299, Line 3 Page 299, Line 17</p>	<p>Authorizes the department to grant a license, without additional testing, to an applicant with a valid license from another state and with qualifications equivalent to those required in the act. (ATB)</p>
<p>Page 237, Line 20 Page 298, Line 3 Page 298, Line 5 Page 298, Line 13 Page 299, Line 3 Page 299, Line 17</p>	<p>Authorizes the department to develop and administer voluntary continuing education programs for licensees. (ATB)</p>
<p>Page 237, Line 26 thru Page 238, Line 13 Page 243, Line 10 Page 246, Line 5 Page 249, Line 5 Page 259, Line 2 Page 267, Line 23 Page 273, Line 21 Page 276, Line 23 thru Page 277, Line 6</p>	<p>Requires the department to use a full range of penalties, such as reprimand, suspension or revocation, for violations of state laws or agency rules. (ATB)</p>

**Bill Summary - Enrolled Version
Texas Department of Insurance and Office of Public Insurance Counsel
HB 1461 - Counts**

<p>Page 277, Line 17 Page 279, Line 13 Page 288, Line 16 Page 292, Line 13 Page 294, Line 16 Page 295, Line 20 Page 298, Line 25 Page 298, Line 26 Page 299, Line 17</p>	<p>Full range of penalties ATB. (cont.)</p>
<p>Page 238, Line 14 Page 297, Line 26 Page 298, Line 2 Page 298, Line 3 Page 298, Line 12 Page 298, Line 15 Page 298, Line 26 Page 299, Line 17</p>	<p>Entitles licensees to a hearing before any sanction may be taken against their license. (ATB)</p>
<p>Page 241, Line 14 Page 271, Line 20 thru Page 272, Line 7 Page 275, Line 25 thru Page 276, Line 12 Page 298 Line 5 Page 298, Line 10 Page 298, Line 15 Page 298, Line 26 Page 299, Line 1 Page 299, Line 3 Page 299, Line 17</p>	<p>Requires the department to notify license applicants of licensing examination results within a reasonable time of the examination date. (ATB)</p>
<p>Page 241, Line 27 thru Page 242, Line 3 Page 272, Line 7 Page 276, Line 13 Page 298, Line 5 Page 298, Line 10 Page 298, Line 15 Page 298, Line 26 Page 299, Line 1 Page 299, Line 3 Page 299, Line 17</p>	<p>Requires the department, upon request of an applicant who failed a licensing examination, to provide an analysis of the applicant's exam performance. (ATB)</p>

Bill Summary - Enrolled Version
Texas Department of Insurance and Office of Public Insurance Counsel
HB 1461 - Counts

<p>Page 243, Line 26 thru Page 244, Line 6 Page 245, Line 24 Page 246, Line 20 Page 249, Line 21 Page 253, Line 1 Page 253, Line 21 thru Page 254, Line 3 Page 255, Line 12 Page 256, Line 6 Page 256, Line 20 thru Page 257, Line 17 Page 259, Line 18 thru Page 260, Line 21 Page 261, Line 15 thru Page 262, Line 2 Page 262, Line 19 thru Page 263, Line 19 Page 268, Line 12 thru Page 269, Line 5 Page 269, Line 25 thru Page 270, Line 25 Page 274, Line 15 Page 278, Line 14 Page 280, Line 8 Page 281, Line 7 Page 285, Line 17 Page 289, Line 6 Page 291, Line 9 Page 293, Line 1 Page 295, Line 2 Page 298, Line 10</p>	<p>Removes vague and inequitable language that may be used as grounds to disqualify a license applicant. (ATB)</p>
<p>Page 251, Line 3 Page 253, Line 12 Page 261, Line 6 Page 280, Line 20</p>	<p>Prohibits fraternal benefit societies from employing persons to solicit business if they have had a comparable insurance license revoked.</p>
<p>Page 254, Line 23 Page 255, Line 21 Page 256, Line 9 Page 299, Line 5</p>	<p>Increases from \$5,000 to \$7,500 the maximum amount of life insurance an applicant may write for any one life unless certain conditions are met.</p>

Bill Summary - Enrolled Version
Texas Department of Insurance and Office of Public Insurance Counsel
HB 1461 - Counts

Page 269, Line 7	Provides for disciplinary actions against a license holder for rebating an insurance premium or commission to an insured.
Page 282, Line 16	Requires the board to issue a recording agent license to corporations that have an errors and omissions insurance policy of at least \$300,000 with a maximum \$25,000 deductible.
Page 296, Line 11 thru Page 297, Line 1 Page 298, Line 16	Allows local recording agents to charge a fee for reimbursement of costs incurred in obtaining a motor vehicle record or a photograph of insured property.
Page 297, Line 9	Requires the commissioner to allow sponsoring organizations to solicit voluntary contributions along with a membership renewal solicitation.
ARTICLE 13. REINSURANCE ISSUES	
Page 300, Line 10 thru Page 304, Line 6	Modifies requirements for reinsurance agreements and allows health maintenance organizations to participate in reinsurance agreements.
Page 302, Line 18	Allows reinsurance agreements to allow the offset of mutual debts and credits between the ceding and the assuming insurer.
Page 306, Line 3 thru Page 309, Line 4	Specifies that both incorporated and unincorporated individual insurers may participate in reinsurance arrangements as members at Lloyd's of London.
ARTICLE 14. MOTOR VEHICLE INSURANCE	
Page 311, Line 24 thru Page 312, Line 12	Provides for criminal penalties under the penal code for use of an unauthorized proof of liability insurance form.
Page 312, Line 15 thru Page 318, Line 16 Page 321, Line 27 thru Page 322, Line 21	Restructures Texas Automobile Insurance Plan (TAIP) maintaining a majority of insurers on the governing committee, requiring applicants for insurance through the plan to be rejected by at least two automobile insurers in the state, and establishing guidelines for determining rates for insurance through the plan.

Bill Summary - Enrolled Version
Texas Department of Insurance and Office of Public Insurance Counsel
HB 1461 - Counts

Page 318, Line 19 thru Page 321, Line 18	Prohibits the use of an automobile insurance policy with coverage of less than 30 days to apply for a driver's license, automobile registration or license plates, or a motor vehicle registration. Requires insurance policies used as evidence of financial responsibility to be written for a term of 30 days or more.
ARTICLE 15. WORKERS' COMPENSATION INSURANCE	
Page 323, Line 1 thru Page 324, Line 5	Changes experience modifier requirements for policyholders qualifying for workers' compensation insurance under the rejected risk fund who must obtain a safety consultation. Also, requires the Texas Workers' Compensation Insurance Fund to decline to insure a risk determined not to be in good faith.
ARTICLE 16. TITLE INSURANCE	
Page 324, Line 13	Provides for the "impairment" of liens in the definition of title insurance.
Page 324, Line 26 thru Page 328, Line 27	Provides for leasing title plants and allows them to insure titles in other jurisdictions. Provides for biennial instead of annual hearings on the adoption of premium rates for title insurance and allows the public counsel to request additional hearings.
Page 329, Line 19 thru Page 330, Line 9	Provides that an "abstract of title" is not title insurance and prohibits the board from adopting regulations relating to abstracts of title.
Page 330, Line 19	Deletes grandfather provision that had allowed certain insurance companies to transact both title and other types of insurance.
Page 331, Line 2	Prohibits companies from insuring against losses because of the unmarketability of title.
Page 331, Line 11	Describes loss expense for purposes of required reserves for title insurance companies.
Page 333, Line 27 thru Page 334, Line 20	Allows certain investments for title insurance companies.
Page 335, Line 14	Specifies that the board may prevent risks from being assumed under title insurance contracts because of insolvency of parties to the contract.

Bill Summary - Enrolled Version
Texas Department of Insurance and Office of Public Insurance Counsel
HB 1461 - Counts

Page 335, Line 27 thru Page 337, Line 1	Allows insured closing and settlement letters to be issued by buyers and sellers under certain circumstances.
ARTICLE 17. TEXAS CATASTROPHE PROPERTY INSURANCE POOL	
Page 337, Line 13 thru Page 338, Line 11 Page 348, Line 1	Requires the department to assess property insurers in coastal counties to cover the costs of administering the coastal windstorm inspection program.
Page 338, Line 19	Deletes target percentages for depopulating the CATPOOL.
Page 339, Line 3 Page 347, Line 19	Limits terms for members of CATPOOL board of directors to three terms.
Page 339, Line 20 thru Page 341, Line 1 Page 347, Line 19	Provides for residential windstorm and hail insurance rates to be at least 25 percent above the benchmark rate for extended coverage for homeowners.
Page 341, Line 12 thru Page 343, Line 24 Page 347, Line 17	Provides for the CATPOOL to establish a new reinsurance program or to contract with the department to establish a trust fund to protect policyholders.
Page 343, Line 27 thru Page 344, Line 23 Page 347, Line 21	Specifies coverage requirements for windstorm and hail insurance policies issued by the CATPOOL. Specifies that the CATPOOL is not required to provide coverage for the loss of rates or rental value or for secondary or non-primary residences.
Page 345, Line 1 Page 347, Line 19	Extends immunity from liability under the CATPOOL Act for inspections or statements made by the director of the association.
Page 345, Line 9 Page 347, Line 19	Deletes the requirement for the CATPOOL to be represented by the attorney general.
Page 345, Line 23 thru Page 347, Line 15 Page 347, Line 19	Provides a three-step formula for paying insured losses that are greater than the revenue of the CATPOOL.

Bill Summary - Enrolled Version
Texas Department of Insurance and Office of Public Insurance Counsel
HB 1461 - Counts

<p>ARTICLE 18. ADMISSION OF INSURERS ORGANIZED UNDER THE LAWS OF ANOTHER STATE OR ORGANIZED UNDER THE LAWS OF A FOREIGN COUNTRY USING TEXAS AS A STATE OF ENTRY INTO THE UNITED STATES</p>	
<p>Page 348, Line 20 thru Page 372, Line 11</p>	<p>Establishes requirements for insurance companies from other countries to transact business in this state, including standards for the financial stability of the United States units of these alien insurance companies.</p>
<p>ARTICLE 19. HEALTH CARE PROVIDERS</p>	
<p>Page 373, Line 6 thru Page 379, Line 9 Page 383, Line 10</p>	<p>Adds licensed hearing aid fitters and dispensers to the list of health practitioners that must be paid by insurers for services if the insurer covers those services in a policy. Specifies that audiologists and speech-language pathologists must be licensed by the state to qualify under these provisions.</p>
<p>Page 379, Line 25 thru Page 380, Line 21</p>	<p>Specifies that unless specifically changed by the legislature, Health Maintenance Organizations (HMOs) are not restricted from selectively contracting with providers or from requiring enrolled members of the HMO to use providers specified by the HMO.</p>
<p>Page 380, Line 24 thru Page 381, Line 15</p>	<p>Prohibits insurers from denying reimbursement to a practitioner providing services of physical modalities that are covered by the insurance code and that are performed within the laws and regulations relating to licensure of the practitioner.</p>
<p>Page 381, Line 18</p>	<p>Requires persons arranging contracts with providers on behalf of an HMO or health insurer to comply with laws regarding the duties to notify and consider providers for such contracts. Provides that a violation of this section constitutes an unlawful practice in restraint of trade.</p>
<p>Page 381, Line 25</p>	<p>Repeals the August 31, 1993 expiration date for the insurance code article prohibiting certain contractual provisions in delivering pharmaceutical services. The existing contractual provisions involving pharmacies and pharmacists that are prohibited in health insurance policies would continue to be prohibited without an expiration date.</p>

**Bill Summary - Enrolled Version
Texas Department of Insurance and Office of Public Insurance Counsel
HB 1461 - Counts**

Page 382, Line 9	Specifies that a health insurance policy may include provisions to encourage the beneficiary and prescribing physician to use a program that results in cost savings if the provisions apply equally to all designated pharmaceutical service providers under the policy.
Page 382, Line 22 thru Page 383, Line 9	Creates an interim select committee to study the impact of requiring health insurance policies or plans to allow any qualified provider to participate as a contracting provider for the policy or plan.
ARTICLE 20. PARTICULAR FUNCTIONS OF THE STATE BOARD OF INSURANCE	
Page 383, Line 20	Prevents the commissioner from adopting rules that restrict competitive bidding or advertising except to prohibit false, misleading or deceptive practices. (ATB)
Page 383, Line 27 thru Page 384, Line 11	Requires state and local agencies to provide information to the department's fraud unit upon request.
Page 385, Line 8	Specifies that domestic insurers are not prohibited from locating books associated with a branch or agency office at another branch or agency office located in the United States.
Page 385, Line 13	Expands requirements for persons who control an insurance company or holding company to be domiciled in the United States.
Page 385, Line 26 thru Page 386, Line 15	Specifies reinsurance requirements for farm mutuals insuring growing crops.
Page 386, Line 27	Increases the amount of gross income from 25 to 33 percent that a farm mutual insuring motor vehicles may use for expenses without first obtaining approval by the commissioner.
Page 387, Line 14 Page 412, Line 26 thru Page 413, Line 3	Specifies that premium tax provisions apply to crop insurance premiums only written by a farm mutual insurance company after January 1, 1994
Page 387, Line 24 thru Page 388, Line 6 Page 413, Line 4	Requires persons selling crop insurance for a farm mutual insurance company to be licensed.

Bill Summary - Enrolled Version
Texas Department of Insurance and Office of Public Insurance Counsel
HB 1461 - Counts

Page 388, Line 17 thru Page 393, Line 19	Makes commercially domiciled insurers subject to the holding company provisions of the insurance code, allowing the department to examine affiliate transactions of insurers doing a large portion of their business in Texas, even though they are not physically located in the state. Provides for the commissioner to exempt any commercially domiciled insurer from these provisions if its financial situation indicates no reasonable danger of loss to policyholders.
Page 394, Line 12	Provides that a disclaimer of control is an exemption from acquisition of control requirements.
Page 395, Line 24	Extends the exemptions contained in the Insurance Holding Company System Regulatory Act to include transactions involving the direct reinsurance of mutual assessment companies.
Page 397, Line 5 Page 412, Line 14	Prohibits insurers from canceling liability insurance policies that are being renewed or continued and new policies within the first 60 days after being issued.
Page 397, Line 12 Page 412, Line 14	Makes it permissive for a property and casualty insurer to notify a policyholder who has filed two claims in less than three years that the insurer may decline to renew the policy if another non-weather related claim is filed.
Page 397, Line 23 thru Page 398, Line 9	Specifies that if a stipulated premium company stops writing certain new policies valued at more than \$10,000, then certain minimum capital requirements must be suspended until the insurer resumes writing those policies.
Page 398, Line 23 thru Page 400, Line 10 Page 412, Line 7	Expands the definition of attorney for nonprofit legal services corporations to include persons licensed to practice law in the jurisdiction where the services are provided. Authorizes the board to refer complaints regarding attorneys licensed in another jurisdiction to the licensing agency of that jurisdiction.
Page 400, Line 14	Specifies that the board may address "reasonable" inquiries to any insurance company or agent and requires the insurer to respond within 10 days.

Bill Summary - Enrolled Version
Texas Department of Insurance and Office of Public Insurance Counsel
HB 1461 - Counts

Page 401, Line 16 thru Page 406, Line 3 Page 412, Line 14	Relaxes the regulation of forms used by mortgage guaranty insurers from a procedure requiring prior approval by the board to a file and use procedure. Allows the commissioner to adopt minimum standards for insurance coverage and to disapprove forms. Provides a use and file system for regulating forms for mortgage pool insurance. Prohibits subrogation or any other claim by an insurer against a borrower and prohibits discrimination in coverage by mortgage guaranty insurers.
Page 406, Line 6 thru Page 407, Line 22 Page 412, Line 20	Exempts life, health or accident insurance annuity contracts from being garnished, seized for debt or liability, or demanded in a bankruptcy proceeding. Specifies that an annuity contract shall be considered a policy or contract of insurance.
Page 407, Line 25 thru Page 408, Line 8 Page 412, Line 14	Specifies that guaranteed renewable or noncancellable policies are continuous policies and that they are considered to be continued in force by the payment of the policy premium in accordance with the policy terms and conditions.
Page 408, Line 11	Allows the commissioner, upon written agreement by all parties, to waive or modify notice requirements for hearings and to informally dispose of any contested case.
Page 408, Line 24 thru Page 409, Line 5 Page 412, Line 14	Requires the commissioner to adopt an endorsement form that excludes coverage for damage to foundations or slabs of insured dwellings. Allows an insurer to attach this endorsement only if the insured dwelling is more than 10 years old.
Page 411, Line 9 thru Page 412, Line 6	Allows retaliation against out-of-state insurers to the same extent as actions taken against Texas insurers by regulatory officials in other states if the action is taken because the TDI does not comply with a requirement of or receive accreditation certification from the NAIC.
Page 413, Line 10	Provides for the validity of various methods for determining pass-through allowances for assessments against workers' compensation insurers used to support the employers' rejected risk fund.

Bill Summary - Enrolled Version
Texas Department of Insurance and Office of Public Insurance Counsel
HB 1461 - Counts

ARTICLE 21. CONTINUATION AND FUNCTIONS OF THE OFFICE OF PUBLIC INSURANCE COUNSEL	
Page 414, Line 10	Requires the public counsel to be licensed to practice law in Texas, rather than being eligible to practice law in the state.
Page 414, Line 15 thru Page 415, Line 1	Prohibits appointment as public counsel if the person or the person's spouse conducts business with the office or otherwise has financial ties to the regulated industry. (ATB)
Page 415, Line 2	Requires that appointment of the public counsel be made without regard to race, color, disability, sex, religion, age, or national origin. (ATB)
Page 415, Line 7	Defines grounds for removing the public counsel. Affirms that an action of the office is valid even if it is taken when a ground for removal exists. (ATB)
Page 416, Line 7	Requires the office to file an annual report with the governor and the legislature detailing the office's financial transactions. (ATB)
Page 416, Line 14	Requires all money paid to the office to be deposited in the state treasury. (ATB)
Page 416, Line 16 thru Page 417, Line 17	Requires the public counsel or a designee to prepare and maintain an equal employment opportunity policy and to report findings to the Human Rights Commission and the governor's office. (ATB)
Page 417, Line 18	Requires the public counsel or a designee to develop an intra-agency career ladder program and requires intra-agency posting of job openings concurrently with any public posting. (ATB)
Page 417, Line 22	Requires the public counsel or a designee to develop an annual job performance evaluation system upon which merit salary increases must be based. (ATB)
Page 417, Line 26 thru Page 418, Line 3	Requires the office to provide information to the public counsel and employees on the qualifications for office or employment and each person's responsibilities under the law. (ATB)

**Bill Summary - Enrolled Version
Texas Department of Insurance and Office of Public Insurance Counsel
HB 1461 - Counts**

Page 418, Line 4	Prohibits registered lobbyists from serving as public counsel or from being employed as general counsel for the office. (ATB)
Page 418, Line 16 thru Page 419, Line 7	Prohibits the public counsel or the public counsel's spouse and employees compensated at or above Group 17 in the appropriations act or their spouses from being an officer or employee of a related trade association. Also defines trade association. (ATB)
Page 420, Line 5 Page 421, Line 21 thru Page 422, Line 2	Limits and further defines the public counsel's authority to participate or initiate certain types of insurance proceedings.
Page 421, Line 10	Authorizes OPIC to appear before the commissioner on behalf of small commercial insurance consumers as a class if the public counsel determines that they are in need of representation.
Page 422, Line 19	Requires the office to prepare and distribute information to the public concerning the office's functions. (ATB)
Page 422, Line 24 thru Page 423, Line 2	Requires the office to develop a plan that describes how non-English speaking persons can be provided reasonable access to the office's programs. Also requires the office to comply with federal and state laws for program and facility accessibility. (ATB)
Page 423, Line 6	Continues OPIC for a 12-year period.
ARTICLE 22. REDESIGNATION OF PROVISIONS WITH DUPLICATE DESIGNATIONS; CONFORMING AMENDMENTS	
Page 423, Line 13 thru Page 439, Line 11	Technical corrections to the statute, adopted by the Sunset Commission as minor modifications.
ARTICLE 23. CONSOLIDATION OF FUNDS	
Page 439, Line 13	Clarifies that the impending consolidation of the insurance operating fund into the general revenue fund is not affected by this Act.

Bill Summary - Enrolled Version
Texas Department of Insurance and Office of Public Insurance Counsel
HB 1461 - Counts

ARTICLE 24. CERTAIN INFORMATION RELATING TO RATES	
Page 439, Line 19 thru Page 441, Line 26	Extends the authority from 1993 to 1997 for advisory organizations to continue to receive and provide insurance data and other information for insurers in the state. Establishes oversight requirements for these organizations to continue their operations and for insurers to use the data that these organizations provide.
Page 442, Line 2	Establishes a statistical data collection effort with the department by requiring the commissioner to contract with a qualified data collection entity for each line of insurance. Also, allows insurers to continue to provide data to a statistical agent designated before April 1, 1993.
ARTICLE 25. EFFECTIVE DATE; EMERGENCY	
Page 443, Line 4	Establishes the effective date of the Act as September 1, 1993. Emergency clause.

Texas Department of Public Safety

Final Action: *The Department of Public Safety was continued for a 12-year period with changes.*

SB 510 by Moncrief

Analysis of Major Provisions in the Final Bill

Senate Bill 510, as introduced, contained the Sunset Commission's recommendations for the Department of Public Safety. Most of the recommendations remained in the final version of the bill, along with a number of new provisions added by the legislature. The major provisions in the final bill are discussed below.

Give the governor the authority to designate the chair of the Public Safety Commission.

The legislature adopted the recommendation of the Sunset Commission that the chair of the commission be designated by the governor rather than elected by the commission itself. Giving the governor this power will make the commission and its chair more accountable to the governor.

Reverse the legislative decision to eliminate all commissioned personnel from the motor vehicle inspection program and allow the department to continue the use of 25 officers.

The legislature adopted the recommendation of the Sunset Commission that will allow the department to continue using commissioned personnel in its motor vehicle inspection program. The 72nd Legislature passed legislation requiring that the department phase out the use of commissioned officers for enforcement in the inspection program. Concern was raised that enforcement would suffer if the department was not allowed to continue the use of a limited number of officers. The legislature concluded that the department should be allowed to continue using 25 commissioned officers.

Continue the state's current wiretap statute for use in drug law enforcement.

Based on the recommendation of the Sunset Commission, the legislature continued the wire/oral intercept statute. The current wiretap statute had an expiration date of September 1, 1993. The use of wire/oral intercepts has been an effective tool in drug law enforcement and controls placed on their use have been effective in preventing abuses of the authority. The legislature decided to continue the authority for 12 years. The policy would be reviewed again when the department undergoes sunset review in 2005.

Standardize the way agencies and other entities can get and use the department's criminal history record information and allow additional entities to get and use the information.

The legislature modified the recommendation of the Sunset Commission to standardize access to the department's criminal history record information (CHRI). Authority for access had been placed throughout state law in various agencies' statutes which led to an inconsistent approach to access and use of the CHRI. The Sunset Commission had

recommended adding volunteer centers that assist non-profit organizations with recruitment of workers. The legislature decided to give only the Dallas County volunteer center access to the information in the CHRI. The Dallas County experience will serve as a pilot project to see if access could be given to other centers in the future. In addition, the legislature added volunteer fire departments, the attorney general's office, and the Department of Protective and Regulatory Services to the access list.

Require the governor's office and the department to work closer together in drug enforcement efforts. The legislature adopted the Sunset Commission's recommendation that the governor's office and the department need to improve coordination of drug law enforcement efforts. The criminal justice division of the governor's office is responsible for drug policy planning and distributing federal funds to local drug enforcement task forces. The department has not consistently been involved in these efforts and, as the state's law enforcement agency, has expertise and resources that can be used in development of the state's drug law enforcement effort. A memorandum of understanding between the governor's office and the department will ensure that a coordinated effort takes place on an on-going basis.

Establish a \$50 fee for reinstatement of all suspended or revoked driver's licenses. The legislature modified the Sunset Commission's recommendation regarding a fee for reinstatement of a suspended driver's license. The commission had recommended the department be given authority to set a fee as necessary to cover the costs associated with the reinstatement. Estimates indicated that a \$27 fee was needed. The revenue generated would have gone into the fund that supports the department's driver's license program. The legislature decided to make the fee a revenue producer by setting the fee at \$50 and specifying that the fee revenue be deposited in the general revenue fund.

Make the DWI laws stricter by lowering the blood alcohol limit from .10 to .07 for a person under 21 and increase the automatic license suspension for DWI from 90 days to one year. The legislature added provisions to strengthen the laws for driving while intoxicated (DWI) as they applied to drivers under the age of 21. The blood alcohol limit to be considered legally drunk was lowered from .10 to .07 and the minimum suspension time, upon conviction, was increased from 90 days to one year. These changes will make it easier to charge a person under 21 with DWI and increase the suspension penalty for conviction.

Allow a person to prevent release of certain driver's license information kept by the department. The legislature added a provision that allows a person to restrict access to information kept by the department in its driver's license information files. Upon written request and payment of a five dollar fee, a person can prevent release of information related to the person's address. The information may still be released to governmental entities for official purposes.

Comparison of Sunset Commission Legislation With Final Legislation

A comparison of S.B. 510 with the original sunset bill introduced shows that all standard Sunset Commission across-the-board recommendations proposed by the commission were included in the final bill.

Most of the Sunset Commission’s specific recommendations also remained in the final bill. However, several significant recommendations were deleted during the legislative process. Significant recommendations not included in the final legislation are described below.

Expand the Public Safety Commission from three to six members. The Sunset Commission had recommended increasing the size of the commission from three to six members to give the governor more opportunity to appoint members who reflect the geographic and ethnic diversity of the state. The legislature removed this provision, that the current size of the commission was adequate for it to carry out its responsibilities.

Remove the department’s authority to waive the driving test required to get a driver’s license. The Sunset Commission had recommended that the department not be allowed to waive the driving test for graduates of driver training schools. The department had used the reduction in the number of driving tests as a way to shift the employees giving the tests to other duties in the driver’s licenses program. The legislature allowed the department to keep the waiver authority because the shifts in personnel from the driving test to other duties had helped reduce waits for the issuance of driver’s licenses.

Establish a way to track the cost of assistance provided by the department to local law enforcement agencies. The Sunset Commission had recommended that the department establish a system to calculate the costs of services provided to local law enforcement agencies. This type of system would be needed if the department ever had to recover the cost of the assistance it gives. The legislature decided not to require the establishment of the tracking system at this time.

Fiscal Impact

Fiscal Year	Gain to the General Revenue Fund	Cost to State Highway Fund No. 006	Cost to Operators and Chauffeurs License Fund No. 099
1994	\$3,209,800	\$574,519	\$56,942
1995	2,736,900	537,592	45,751
1996	2,736,900	537,592	45,751
1997	2,736,900	537,592	45,751
1998	2,500,000	537,592	45,751

The substantial gain to general revenue results from a \$50 fee charged for reinstatement of all suspended driver’s licenses. The cost to the highway fund relates to establishing a system to restrict, upon request, the release of information from driver’s license file.

**Bill Summary - Enrolled Version
Texas Department of Public Safety
SB 510 - Moncrief**

Bill Reference	Bill Provision
Page 1, Line 14	Continues the Department of Public Safety for a 12-year period.
Page 1, Line 21	Requires that appointments to the commission be made without regard to race, color, disability, sex, religion, age, or national origin. (ATB)
Page 2, Line 4	Provides the governor the authority to designate a member of the commission as its chair.
Page 2, Line 10	Requires the commission to provide the public with reasonable opportunity to appear before it regarding issues under its jurisdiction. (ATB)
Page 3, Line 10	Requires the commission to provide information to its members and employees on the qualifications for office or employment and each person's responsibilities under the law. (ATB)
Page 3, Line 14	Prohibits registered lobbyists from serving as a member of the commission or from being employed as general counsel to the commission. (ATB)
Page 3, Line 22 thru Page 4, Line 20	Defines grounds for removing a commission member and requires the director to notify the commission chair if knowledge that a potential ground for removal exists. Affirms that an action of the commission is valid even if it is taken when a ground for removal exists. (ATB)
Page 4, Line 21 thru Page 5, Line 13	Changes the probation period for commissioned employees from six months to one year.
Page 5, Line 14	Requires the director or a designee to develop an intra-agency career ladder program and requires intra-agency posting of job openings concurrently with any public posting. (ATB)
Page 5, Line 21 thru Page 6, Line 19	Requires the director or a designee to prepare and maintain an equal employment opportunity policy and to report findings to the Human Rights Commission and the governor's office. (ATB)
Page 6, Line 20 thru Page 7, Line 5 Page 107, Line 14	Provides specific direction to the department to improve its recruitment, hiring, and promotion of women and minorities. Also requires a study of promotion-from-within for non-commissioned employees.
Page 7, Line 8 thru Page 8, Line 9	Increases coordination between the department and the criminal justice division of the governor's office in drug law enforcement efforts.

**Bill Summary - Enrolled Version
Texas Department of Public Safety
SB 510 - Moncrief**

Bill Reference	Bill Provision
Page 8, Line 10	Requires the department to file an annual report with the governor and the legislature detailing the agency's financial transactions. (ATB)
Page 8, Line 18 thru Page 9, Line 5	Requires the agency to prepare and distribute information to the public concerning the agency's functions and complaint procedures. (ATB)
Page 9, Line 6	Requires the agency to maintain files on complaints that the agency has the authority to resolve. (ATB)
Page 9, Line 9	Requires the agency to provide written notice to all parties to a formal complaint of the final disposition of the complaint. (ATB)
Page 9, Line 14	Requires the agency to develop a plan that describes how non-English speaking persons can be provided reasonable access to the agency's programs. Also requires the commission to comply with federal and state laws for program and facility accessibility. (ATB)
Page 9, Line 19 thru Page 11, Line 11	Specifies that the Rangers are a major division of the department. Also puts in statute current qualifications for Rangers.
Page 11, Line 12 thru Page 12, Line 19 Page 56 , Line 6 thru Page 107, Line 8 Page 107, Line 18 thru Page 110, Line 19	Standardizes access and use of the department's criminal history record information (CHRI). Adds volunteer fire departments, the attorney general's office, the Department of Protective and Regulatory Services, and the volunteer center in Dallas County to the list of agencies with access to the CHRI. Establishes a procedure whereby the department checks lists of licensees from several agencies against the department's CHRI system. Also requires the department and The Department of Criminal Justice to establish a system to send subsequent CHRI on persons under the supervision of the TDCJ. Also requires the department to provide a copy of the section of statute on CHRI to each person that applies for access to CHRI.
Page 12, Line 20 thru Page 18, Line 1 Page 18, Line 24 thru Page 25, Line 23	Transfers statutory language related to the capitol complex from the statute of the General Services Commission to the department's statute. Adds new state property to the definition of complex. Also provides for the assessment of parking fines.
Page 18, Line 3	Continues the state's wire and oral communication intercept statute with an expiration date that coincides with the next sunset review efforts.

Bill Summary - Enrolled Version
Texas Department of Public Safety
SB 510 - Moncrief

Bill Reference	Bill Provision
Page 18, Line 16 Page 44, Line 20 thru Page 48, Line 10	Requires the director to use a full range of penalties, such as reprimand, suspension or revocation, for violations of state laws or agency rules. (ATB)
Page 25, Line 24 thru Page 26, Line 14 Page 107, Line 9	Places the agency under the state's competitive cost review program and limits the agency's review to one activity during the first two years of participation. (ATB)
Page 26 Line 15 thru Page 29, Line 23	Allows the department to change the way it has to display "under 21" on driver's licenses.
Page 29, Line 24 thru Page 30, Line 4	Increases the number of allowable commissioned employees in the departments drivers license program from 100 to 123.
Page 30, Line 5 Page 36, Line 25 thru Page 39, Line 4	Allows a person to restrict access to information in the person's driver's license file maintained by the department.
Page 30, Line 16 thru Page 35, Line 10 Page 39, Line 5 thru Page 41, Line 25	Lowers the blood alcohol concentration amount from .10 to .07 for a person under 21 to be considered legally intoxicated. Also increases the automatic suspension period from 90 days to one year.
Page 35, Line 11 thru Page 36, Line 24 Page 42, Line 1 thru Page 44, Line 7	Establishes a \$50 fee for reinstatement of all driver's licenses suspended or revoked by the department. Specifies that the fee revenue shall be deposited in the general revenue fund.
Page 44, Line 8	Allows the department to charge a fee for training provided to peace officers in cities that have jurisdiction to enforce highway safety laws.
Page 48, Line 11 thru Page 49, Line 2	Allows the department to continue the use of 25 commissioned personnel in the motor vehicle inspection program.
Page 49, Line 3 thru Page 56, Line 5	Adopts the Interstate Drivers License Compact and makes related changes. Expands grounds for suspension or revocation of driver's licenses and changes renewal processes.
Page 110, Line 20 thru Page 111, Line 9	Effective date and instructional provisions.
Page 111, Line 10	Emergency clause.

Midwifery Board

Final Action: *The Midwifery Board was continued for a 12-year period with changes.*

SB 1433 by Moncrief

Analysis of Major Provisions in the Final Bill

Senate Bill 1433, as introduced, contained the Sunset Commission's recommendations for the Midwifery Board. Most of these recommendations remained in the final version of the bill. The major provisions in the final bill are discussed below.

Reduce the size of the Midwifery Board from 12 members to nine. As recommended by the Sunset Commission, the legislature adopted a provision to reduce the size of the Midwifery Board. The current board has six midwives, not more than three of whom can be licensed health care professional such as nurses; one certified nurse-midwife; one obstetrician/gynecologist; one pediatrician or family practitioner; and three public members. This provision changes the composition of the board from six midwives to three, not more than one of whom may be a licensed professional, and leaves the rest of the membership alone.

Strengthen the procedure for complaint receipt and investigation, as well as information provided to complainants. The legislature adopted a standard approach to complaint investigation and enforcement recommended by the Sunset Commission for all the health care licensing boards. This approach was modified during the legislative process for the Midwifery Board. The approach strengthens statutory requirements for handling complaints by requiring the board to use a toll-free phone number for complaints, adopt standardized complaint forms, provide assistance to people filing complaints, and maintain specific information in complaint files. Use of this standard complaint process will help ensure consistent, thorough investigation and information on complaints.

Require fees be set by the health care licensing boards to cover the cost of regulation. Based on a recommendation of the Sunset Commission, the legislature removed current statutory fee levels and authorized the board to set fees as necessary to cover the costs of regulation. This allows the board by rule to establish and adjust fees to meet the expenses of administering the board's enabling Act. The board may not set a fee at an amount less than the fee's level as of September 1, 1993.

Require mandatory continuing education. The legislature adopted the recommendation of the Sunset Commission requiring licensees to meet standardized mandatory continuing education requirements established by the board. The board is required to establish a minimum number of hours of continuing education required for license renewal, identify the

key factors that lead to the competent performance of professional duties, develop a process to assess a licensee's participation and performance in continuing education courses, evaluate the overall effectiveness of the program, assess the continuing education needs of licensees, and require licensees to attend specific continuing education courses.

Comparison of Sunset Commission Legislation with Final Legislation

A comparison of S.B. 1433 with the original recommendations of the Sunset Commission related to the Midwifery Board shows that most of the recommended Sunset Commission across-the-board recommendations were included in the final bill. One recommendation relating to the establishment of an equal employment opportunity policy was deleted because it was inapplicable to this board.

All of the Sunset Commission's specific program recommendations remained in the final bill.

Fiscal Impact

No fiscal impact. Any additional costs associated with implementing this legislation will be offset by additional fee revenue generated by the board.

**Bill Summary - Enrolled Version
Midwifery Board
SB 1433 - Moncrief**

Bill Reference	Bill Provision
Page 1, Line 7	Reduces the size of the Midwifery Board to nine members.
Page 1, Line 23 thru Page 2, Line 14	Requires public members on the board and prohibits appointment as a public member if the person or the person's spouse is a licensee, conducts business with the agency, or otherwise has financial ties to the regulated industry. (ATB)
Page 2, Line 15	Requires that appointments to the board be made without regard to race, color, disability, sex, religion, age, or national origin. (ATB)
Page 2, Line 23	Continues the Midwifery Board until 2005.
Page 3, Line 2	Prohibits board members or their spouses and employees compensated at or above Group 17 in the appropriations act or their spouses from being an officer or employee of a related trade association. Also defines trade association. (ATB)
Page 3, Line 25 thru Page 4, Line 6	Prohibits registered lobbyists from serving as a member of the board or from being employed as general counsel to the board. (ATB)
Page 4, Line 10 thru Page 5, Line 7	Defines grounds for removing a board member and requires the agency head to notify the board chair if knowledge that a potential ground for removal exists. Affirms that an action of the board is valid even if it is taken when a ground for removal exists. (ATB)
Page 5, Line 11 Page 10, Line 15 Page 11, Line 16	Requires that fees be set by the boards as necessary to cover the cost of regulation.
Page 5, Line 22 thru Page 6, Line 3	Requires the board to file an annual report with the governor and the legislature detailing the agency's financial transactions. (ATB)
Page 6, Line 7 thru Page 7, Line 4	Requires the agency to prepare and distribute information to the public concerning the agency's functions and complaint procedures. (ATB)
Page 7, Line 1	Establishes a 1-800 telephone number for complaint information.
Page 7, Line 8 thru Page 8, Line 11	Requires the agency head or a designee to prepare and maintain an equal employment opportunity policy and to report findings to the Human Rights Commission and the governor's office. (ATB)

**Bill Summary - Enrolled Version
Midwifery Board
SB 1433 - Moncrief**

Bill Reference	Bill Provision
Page 8, Line 15	Requires the board to provide the public with reasonable opportunity to appear before it regarding issues under its jurisdiction. (ATB)
Page 8, Line 23 thru Page 9, Line 1	Requires the board to develop and implement policies that clearly define the respective responsibilities of the board and the staff. (ATB)
Page 9, Line 5	Requires the agency to develop a plan that describes how non-English speaking persons can be provided reasonable access to the agency's programs. Also requires the board to comply with federal and state laws for program and facility accessibility. (ATB)
Page 9, Line 7	Requires that all licensing examinations be validated.
Page 9, Line 16	Requires mandatory continuing education.
Page 10, Line 23	Authorizes the board to adopt a staggered license renewal system. (ATB)
Page 11, Line 23 thru Page 12, Line 25	Standardizes the enforcement process of the midwifery board. Requires that standard procedures be established for complaint intake. In addition, develops record keeping and investigations.
Page 11, Line 24	Requires the agency to maintain files on complaints that the agency has the authority to resolve. (ATB)
Page 13, Line 2	Specifies that the changes made related to the qualifications of persons appointed to the commission apply only to a member appointed on or after September 1, 1993.
Page 13, Line 1	Establishes the effective date of the Act as September 1, 1993.
Page 13, Line 18	Emergency clause.

Texas State Board of Examiners of Dietitians

Final Action: *The Texas State Board of Examiners of Dietitians was continued for a 12-year period with changes.*

SB 1434 by Moncrief

Analysis of Major Provisions in the Final Bill

Senate Bill 1434, as introduced, contained the Sunset Commission's recommendations for the Texas State Board of Examiners of Dietitians. Most of these recommendations remained in the final version of the bill, along with a number of new provisions added by the legislature. The major provisions in the final bill are discussed below.

Strengthen and standardize the complaint investigation and enforcement provisions. The legislature adopted a standard approach to complaint investigation and enforcement recommended by the Sunset Commission for all the health care licensing boards. The approach strengthens statutory requirements for handling complaints by requiring the board to use a toll-free phone number for complaints, adopt standardized complaint forms, provide assistance to people filing complaints, and maintain specific information in complaint files. Complaints must be investigated in a timely manner and may not be dismissed without appropriate consideration. Complainants must be notified of investigation timelines and unexpected changes in the timelines. The board is also required to adopt procedures for the informal disposition of a complaint and both the complainant and the licensee must be given an opportunity to be heard. Finally, the board is required to develop a schedule of disciplinary sanctions to encourage the consistent use of sanction authority and to develop a procedure for monitoring licensees placed on probation. Use of this standard complaint process will help ensure consistent, thorough investigation and resolution of complaints.

Require mandatory continuing education as a condition of license renewal. The legislature adopted the recommendation of the Sunset Commission requiring licensees to meet standardized mandatory continuing education requirements established by the board. The board is required to establish a minimum number of hours of continuing education required for license renewal, identify the key factors that lead to the competent performance of professional duties, develop a process to assess a licensee's participation and performance in continuing education courses, evaluate the overall effectiveness of the program, assess the continuing education needs of licensees, and require licensees to attend specific continuing education courses.

Require board members to participate in training before serving on the board. Based on a recommendation of the Sunset Commission, the legislature required that board members receive training in specific areas before serving on the board. The training must include

information regarding laws enforced by the board; programs and budget of the board; and the requirements of state laws regarding open meetings, open records, administrative procedures, and ethics. Unless the training requirements are developed by another state agency or entity, the board is required to develop the training in consultation with the governor's office, the attorney general's office, and the Texas Ethics Commission.

Set up a procedure to allow practitioners licensed in other states to come to Texas and, after meeting certain requirements, get a license to practice. The legislature adopted the Sunset Commission recommendation creating a standardized process for licensing out-of-state practitioners. The process provides for issuance of a temporary license by the board after verification of the applicant's credentials and license status in the state of current licensure. To qualify for a temporary license, an out-of-state practitioner must be in good standing in the state in which the applicant is licensed, must have passed a national or recognized examination, and must be sponsored by a licensed practitioner in Texas. The board is required to issue a permanent license to the temporary license holder if that person passes the state jurisprudence examination and meets education, experience, and other requirements for licensure under the Act. The board must complete processing of a temporary license holder's application for a permanent license within 180 days or at the time licenses are issued following successful completion of an examination.

Require fees be set by the health care licensing boards to cover the cost of regulation. Based on a recommendation of the Sunset Commission, the legislature removed current statutory fee levels and authorized the board to set fees as necessary to cover the costs of regulation. This allows the board by rule to establish and adjust fees to meet the expenses of administering the board's enabling Act. The board may not set a fee at an amount less than the fee's level as of September 1, 1993.

Comparison of Sunset Commission Legislation with Final Legislation. A comparison of S.B. 1434 with the original recommendations of the Sunset Commission related to the Texas State Board of Examiners of Dietitians shows that most of the recommended Sunset Commission across-the-board recommendations were included in the final bill. One recommendation relating to the establishment of an equal employment opportunity policy was deleted because it was inapplicable to this board.

All but one of the Sunset Commission's specific program recommendations remained in the final bill. The deleted provision is set out below.

Change the statute to substitute "dietitian/nutritionist" for the current reference of "dietitian". The Sunset Commission recommended changing the statutory reference of "dietitian" to "dietitian/nutritionist". The commission determined that a more inclusive name would encompass the full scope of the profession of dietetics and conform to a national movement to fully define the practice of dietetics. The provision was not adopted by the legislature due to concerns that nutritionists who were not dietitians would not be able to maintain their separate unlicensed practice in the future.

Comparison of Sunset Commission Legislation with Final Legislation

A comparison of S.B. 1434 with the original recommendations of the Sunset Commission related to the Texas State Board of Examiners of Dietitians shows that most of the recommended Sunset Commission across-the-board recommendations were included in the final bill. One recommendation relating to the establishment of an equal employment opportunity policy was deleted because it was inapplicable to this board.

All but one of the Sunset Commission's specific program recommendations remained in the final bill. The deleted provision is set out below.

Change the statute to substitute "dietitian/nutritionist" for the current reference of "dietitian". The Sunset Commission recommended changing the statutory reference of "dietitian" to "dietitian/nutritionist". The commission determined that a more inclusive name would encompass the full scope of the profession of dietetics and conform to a national movement to fully define the practice of dietetics. The provision was not adopted by the legislature due to concerns from nutritionist that such a provision would legitimize dietitians' usage of the term "nutritionist" and limit their practice in the future.

Fiscal Impact

No fiscal impact. Any additional costs associated with implementing this legislation will be offset by additional fee revenue generated by the board.

**Bill Summary - Enrolled Version
Texas State Board of Examiners of Dietitians
SB 1434 - Moncrief**

Bill Reference	Bill Provision
Page 1, Line 9 thru Page 2, Line 18	Expands the definition of dietetics to include the principles of food, biochemistry, physiology, management, and behavioral and social sciences. Replaces the word "nutritional" with "nutrition". Specifies nutrition as the primary function of dietetics practice. Adds definitions for nutrition services, nutrition assessment, and nutrition counseling. Also removes the word "practice" in the title of the definition of dietetics and the statement that nutrition is the primary function of the dietetics practice.
Page 2, Line 23 thru Page 3, Line 18	Requires public members on the board and prohibits appointment as a public member if the person or the person's spouse is a licensee, conducts business with the agency, or otherwise has financial ties to the regulated industry. (ATB)
Page 3, Line 19	Requires that appointments to the board be made without regard to race, color, disability, sex, religion, age, or national origin. (ATB)
Page 4, Line 1	Requires specific provisions relating to conflicts of interests. (ATB)
Page 4, Line 22 thru Page 5, Line 3	Provides that a person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the board or serve as a member of the commission. (ATB)
Page 5, Line 13 thru Page 6, Line 3	Specifies grounds for removing a board member. (ATB)
Page 6, Line 7 thru Page 7, Line 2	Requires notification and information to the public concerning board's functions activities. (ATB)
Page 6, Line 24 thru Page 7, Line 2	Establishes a 1-800 telephone number for complaint information.
Page 7, Line 6 thru Page 8, Line 9	Requires development of an equal employment opportunity policy. (ATB)
Page 8, Line 13	Establishes training requirements for new members of the board.
Page 8, Line 25 thru Page 9, Line 3	Requires the board to provide the public with reasonable opportunity to appear before it regarding issues under its jurisdiction. (ATB)

**Bill Summary - Enrolled Version
Texas State Board of Examiners of Dietitians
SB 1434 - Moncrief**

Bill Reference	Bill Provision
Page 9, Line 7	Requires the board to develop and implement policies that clearly define the respective responsibilities of the board and the staff. (ATB)
Page 9, Line 13	Requires development of accessibility plan. (ATB)
Page 9, Line 21 thru Page 11, Line 9	Requires the board to establish a training program for members of the board.
Page 11, Line 14	Requires that fees be set by the board as necessary to cover the cost of regulation.
Page 11, Line 23 thru Page 12, Line 6	Requires the Department of Health to file an annual report with the governor and the legislature detailing the agency's financial transactions. (ATB)
Page 12, Line 14	Allows an applicant who possesses a baccalaureate or post-baccalaureate degree in nutrition education to qualify for the licensing examination. Requires an applicant to complete a documented professional experience program in dietetics practice of not less than 900 hours under the supervision of a licensed or registered dietitian.
Page 13, Line 2	Requires that all licensing examinations be validated.
Page 13, Line 5	Waives examination requirement for dietitians registered with the Commission on Dietetic Registration.
Page 13, Line 15	Authorizes the board to adopt a staggered license renewal system. (ATB)
Page 13, Line 22 thru Page 15, Line 2	Establishes a method for license renewal and a time-frame and penalty structure for delinquent renewals. (ATB)
Page 15, Line 3 Page 15, Line 25	Authorizes a full range of licensing options.
Page 15, Line 10	Requires mandatory continuing education.
Page 16, Line 7 thru Page 17, Line 17	Establishes a procedure for licensing out-of-state practitioners seeking licensure in Texas.
Page 17, Line 21	Requires the agency to maintain files on complaints that the agency has the authority to resolve. (ATB)

**Bill Summary - Enrolled Version
Texas State Board of Examiners of Dietitians
SB 1434 - Moncrief**

Bill Reference	Bill Provision
Page 17, Line 21 thru Page 21, Line 12	Standardizes the enforcement process of the health care licensing boards. Requires that standard procedures be established for complaint intake, investigations, informal hearings, and development of disciplinary sanctions. In addition, develops procedures for monitoring, record keeping, and meeting timelines for complaint resolution.
Page 17, Line 24 thru Page 18, Line 5	Requires the agency to periodically provide written notice to all parties to a formal complaint of the status of the complaint. (ATB)
Page 21, Line 17 thru Page 22, Line 10	Requires the board to use a full range of penalties, such as reprimand, suspension or revocation, for violations of state laws or agency rules. (ATB)
Page 22, Line 14 thru Page 23, Line 17	Authorizes the board to require an official seal of the board bearing the licensee's name and the legend "Licensed Dietitian".
Page 23, Line 24	Continues the Texas State Board of Examiners of Dietitians until 2005.
Page 23, Line 25	Establishes the effective date of the Act as September 1, 1993.
Page 24, Line 1	Emergency clause.

Texas State Board of Examiners of Psychologists

Final Action: *The Texas State Board of Examiners of Psychologists was continued for a 12-year period with changes.*

SB 1424 by Parker

Analysis of Major Provisions in the Final Bill

Senate Bill 1080, as introduced, contained the Sunset Commission's original recommendations that the existing board used to regulate psychologists be merged with the boards that regulate other mental health professions including social workers, marriage and family therapists, and professional counselors. In addition to the merger, the commission recommended a series of standard recommendations which applied to all the health care licensing boards. The legislature chose not to merge the mental health boards but rather to continue them as separate boards. Separate bills were introduced to continue each of the four mental health boards. One of these bills, S.B. 1424, was enacted to continue the regulation of psychologists through the existing separate board for the usual 12-year period. Major provisions in the final bill are discussed below.

Require board members to participate in training before serving on the board. Based on a recommendation of the Sunset Commission, the legislature required that board members receive training in specific areas before serving on the board. The training must include information regarding laws enforced by the board; programs and budget of the board; and the requirements of state laws regarding open meetings, open records, administrative procedures, and ethics. If appropriate training is not available through another state agency or entity, the board is required to develop the training in consultation with the governor's office, the attorney general's office, and the Texas Ethics Commission.

Require one-third public membership on the board and increase representation for psychological associates. The legislature adopted the recommendation of the Sunset Commission that requires at least one-third of the board's members to be representatives of the general public. Currently the nine-member board has six licensed psychologists, one psychological associate, and two public members. This was changed to four psychologists, two psychological associates and three public members. These changes provided more adequate representation for psychological associates on the board and increased public membership to one-third.

Establish a Psychological Associate Advisory Committee. The legislature created a governor-appointed advisory committee to develop rules concerning the licensing and practice of psychological associates. The six-member board consists of three psychological associates, one licensed psychologist, and two public members. The committee is advisory to the Texas State Board of Examiners of Psychologists but all rules the board adopts regarding psychological associates must be developed through the committee.

Strengthen and standardize the complaint investigation and enforcement provisions. The legislature adopted a standard approach to complaint investigation and enforcement recommended by the Sunset Commission for all the health care licensing boards. The approach strengthens statutory requirements for handling complaints by requiring the board to list a toll-free phone number for complaints, adopt standardized complaint forms, provide assistance to people filing complaints, and maintain specific information in complaint files. Complaints must be investigated in a timely manner and may not be dismissed without appropriate consideration. Complainants must be notified of investigation timelines and unexpected changes in the timelines. The board is also required to adopt procedures for the informal disposition of a complaint and both the complainant and the licensee must be given an opportunity to be heard. Finally, the board is required to develop a schedule of disciplinary sanctions to encourage the consistent use of sanction authority and to develop a procedure for monitoring licensees placed on probation. Use of this standard complaint process will help ensure consistent, thorough investigation and resolution of complaints.

Require mandatory continuing education as a condition of license renewal. The legislature adopted the recommendation of the Sunset Commission requiring licensees to meet standardized mandatory continuing education requirements established by the board. The board is required to establish a minimum number of hours of continuing education required for license renewal, identify the key factors that lead to the competent performance of professional duties, develop a process to assess a licensee's participation and performance in continuing education courses, evaluate the overall effectiveness of the program, and assess the continuing education needs of licensees.

Set up a procedure to allow practitioners licensed in other states to come to Texas and, after meeting certain requirements, get a license to practice. The legislature adopted the Sunset Commission recommendation creating a standardized process for licensing out-of-state practitioners. While the board previously had a general statutory requirement on licensing people from other states, the commission recommended that the process be strengthened and made consistent with other health licensing laws. The legislature removed a previous legal requirement that out-of-state practitioners must have a least five years experience to qualify and also expanded the endorsement provisions to apply to psychological associates as well as psychologists. The process that was adopted authorizes the board to issue a provisional license while the applicant is considered for a permanent license. To qualify for a provisional license, an out-of-state practitioner must be in good standing in the state in which the applicant is licensed, must have passed a national or recognized examination, and must be sponsored by a licensed practitioner in Texas. The board is required to issue a permanent license to the provisional license holder if that person passes the state jurisprudence examination and meets education, experience, and other requirements for licensure under the Act. The board must complete processing of a provisional license holder's application for a permanent license within 180 days or at the time licenses are issued following successful completion of an examination.

Authorize the board to assess administrative penalties for violations of law or board rules. The legislature adopted the recommendation of the Sunset Commission to authorize the board to assess administrative penalties of up to \$1,000 per day of violation against licensees who commit serious violations of law or board rules. An administrative penalty may be

assessed in addition to other sanctions ordered by the board. Authorizing the board to assess administrative penalties provides the board with another enforcement tool to allow it to deal appropriately with the different levels of violations and the circumstances that surround them.

Authorize the courts to assess civil penalties of up to \$1,000 per violation per day. The legislature adopted the recommendation of the Sunset Commission that civil penalty authority of \$1,000 per day of violation be added to the enforcement powers provided in the Act. A civil penalty is a monetary penalty imposed by a court for a violation that is not criminal in nature. Civil penalties are often used against persons who are practicing without a license. The board may request the attorney general to bring an action to assess a civil penalty.

Authorize the board to temporarily suspend a license without notice or formal hearing in situations that seriously endanger the public. The legislature adopted the recommendation of the Sunset Commission that the board be authorized to temporarily suspend a license without notice or hearing. This authority can be used in cases where a licensee's condition or activities constitute a serious and immediate threat to the public welfare and the time required to initiate formal disciplinary proceedings would cause excessive risk to the public. The decision to issue a temporary suspension would be made by an executive committee of the board consisting of the chair and two other members appointed by the chair. At the time the temporary suspension is ordered, a hearing on whether disciplinary proceedings should be initiated against the licensee must be scheduled within 14 days. A second hearing on the suspended license must be held no later than 60 days after the temporary suspension is ordered. Otherwise, the license is automatically reinstated.

Require fees be set by the health care licensing boards to cover the cost of regulation. Based on a recommendation of the Sunset Commission, the legislature adopted standard language to authorize the board to set fees as necessary to cover the costs of regulation. While the board had board fee authority, this change applies standard language that requires that fees recover the cost of administering the regulatory program. The bill also prohibits the board from setting a fee at an amount less than the level as of September 1, 1993 to prevent a loss of revenue.

Comparison of Original Sunset Commission Legislation with Final Legislation

A comparison of S.B. 1424 with the original sunset bill as introduced shows that all recommended Sunset Commission across-the-board recommendations were included in the final bill.

All but one of the Sunset Commission's specific program recommendations remained in the final bill. The deleted provision is set out below.

Merge the policy boards that regulate psychologists, professional counselors, social workers and marriage and family therapists into a single board to regulate all four professions. The Sunset Commission recommended merging the policy boards that regulate

the four mental health professions including professional counselors. The commission determined that these mental health professions were closely related and performed many of the same types of activities. In addition, members of the four professions often work together closely and many hold licenses under more than one board. Under the current structure each of the four boards sets the requirements separately for regulation including: professional code of ethics, continuing education, and complaint investigation and disciplinary process. The commission recommended merging the boards as a way to simplify state regulation for the consumer and licensee and provide consistency in the regulation of these similar professions. The merger provision was not adopted by the legislature due to concerns from the mental health professional organizations that such a merger would further blur the distinction between the professions.

Fiscal Impact

The bill exempts certain licensees from the state's \$200 professional fee. The proceeds of this fee are deposited to the general revenue fund and the permanent school fund. The bill provides a fee exemption for licensed or certified psychologists who work for government agencies, public schools and accredited colleges and universities. This exemption will reduce the amount available for the two funds; however, the amount of the reduction cannot be estimated at this time.

No additional fiscal impact is expected as a result of the provisions of the bill. Any additional administrative costs associated with implementing the legislation will be offset by additional fee revenue generated by the board.

Bill Summary - Enrolled Version
Texas State Board of Examiners of Psychologists
SB 1424 - Parker

Bill Reference	Bill Provision
Page 1, Line 19 thru Page 2, Line 2	Changes the definition of the practice of psychology.
Page 2, Line 10	Requires that appointments to the board be made without regard to race, color, disability, sex, religion, age, or national origin. (ATB)
Page 2, Line 19	Continues the State Board of Examiners of Psychologists until 2005.
Page 2, Line 24	Changes the number of licensees on the board by decreasing the number of licensed psychologists to four and by increasing the number of psychological associates to two.
Page 3, Line 11	Changes the composition of the board to 1/3 public members by increasing the public members from two to three.
Page 3, Line 14 thru Page 4, Line 6	Requires public members on the board and prohibits appointment as a public member if the person or the person's spouse is a licensee, conducts business with the agency, or otherwise has financial ties to the regulated industry. (ATB)
Page 4, Line 7 thru Page 5, Line 7	Defines grounds for removing a board member and requires the director to notify the board chair if knowledge that a potential ground for removal exists. Affirms that an action of the board is valid even if it is taken when a ground for removal exists. (ATB)
Page 5, Line 8	Prohibits board members or their spouses and employees compensated at or above Group 17 in the appropriations act or their spouses from being an officer or employee of a related trade association. Also defines trade association. (ATB)
Page 6, Line 8	Prohibits registered lobbyists from serving as a member of the board or from being employed as general counsel to the board. (ATB)
Page 7, Line 9	Requires the board to develop and implement policies that clearly define the respective responsibilities of the board and the staff. (ATB)
Page 7, Line 17 thru Page 8, Line 10	Requires the agency to prepare and distribute information to the public concerning the agency's functions and complaint procedures. (ATB)
Page 8, Line 11	Requires listing of a 1-800 telephone number for complaint information if established under another bill.

Bill Summary - Enrolled Version
Texas State Board of Examiners of Psychologists
SB 1424 - Parker

Bill Reference	Bill Provision
Page 8, Line 20 thru Page 9, Line 9	Requires mandatory continuing education.
Page 9, Line 10	Requires the director or a designee to develop an intra-agency career ladder program and requires intra-agency posting of job openings concurrently with any public posting. (ATB)
Page 9, Line 17	Requires the director or a designee to develop an annual job performance evaluation system upon which merit salary increases must be based. (ATB)
Page 9, Line 26	Requires the board to provide information to its members and employees on the qualifications for office or employment and each person's responsibilities under the law. (ATB)
Page 10, Line 1 thru Page 11, Line 4	Requires the director or a designee to prepare and maintain an equal employment opportunity policy and to report findings to the Human Rights Commission and the governor's office. (ATB)
Page 11, Line 5	Requires the board to provide the public with reasonable opportunity to appear before it regarding issues under its jurisdiction. (ATB)
Page 11, Line 9	Requires the agency to develop a plan that describes how non-English speaking persons can be provided reasonable access to the agency's programs. Also requires the board to comply with federal and state laws for program and facility accessibility. (ATB)
Page 11, Line 14 thru Page 12, Line 25	Requires compliance with the board member training requirements.
Page 13, Line 4	Requires all money paid to the board to be deposited in the state treasury. Also eliminates special fund. (ATB)
Page 14, Line 3	Requires the board to file an annual report with the governor and the legislature detailing the agency's financial transactions. (ATB)
Page 15, Line 11	Technical corrections.
Page 15, Line 19	Requires that all licensing examinations be validated.
Page 16, Line 9 thru Page 18, Line 3	Establishes a procedure for licensing out-of-state practitioners seeking licensure in Texas.
Page 18, Line 9	Allows the board to enter into reciprocal licensing agreements.

Bill Summary - Enrolled Version
Texas State Board of Examiners of Psychologists
SB 1424 - Parker

Bill Reference	Bill Provision
Page 19, Line 2	Exempts psychologists practicing in governmental agencies, school districts and other selected settings from the annual professional tax.
Page 19, Line 9	Requires that fees be set by the boards as necessary to cover the cost of regulation.
Page 19, Line 22 thru Page 22, Line 3	Establishes a method for license renewal and a time-frame and penalty structure for delinquent renewals. (ATB)
Page 22, Line 7	Changes certification of psychological associates to licensure.
Page 22, Line 20 thru Page 25, Line 6	Establishes the Psychological Associate Advisory Committee, a six-member advisory committee to the psychology board, to provide for the licensure and regulation of psychological associates.
Page 25, Line 10 Page 40, Line 5	Expands Act from a title act to a practice act so that a person may not engage in the practice of psychology unless licensed or exempted.
Page 27, Line 8	Requires the agency to maintain files on complaints. (ATB)
Page 27, Line 14	Provides exemptions from the act for other licensed professionals acting within the scope of their licenses.
Page 27, Line 19	Requires the agency to periodically provide written notice to all parties to a formal complaint of the status of the complaint. (ATB)
Page 28, Line 5	Provides exemptions from the act for the clergy and nonprofit volunteers as long as the term psychological is not used in describing the services being provided.
Page 29, Line 1	Requires the board to use a full range of penalties, such as reprimand, suspension or revocation, for violations of state laws or agency rules. (ATB)
Page 29, Line 1 Page 30, Line 25 thru Page 31, Line 23 Page 33, Line 9 thru Page 38, Line 12	Authorizes administrative penalties and civil penalties up to \$1,000 per day per violation for psychologists.

Bill Summary - Enrolled Version
Texas State Board of Examiners of Psychologists
SB 1424 - Parker

Bill Reference	Bill Provision
Page 38, Line 16 thru Page 39, Line 15	Authorizes the board to temporarily suspend a license without notice or formal hearing in situations that seriously endanger the public.
Page 40, Line 19 thru Page 43, Line 23 Page 30, Line 11	Standardizes the enforcement process of the health care licensing boards. Requires that standard procedures be established for complaint intake, investigations, informal hearings, and development of disciplinary sanctions. In addition, develops procedures for monitoring, record keeping, and meeting timelines for complaint resolution.
Page 43, Line 24 thru Page 44, Line 9	Specifies that the administrative and civil penalty provisions apply only to those violations that occur after the effective date of the Act.
Page 44, Line 10	Requires the governor to appoint members to the board to achieve the membership plan prescribed for the board by the Act.
Page 44, Line 15	Specifies that the changes made related to the qualifications of persons appointed to the board apply only to a member appointed on or after September 1, 1993.
Page 44, Line 23 thru Page 45, Line 9	Specifies eligibility for appointment to the board as a psychological associate representative.
Page 45, Line 10 thru Page 46, Line	Provides for appointments to the Psychological Associate Advisory Committee. Requires development of rules by the committee by February 1, 1994 and adoption of those rules by the board not later than September 1, 1994.
Page 46, Line 6	Specifies that changes relating to the issuance and renewal of psychological associate licenses apply only to licenses issued after September 1, 1994. Current law on the issuance and renewal of psychological associate certificates applies until then.
Page 46, Line 19	Repeals obsolete language on appropriation of funds for the biennium ending August 31, 1971.
Page 46, Line 22	Establishes the effective date of the Act as September 1, 1993.
Page 46, Line 23 thru Page 47, Line 2	Emergency clause.

Texas State Board of Examiners of Marriage and Family Therapists

Final Action: *The Texas State Board of Examiners of Marriage and Family Therapists was continued for a 12-year period with changes.*

SB 1425 by Parker

Analysis of Major Provisions in the Final Bill

Senate Bill 1060 by Senator Parker, as introduced, contained the Sunset Commission's recommendations for the continued state regulation of marriage and family therapists. In addition to the standard recommendations applied to all the health care licensing boards, the commission recommended that the existing board used to regulate marriage and family therapists be merged with the boards that regulate other mental health professions including social workers, professional counselors and psychologists. The legislature chose not to merge the mental health boards but rather to continue them as separate boards. Separate bills were introduced to continue each of the four mental health boards. One of these bills, S.B. 1425, was enacted to continue the regulation of marriage and family therapists through the existing separate board for the usual 12-year period. The program will continue to be administered through the Texas Department of Health. Major provisions in the final bill are discussed below.

Require that the governor designate the board chair. The legislature adopted a provision specifying that the governor designate the chair of the board. This provision makes the board and its chair more directly accountable to the governor.

Eliminate the board's status as an advisory body to the Board of Health and instead provide the board with independent rulemaking authority. The legislature added a provision that increased the autonomy of the board. The board is administratively attached to the Texas Department of Health (TDH) whereby the TDH is responsible for providing staff and materials to operate the regulatory program. Previously, the statute required that the Board of Health adopt the final rules for the program with the advice of the board. The legislature eliminated the authority for the Board of Health to adopt rules for the program and instead the board will have all final decision-making on rules for the program.

Transfer the board's hearing function from the hearings division of the Texas Department of Health to the State Office of Administrative Hearings. The legislature adopted a provision related to the program's hearings function. The bill, as finally adopted, transferred the hearings function from the hearings division of the Texas Department of Health to the State Office of Administrative Hearings (SOAH). The SOAH is also responsible for

conducting contested case hearings for most of the boards that regulate health care professionals.

Require board members to participate in training before serving on the board. Based on a recommendation of the Sunset Commission, the legislature required that board members receive training in specific areas before serving on the board. The training must include information regarding laws enforced by the board; programs and budget of the board; and the requirements of state laws regarding open meetings, open records, administrative procedures, and ethics. If the training requirements cannot be met through another state agency, the board is required to develop the training after consultation with the governor's office, the attorney general's office, and the Texas Ethics Commission.

Strengthen and standardize the complaint investigation and enforcement provisions. The legislature adopted a standard approach to complaint investigation and enforcement recommended by the Sunset Commission for all the health care licensing boards. The approach strengthens statutory requirements for handling complaints by requiring the board to publish a toll-free phone number for complaints, adopt standardized complaint forms, provide assistance to people filing complaints, and maintain specific information in complaint files. Complaints must be investigated in a timely manner and may not be dismissed without appropriate consideration. Complainants must be notified of investigation timelines and unexpected changes in the timelines. The board is also required to adopt procedures for the informal disposition of a complaint and both the complainant and the licensee must be given an opportunity to be heard. Finally, the board is required to develop a schedule of disciplinary sanctions to encourage the consistent use of sanction authority and to develop a procedure for monitoring licensees placed on probation. Use of this standard complaint process will help ensure consistent, thorough investigation and resolution of complaints.

Require mandatory continuing education as a condition of license renewal. The legislature adopted the recommendation of the Sunset Commission to establish uniform statutory authority for mandatory continuing education requirements. While the board had the broad authority to establish such requirements, this change gives the board standard guidelines to use and makes it a requirement. The board must establish a minimum number of hours of continuing education required for license renewal, identify the key factors that lead to the competent performance of professional duties, develop a process to assess a licensee's participation and performance in continuing education courses, evaluate the overall effectiveness of the program, assess the continuing education needs of licensees, and require licensees to attend specific continuing education courses.

Set up a standard procedure to allow practitioners licensed in other states to come to Texas and, after meeting certain requirements, get a license to practice. The legislature adopted the Sunset Commission recommendation creating a standardized process for licensing out-of-state practitioners. The process provides for issuance of a provisional license by the board. To qualify for a provisional license, an out-of-state practitioner must be in good standing in the state in which the applicant is licensed, must have passed a national or recognized examination, and must be sponsored by a licensed practitioner in

Texas. The board is required to issue a permanent license to the provisional license holder after the board verifies the applicant's credentials and the applicant meets other specific requirements of the Act. The board must complete processing of a provisional license holder's application for a permanent license within 180 days or at the time licenses are issued following successful completion of an examination.

Authorize the board to assess administrative penalties for violations of law or board rules.

The legislature adopted the recommendation of the Sunset Commission to authorize the board to assess administrative penalties of up to \$ 1,000 per day for serious violations of law or board rules. An administrative penalty may be assessed against a licensee in addition to other sanctions ordered by the board. Authorizing the board to assess administrative penalties provides the board with a standard enforcement tool to deal appropriately with different types of violations.

Authorize the courts to assess civil penalties of up to \$1,000 per violation per day.

The legislature adopted the recommendation of the Sunset Commission that civil penalty authority of \$1,000 per day be added to the enforcement powers provided in the Act. A civil penalty is a monetary penalty imposed by a court for a violation that is not criminal in nature. Civil penalties are often used against persons who are practicing without a license. The board may request the attorney general to bring an action to assess a civil penalty.

Require the board to set fees to cover the cost of regulation.

Based on a recommendation of the Sunset Commission, the legislature adopted standard language to authorize the board to set fees as necessary to cover the costs of regulation. While the board had broad fee authority, this change applies standard language that requires that fees recover the cost of administering the regulatory program. The bill also prohibits the board from setting a fee at an amount less than the level as of September 1, 1993 to prevent a loss of revenue.

Comparison of Original Sunset Commission Legislation with Final Legislation

A comparison of S.B. 1425 with the original sunset bill as introduced shows that all recommended Sunset Commission across-the-board recommendations were included in the final bill.

All but one of the Sunset Commission's specific program recommendations remained in the final bill. The deleted provision is set out below.

Merge the policy boards that regulate psychologists, professional counselors, social workers and marriage and family therapists into a single board to regulate all four professions.

The Sunset Commission recommended merging the policy boards that regulate the four mental health professions including marriage and family therapists. The commission determined that these mental health professions were closely related and performed many of the same types of activities. In addition, members of the four professions often work

together closely and many hold licenses under more than one board. Under the current structure each of the four boards sets the requirements separately for regulation including: professional code of ethics, continuing education, and complaint investigation and disciplinary process. The commission recommended merging the boards as a way to simplify state regulation for the consumer and licensee and provide consistency in the regulation of these similar professions. The merger provision was not adopted by the legislature due to concerns from the mental health professional organizations that such a merger would further blur the distinction between the professions.

Fiscal Impact

No fiscal impact. Any additional costs associated with implementing this legislation will be offset by additional fee revenue generated by the board.

Bill Summary - Enrolled Version
Texas State Board of Examiners of Marriage and Family Therapists
SB 1425 - Parker

Bill Reference	Bill Provision
Page 1, Line 9 Page 9, Line 24 Page 10, Line 7 Page 13, Line 20 Page 27, Line 21	Eliminates the board's status as an advisory body with its rules approved by the Board of Health and instead gives the board independent rulemaking authority.
Page 1, Line 27	Requires that appointments to the board be made without regard to race, color, disability, sex, religion, age, or national origin. (ATB)
Page 2, Line 9	Continues the Texas State Board of Examiners of Marriage and Family Therapists until 2005.
Page 2, Line 21 thru Page 3, Line 1	Requires the governor to designate the chairman of the board.
Page 2, Line 24	Requires the board to elect its vice-chair from its members at the meeting closest to August 31 each year.
Page 3, Line 8 thru Page 4, Line 15	Prohibits board members or their spouses and employees compensated at or above Group 17 in the appropriations act or their spouses from being an officer or employee of a related trade association. Also defines trade association. (ATB)
Page 4, Line 16 thru Page 5, Line 11	Requires public members on the board and prohibits appointment as a public member if the person or the person's spouse is a licensee, conducts business with the agency, or otherwise has financial ties to the regulated industry. (ATB)
Page 5, Line 21 thru Page 6, Line 5 Page 6, Line 11 Page 7, Line 15 thru Page 9, Line 20 Page 20, Line 11	Standardizes the enforcement process of the health care licensing boards. Requires that standard procedures be established for complaint intake, investigations, informal hearings, and development of disciplinary sanctions. In addition, requires procedures for monitoring, record keeping, and meeting timelines for complaint resolution.
Page 6, Line 9	Requires the agency to periodically provide written notice to all parties to a formal complaint of the status of the complaint. (ATB)
Page 6, Line 21 thru Page 7, Line 7	Requires the agency to prepare and distribute information to the public concerning the agency's functions and complaint procedures. (ATB)

Bill Summary - Enrolled Version
Texas State Board of Examiners of Marriage and Family Therapists
SB 1425 - Parker

Bill Reference	Bill Provision
Page 7, Line 8	Requires listing of a 1-800 telephone number for complaint information required by another bill.
Page 9, Line 24 thru Page 10, Line 13	Requires that fees be set by the board as necessary to cover the cost of regulation.
Page 10, Line 25 thru Page 11, Line 2	Requires the board to develop and implement policies that clearly define the respective responsibilities of the board and the staff. (ATB)
Page 11, Line 6	Requires the board to develop a plan that describes how non-English speaking persons can be provided reasonable access to the board's programs. Also requires the board to comply with federal and state laws for program and facility accessibility. (ATB)
Page 11, Line 14 Page 11, Line 23 thru Page 13, Line 10	Requires the board to establish a training program for its members and specifies the required components of that training. Allows the board to meet the requirements through training provided by another state agency.
Page 11, Line 18	Requires the board to provide information to its members and employees on the qualifications for office or employment and each person's responsibilities under the law. (ATB)
Page 13, Line 18	Requires that all licensing examinations be validated.
Page 14, Line 7	Requires the agency to notify license applicants of licensing examination results within a reasonable time of the examination date. (ATB)
Page 14, Line 22	Authorizes the board to issue temporary permits.
Page 15, Line 7 thru Page 16, Line 6	Establishes a method for license renewal and a time-frame and penalty structure for delinquent renewals. (ATB)
Page 16, Line 6	Requires the board to establish mandatory continuing education provisions and places standard requirements on the board in operating the program.
Page 17, Line 1 thru Page 18, Line 15	Standardizes the procedure for licensing out-of-state practitioners seeking licensure in Texas.

Bill Summary - Enrolled Version
Texas State Board of Examiners of Marriage and Family Therapists
SB 1425 - Parker

Bill Reference	Bill Provision
Page 18, Line 19 Page 19, Line 23 thru Page 20, Line 7	Requires the board to use a full range of penalties, such as reprimand, suspension or revocation, for violations of state laws or agency rules. (ATB)
Page 19, Line 18 Page 20, Line 18 thru Page 25, Line 22 Page 26, Line 25 thru Page 27, Line 10	Authorizes administrative penalties and civil penalties up to \$1,000 per day per violation.
Page 20, Line 8 Page 27, Line 11	Transfers the board hearing function from the Texas Department of Health to the State Office of Administrative Hearings.
Page 26, Line 1	Prevents the board from adopting rules that restrict competitive bidding or advertising except to prohibit false, misleading or deceptive practices. (ATB)
Page 26, Line 18	Adds an instructional provision that specifies that the changes to law concerning board membership apply only to members appointed after the effective date of the Act.
Page 27, Line 24	Sets September 1, 1993 as the effective date of the Act.
Page 27, Line 25 thru Page 28, Line 4	Emergency clause.

Texas State Board of Social Worker Examiners

Final Action: *The Council for Social Work Certification was replaced with the Texas State Board of Social Worker Examiners and the new board was continued for a 12-year period.*
SB 1426 by Parker

Analysis of Major Provisions in the Final Bill

Senate Bill 1060 by Senator Parker, as introduced, contained the Sunset Commission's recommendations for the continued state regulation of social workers. In addition to the standard recommendations applied to all the health care licensing boards, the commission recommended that the existing board used to regulate social workers be merged with the boards that regulate other mental health professionals including marriage and family therapists, professional counselors and psychologists. The legislature chose not to merge the boards but rather to continue them as separate boards. Separate bills were introduced to continue each of the four boards. Senate Bill 1426, was enacted to continue the regulation of social workers by replacing the council with a new separate board for the usual 12-year period. The program administration will be transferred from the Texas Department of Human Services to the Texas Department of Health. Major provisions in the final bill are discussed below.

Require that the governor designate the board chair. The legislature adopted a provision specifying that the governor designate the chair of the board. This approach makes the board and its chair more directly accountable to the governor.

Abolish the existing advisory committee and create a new governor-appointed board with independent rulemaking authority. The legislature abolished the advisory council that had responsibility for regulation and established a new board to administer the program. Under previous law, the program was administered through the Texas Department of Human Services (DHS) and the DHS board was required to appoint an advisory council to advise it in the operation of the program. The advisory council did not have final authority over policy making for the program. This structure did not provide autonomy for the program and was not the standard approach used with other similar regulatory programs. Under the bill as finally adopted, the regulation of social workers is directed by a governor-appointed board that has final rule making and enforcement authority.

Transfer the program administration from the Texas Department of Human Services to the Texas Department of Health. The legislature transferred the regulatory program from the Texas Department of Human Services to the Texas Department of Health. The social work regulatory program was one of two health occupation regulatory programs at DHS. In contrast, the Texas Department of Health regulates many health occupations, including

two other similar mental health professions. Transferring the program to the TDH would allow a sharing of administrative duties in similar programs at the TDH.

Transfer the hearing function from the Texas Department of Human Services hearings division to the State Office of Administrative Hearings. The legislature adopted a provision related to the program's hearings function. The bill, as finally adopted, transferred the hearings function from the hearings division of the Texas Department of Human Services to the State Office of Administrative Hearings (SOAH). The SOAH is responsible for conducting contested case hearings for most of the boards that regulate health care professionals.

Change the name of the licenses issued to reflect that the profession is "licensed" instead of "certified". The legislature adopted a provision that changes the way social workers are referred to under the law. Under previous law, a state licensed social worker was called a "certified social worker." The professional organization had concerns that the term certified reflected a lower standard of regulation although the type of regulation was the same as other regulatory programs whose licensees were termed "licensed." Under the bill as finally adopted, all levels of social worker licensees are referred to as "licensed."

Increase the minimum educational requirement for the social work associate from a high school diploma to a minimum of an associate or bachelor degree. The legislature adopted a provision that eliminated the ability of a person with a high school degree to qualify as a social work associate. Under previous law, social workers who had a substantial amount of experience could qualify as a social work associate with a high school diploma after passing a board-approved examination. The professional organization had concerns that these licensees did not have the academic background in social work required to function effectively as a social worker. The bill as finally passed increases the minimum level of education required for social work associates to an associates degree or bachelors degree in a human services field. Social work associates that were certified in good standing before the requirement was increased are exempt from the new requirement.

Require board members to participate in training before serving on the board. Based on a recommendation of the Sunset Commission, the legislature required that board members receive training in specific areas before serving on the board. The training must include information regarding laws enforced by the board; programs and budget of the board; and the requirements of state laws regarding open meetings, open records, administrative procedures, and ethics. If the training requirements cannot be met through another state agency, the board is required to develop the training after consultation with the governor's office, the attorney general's office, and the Texas Ethics Commission.

Strengthen and standardize the complaint investigation and enforcement provisions. The legislature adopted a standard approach to complaint investigation and enforcement recommended by the Sunset Commission for all the health care licensing boards. The approach strengthens statutory requirements for handling complaints by requiring the board to publish a toll-free phone number for complaints, adopt standardized complaint forms, provide assistance to people filing complaints, and maintain specific information in complaint files. Complaints must be investigated in a timely manner and may not be

dismissed without appropriate consideration. Complainants must be notified of investigation timelines and unexpected changes in the timelines. The board is also required to adopt procedures for the informal disposition of a complaint and both the complainant and the licensee must be given an opportunity to be heard. Finally, the board is required to develop a schedule of disciplinary sanctions to encourage the consistent use of sanction authority and to develop a procedure for monitoring licensees placed on probation. Use of this standard complaint process will help ensure consistent, thorough investigation and resolution of complaints.

Require mandatory continuing education as a condition of license renewal. The legislature adopted the recommendation of the Sunset Commission to establish uniform statutory authority for mandatory continuing education requirements. While the board had the broad authority to establish such requirements, this change gives the board standard guidelines to use and makes it a requirement. The board must establish a minimum number of hours of continuing education required for license renewal, identify the key factors that lead to the competent performance of professional duties, develop a process to assess a licensee's participation and performance in continuing education courses, evaluate the overall effectiveness of the program, assess the continuing education needs of licensees, and require licensees to attend specific continuing education courses.

Set up a standard procedure to allow practitioners licensed in other states to come to Texas and, after meeting certain requirements, get a license to practice. The legislature adopted the Sunset Commission recommendation creating a standardized process for licensing out-of-state practitioners. The process provides for issuance of a provisional license by the board. To qualify for a provisional license, an out-of-state practitioner must be in good standing in the state in which the applicant is licensed, must have passed a national or recognized examination, and must be sponsored by a licensed practitioner in Texas. The board is required to issue a permanent license to the provisional license holder after the board verifies the applicant's credentials and the applicant meets any other requirements for licensure under the Act. The board must complete processing of a provisional license holder's application for a permanent license within 180 days or at the time licenses are issued following successful completion of an examination.

Require the board to set fees to cover the cost of regulation. Based on a recommendation of the Sunset Commission, the legislature adopted standard language to authorize the board to set fees as necessary to cover the costs of regulation. While the board had broad fee authority, this change applies standard language requiring that fees recover the cost of administering the regulatory program. The board is prohibited from setting a fee at an amount less than the level as of September 1, 1993 to prevent revenue loss.

Comparison of Original Sunset Commission Legislation with Final Legislation

A comparison of S.B. 1426 with the original sunset bill as introduced shows that all recommended Sunset Commission across-the-board recommendations were included in the final bill.

All but one of the Sunset Commission's specific program recommendations remained in the final bill. The deleted provision is set out below.

Merge the policy boards that regulate psychologists, professional counselors, social workers and marriage and family therapists into a single board to regulate all four professions. The Sunset Commission recommended merging the policy boards that regulate the four mental health professions including social workers. The commission determined that these mental health professions were closely related and performed many of the same types of activities. In addition, members of the four professions often work together closely and many hold licenses under more than one board. Under the current structure each of the four boards sets the requirements separately for regulation including: professional code of ethics, continuing education, and complaint investigation and disciplinary process. The commission recommended merging the boards as a way to simplify state regulation for the consumer and licensee and provide consistency in the regulation of these similar professions. The merger provision was not adopted by the legislature due to concerns from the mental health professional organizations that such a merger would further blur the distinction between the professions.

Fiscal Impact

No fiscal impact. Any additional costs associated with implementing this legislation will be offset by additional fee revenue generated by the board.

Bill Summary - Enrolled Version
Texas State Board of Social Worker Examiners
SB 1426 by Parker

Bill Reference	Bill Provision
Page 1, Line 7	Adds a title to the Act.
Page 1, Line 10 Page 3, Line 20 Page 5, Line 22 thru Page 7, Line 14 Page 8, Line 23 thru Page 10, Line 2 Page 12, Line 20 thru Page 14, Line 5 Page 15, Line 6 thru Page 16, Line 15 Page 20, Line 10 Page 45, Line 20 Page 56, Line 7 thru Page 58, Line 16 Page 61, Line 2	Creates a new board administratively attached to the Texas Dept. of Health. Board is governor appointed with senate confirmation and has independent rulemaking authority. The board's sunset date is set for the usual 12-year period.
Page 1, Line 12 Page 58, Line 17 thru Page 61, Line 3 and throughout the bill.	Changes the titles of the licenses issued by the board from "certified" to "licensed."
Page 1, Line 16 thru Page 3, Line 19	Changes the definitions to incorporate national model act language.
Page 3, Line 9 Page 27, Line 14 Page 28, Line 15	Requires educational programs to be approved by the Council on Social Work Education.
Page 4, Line 1 thru Page 5, Line 11	Expands the exemptions from the Act to include all related state licensed health care practitioners, volunteers, clergy, students, and non-residents practicing in the state temporarily.
Page 7, Line 15 thru Page 8, Line 22 Page 11, Line 23 thru Page 12, Line 19	Defines grounds for removing a board member and requires the director to notify the board chair if knowledge that a potential ground for removal exists. Affirms that an action of the board is valid even if it is taken when a ground for removal exists. (ATB)
Page 9, Line 4	Requires the governor to designate the board chair.

**Bill Summary - Enrolled Version
Texas State Board of Social Worker Examiners
SB 1426 by Parker**

Bill Reference	Bill Provision
Page 10, Line 5	Requires public members on the board and prohibits appointment as a public member if the person or the person's spouse is a licensee, conducts business with the agency, or otherwise has financial ties to the regulated industry. (ATB)
Page 10, Line 22	Prohibits board members or their spouses and employees compensated at or above Group 17 in the appropriations act or their spouses from being an officer or employee of a related trade association. Also defines trade association. (ATB)
Page 11, Line 17	Prohibits registered lobbyists from serving as a member of the board or from being employed as general counsel to the board. (ATB)
Page 14, Line 9	Establishes a special account for the social worker fund in the.
Page 14, Line 20 thru Page 15, Line 3	Requires the board to file an annual report with the governor and the legislature detailing the agency's financial transactions. (ATB)
Page 16, Line 18 thru Page 17, Line 13	Requires the agency to prepare and distribute information to the public concerning the agency's functions and complaint procedures. (ATB)
Page 17, Line 5	Requires listing of a 1-800 telephone number for complaint information if one is established in another bill.
Page 17, Line 16 thru Page 18, Line 1	Prohibits rules restricting competitive bidding and advertising. (ATB)
Page 18, Line 8	Requires the board to provide the public with reasonable opportunity to appear before it regarding issues under its jurisdiction. (ATB)
Page 18, Line 12	Requires the agency to develop a plan that describes how non-English speaking persons can be provided reasonable access to the agency's programs. Also requires the board to comply with federal and state laws for program and facility accessibility. (ATB)
Page 18, Line 17	Requires the board to provide information to its members and employees on the qualifications for office or employment and each person's responsibilities under the law. (ATB)

Bill Summary - Enrolled Version
Texas State Board of Social Worker Examiners
SB 1426 by Parker

Bill Reference	Bill Provision
Page 18, Line 22 thru Page 20, Line 6	Requires compliance with board member training requirements if established under another bill. Requires the board to establish training if the requirements cannot be met through another agency and specifies the content of the training.
Page 20, Line 19 thru Page 21, Line 23	Requires that fees be set by the boards as necessary to cover the cost of regulation.
Page 22, Line 1 thru Page 25, Line 23 Page 26, Line 17 thru Page 27, Line 14 Page 31, Line 16 Page 32, Line 14 thru Page 34, Line 2 Page 41, Line 3 thru Page 42, Line 4 Page 43, Line 2 thru Page 45, Line 9 Page 48, Line 3	Minor technical corrections to language to reflect new license titles and new board authority.
Page 26, Line 1	Requires that all licensing examinations be validated.
Page 26, Line 8	Authorizes the board to limit the number of examination retakes.
Page 27, Line 8 thru Page 29, Line 7 Page 30, Line 19 thru Page 31, Line 13 Page 45, Line 12	Eliminates outdated language related to initial licensing period.
Page 29, Line 17 thru Page 30, Line 2	Increases the minimum educational requirement for a social work associate.
Page 30, Line 13	Authorizes the board to issue temporary licenses.
Page 32, Line 5 Page 34, Line 5 Page 34, Line 24 thru Page 35 Line 10	Requires the board to use a full range of penalties, such as reprimand, suspension or revocation, for violations of state laws or agency rules. (ATB)

**Bill Summary - Enrolled Version
Texas State Board of Social Worker Examiners
SB 1426 by Parker**

Bill Reference	Bill Provision
Page 34, Line 21 Page 61, Line 4	Transfers board hearings to the State Office of Administrative Hearings.
Page 35, Line 13 thru Page 39, Line 2	Standardizes the enforcement process of the health care licensing boards. Requires that standard procedures be established for complaint intake, investigations, informal hearings, and development of disciplinary sanctions. In addition, develops procedures for monitoring, record keeping, and meeting timelines for complaint resolution.
Page 35, Line 18 thru Page 36, Line 2	Requires the agency to maintain files on complaints. (ATB)
Page 35, Line 19 Page 36, Line 2	Requires the agency to periodically provide written notice to all parties to a formal complaint of the status of the complaint. (ATB)
Page 39, Line 5 thru Page 40, Line 24	Establishes a method for license renewal and a time-frame and penalty structure for delinquent renewals. (ATB)
Page 41, Line 2 thru Page 42, Line 23	Authorizes the board to issue specialty designations for clinical social work.
Page 46, Line 4 thru Page 47, Line 21	Establishes a procedure for licensing out-of-state practitioners seeking licensure in Texas.
Page 48, Line 9 thru Page 49, Line 3	Requires mandatory continuing education.
Page 49, Line 4 thru Page 56, Line 6	Amends the Insurance Code provisions on insurance payments to licensee for services to reflect the new license titles.
Page 61, Line 12	Sets September 1, 1993 as the effective date of the Act.
Page 61, Line 13	Emergency clause.

Texas State Board of Examiners of Professional Counselors

Final Action: *The Texas State Board of Examiners of Professional Counselors was continued for a 12-year period with changes.*

HB 2741 by Rodriguez

Analysis of Major Provisions in the Final Bill

Senate Bill 1060 by Senator Parker, as introduced, contained the Sunset Commission's recommendations for the continued state regulation of professional counselors in Texas. In addition to the standard recommendations applied to all the health care licensing boards, the commission recommended that the existing board used to regulate professional counselors be merged with the boards that regulate other mental health professions including social workers, marriage and family therapists, and psychologists. The legislature chose not to merge the mental health boards but rather to continue them as separate entities. Separate bills were introduced to continue each of the four mental health boards. One of these bills, H.B. 2741, was enacted to continue the regulation of professional counselors through the existing separate board for the usual 12-year period. The program will continue to be administered through the Texas Department of Health. Major provisions in the final bill are discussed below.

Require that the governor designate the board chair. The legislature adopted a provision specifying that the governor designate the chair of the board. This provision makes the board and its chair more directly accountable to the governor.

Increase the level of state regulation of counseling to require licensing of anyone who practices counseling. The legislature adopted a change in the level of regulation of counselors from a title act to a practice act. Professional counselors were regulated through a title protection act meaning that only those who used the title "licensed professional counselor" came under state regulations. The board had no jurisdiction over complaints of improper actions by counselors who used unregulated titles. Under the new law, the state board has the authority to regulate anyone who practices counseling and is not specifically exempted by the act. Exemptions include members of the clergy and state regulated professionals who practice counseling within the scope of their profession such as health professional, lawyers, and career counselors.

Eliminate the board's status as an advisory body to the Board of Health and instead provide the board with independent rulemaking authority. The legislature added a provision that increased the autonomy of the board. The board is administratively attached to the Texas Department of Health (TDH) and the TDH is responsible for providing staff

and operating expenses for the regulatory program. Previously, the statute required that the Board of Health adopt the final rules for the program with the advice of the board. The legislature eliminated the authority for the Board of Health to adopt rules for the program and instead the board will have all final decision making on rules for the program.

Transfer the board's hearing function from the hearings division of the Texas Department of Health to the State Office of Administrative Hearings. The legislature adopted a provision related to the program's hearings function. The bill as finally adopted transferred the hearings function from the hearings division of the Texas Department of Health to the State Office of Administrative Hearings (SOAH). The SOAH is responsible for conducting contested case hearings for most of the boards that regulate health care professionals.

Require board members to participate in training before serving on the board. Based on a recommendation of the Sunset Commission, the legislature required that board members receive training in specific areas before serving on the board. The training must include information regarding laws enforced by the board; programs and budget of the board; and the requirements of state laws regarding open meetings, open records, administrative procedures, and ethics. If the training requirements cannot be met through another state agency, the board is required to develop the training after consultation with the governor's office, the attorney general's office, and the Texas Ethics Commission.

Strengthen and standardize the complaint investigation and enforcement provisions. The legislature adopted a standard approach to complaint investigation and enforcement recommended by the Sunset Commission for all the health care licensing boards. The approach strengthens statutory requirements for handling complaints by requiring the board to publish a toll-free phone number for complaints, adopt standardized complaint forms, provide assistance to people filing complaints, and maintain specific information in complaint files. Complaints must be investigated in a timely manner and may not be dismissed without appropriate consideration. Complainants must be notified of investigation timelines and unexpected changes in the timelines. The board is also required to adopt procedures for the informal disposition of a complaint and both the complainant and the licensee must be given an opportunity to be heard. Finally, the board is required to develop a schedule of disciplinary sanctions to encourage the consistent use of sanction authority and to develop a procedure for monitoring licensees placed on probation. Use of this standard complaint process will help ensure consistent, thorough investigation and resolution of complaints.

Require mandatory continuing education as a condition of license renewal. The legislature adopted the recommendation of the Sunset Commission to establish uniform statutory authority for mandatory continuing education requirements. While the board had the broad authority to establish such requirements, this change gives the board standard guidelines to use and makes it a requirement. The board must establish a minimum number of hours of continuing education required for license renewal, identify the key factors that lead to the competent performance of professional duties, develop a process to assess a licensee's participation and performance in continuing education courses, evaluate the

overall effectiveness of the program, assess the continuing education needs of licensees, and require licensees to attend specific continuing education courses.

Set up a standard procedure to allow practitioners licensed in other states to come to Texas and, after meeting certain requirements, get a license to practice. The legislature adopted the Sunset Commission recommendation creating a standardized process for licensing out-of-state practitioners. The process provides for issuance of a provisional license by the board. To qualify for a provisional license, an out-of-state practitioner must be in good standing in the state in which the applicant is licensed, must have passed a national or recognized examination, and must be sponsored by a licensed practitioner in Texas. The board must issue a permanent license to the provisional license holder when the board verifies the applicant's credentials and that the applicant has passed a state recognized exam. The license may be required to meet additional requirements by law. The board must complete processing of a provisional license holder's application for a permanent license within 180 days or at the time licenses are issued following successful completion of an examination.

Authorize the board to temporarily suspend a license without notice or formal hearing in situations that seriously endanger the public. The legislature adopted a provision that authorizes the board to temporarily suspend a license without notice or hearing. This authority can be used in cases where a licensee's condition or activities constitute a serious and immediate threat to the public welfare and the time required to initiate formal disciplinary proceedings would cause excessive risk to the public. The decision to issue a temporary suspension would be made by an executive committee of the board consisting of the chair and two other members appointed by the chair. At the time the temporary suspension is ordered, a hearing on whether disciplinary proceedings should be initiated against the licensee must be scheduled within 14 days. A second hearing on the suspended license must be held not later than 60 days after the temporary suspension is ordered. Otherwise, the license is automatically reinstated.

Require the board to set fees to cover the cost of regulation. Based on a recommendation of the Sunset Commission, the legislature adopted standard language to authorize the board to set fees as necessary to cover the costs of regulation. While the board had broad fee authority, this change applies standard language requiring that fees recover the cost of administering the regulatory program. The board is prohibited from setting a fee at an amount less than the level as of September 1, 1993 to prevent revenue loss.

Comparison of Original Sunset Commission Legislation with Final Legislation

A comparison of H.B. 2741 with the original sunset bill as introduced shows that all recommended Sunset Commission across-the-board recommendations were included in the final bill.

All but one of the Sunset Commission's specific program recommendations remained in the final bill. The deleted provision is set out below.

Merge the policy boards that regulate psychologists, professional counselors, social workers and marriage and family therapists into a single board to regulate all four professions. The Sunset Commission recommended merging the policy boards that regulate the four mental health professions including professional counselors. The commission determined that these mental health professions were closely related and performed many of the same types of activities. In addition, members of the four professions often work together closely and many hold licenses under more than one board. Under the current structure each of the four boards sets the requirements separately for regulation including: professional code of ethics, continuing education, and complaint investigation and disciplinary process. The commission recommended merging the boards as a way to simplify state regulation for the consumer and licensee and provide consistency in the regulation of these similar professions. The merger provision was not adopted by the legislature due to concerns from the mental health professional organizations that such a merger would further blur the distinction between the professions.

Fiscal Impact

No fiscal impact. Any additional costs associated with implementing this legislation will be offset by additional fee revenue generated by the board.

**Bill Summary - Enrolled Version
Texas State Board of Examiners of Professional Counselors
HB 2741 - Rodriguez**

Bill Reference	Bill Provision
Page 1, Line 9	Adds a statement of state policy to the Act.
Page 1, Line 19 thru Page 3, Line 25	Changes the definition of practice to narrow and better delineate regulated practice and incorporate national model act language.
Page 4, Line 20 thru Page 5, Line 25	Expands the exemptions to include recently state regulated professions and other health providers.
Page 6, Line 3 Page 8, Line 24 thru Page 9, Line 3 Page 10, Line 27 thru Page 11, Line 1 Page 32, Line 4	Eliminates outdated provision relating to the first years of program operation.
Page 6, Line 11	Change the board composition by reducing the number of professional members who must be in private practice from four to three members.
Page 6, Line 13 Page 4, Line 5	Requires public members on the board and prohibits appointment as a public member if the person or the person's spouse is a licensee, conducts business with the agency, or otherwise has financial ties to the regulated industry. (ATB)
Page 6, Line 22 thru Page 8, Line 7	Prohibits board members or their spouses and employees compensated at or above Group 17 in the appropriations act or their spouses from being an officer or employee of a related trade association. Also defines trade association. (ATB)
Page 8, Line 8	Prohibits registered lobbyists from serving as a member of the board or from being employed as general counsel to the board. (ATB)
Page 9, Line 11 thru Page 10, Line 21	Defines grounds for removing a board member and requires the director to notify the governor and attorney general if knowledge that a potential ground for removal exists. Affirms that an action of the board is valid even if it is taken when a ground for removal exists. (ATB)
Page 10, Line 25 thru Page 11, Line 2	Requires the governor to designate the board chair.

Bill Summary - Enrolled Version
Texas State Board of Examiners of Professional Counselors
HB 2741 - Rodriguez

Bill Reference	Bill Provision
Page 11, Line 5 Page 11, Line 18	Eliminates the requirement that board rules be approved by the Board of Health and instead gives the board final authority to adopt rules.
Page 11, Line 7 Page 25, Line 17 Page 26, Line 22 thru Page 29, Line 15	Standardizes the enforcement process of the health care licensing boards. Requires that standard procedures be established for complaint intake, investigations, informal hearings, and development of disciplinary sanctions. In addition, develops procedures for monitoring, record keeping, and meeting timelines for complaint resolution.
Page 11, Line 8	Requires the agency to maintain files on complaints. (ATB)
Page 11, Line 12	Requires the agency to periodically provide written notice to all parties to a formal complaint of the status of the complaint. (ATB)
Page 11, Line 16 Page 29, Line 19 thru Page 31, Line 2	Establishes a procedure for licensing out-of-state practitioners seeking licensure in Texas.
Page 12, Line 1	Eliminates gender specific language in statute.
Page 12, Line 9 Page 24, Line 20 thru Page 25, Line 13	Requires the board to use a full range of penalties, such as reprimand, suspension or revocation, for violations of state laws or agency rules. (ATB)
Page 12, Line 12 Page 20, Line 20 thru Page 21, Line 2	Standardizes mandatory continuing education provisions.
Page 12, Line 27 thru Page 13, Line 1 Page 13, Line 12	Requires the agency to prepare and distribute information to the public concerning the agency's functions and complaint procedures. (ATB)
Page 13, Line 6	Authorizes the board to specify by rule the types of counseling practices that a licensee may undertake.
Page 13, Line 24	Requires listing of a 1-800 telephone number for complaint information if established under another bill.

**Bill Summary - Enrolled Version
Texas State Board of Examiners of Professional Counselors
HB 2741 - Rodriguez**

Bill Reference	Bill Provision
Page 14, Line 1	Requires the board to provide the public with reasonable opportunity to appear before it regarding issues under its jurisdiction. (ATB)
Page 14, Line 5	Requires the agency to develop a plan that describes how non-English speaking persons can be provided reasonable access to the agency's programs. Also requires the board to comply with federal and state laws for program and facility accessibility. (ATB)
Page 14, Line 11 thru Page 16, Line 5	Requires the members of the board to participate in board member training and specifies the content of the training. If the training cannot be met through another state agency, the board may establish its own training program after consultation with the governor, and the Texas Ethics Commission.
Page 14, Line 14	Requires the board to provide information to its members and employees on the qualifications for office or employment and each person's responsibilities under the law. (ATB)
Page 14, Line 19 Page 17, Line 21	Requires the board to develop and implement policies that clearly define the respective responsibilities of the board and the staff. (ATB)
Page 16, Line 10	Eliminates restrictions on expense reimbursement for board members and instead authorizes compensation based on the General Appropriations Act.
Page 18, Line 8 thru Page 19, Line 6 Page 32, Line 15	Modifies applicant qualifications to clarify the requirement for a masters or doctorate degree in counseling or a related field and increase the number of graduate hours required from 45 to 48 graduate hours.
Page 19, Line 14	Requires that all licensing examinations be validated.
Page 19, Line 24 thru Page 20, Line 5	Requires the agency to notify license applicants of licensing examination results within a reasonable time of the examination date. (ATB)
Page 20, Line 9	Requires the board, upon request of an applicant who failed a licensing examination, to provide an analysis of the applicant's exam performance. (ATB)

**Bill Summary - Enrolled Version
Texas State Board of Examiners of Professional Counselors
HB 2741 - Rodriguez**

Bill Reference	Bill Provision
Page 20, Line 17 Page 32, Line 4	Eliminates the authority for the board to issue specialty designations to licensees.
Page 21, Line 7 thru Page 23, Line 2	Establishes a method for license renewal and a time-frame and penalty structure for delinquent renewals. (ATB)
Page 23, Line 12	Authorizes the board to issue temporary permits, place a licensee on retired status and makes technical changes top provisions relating to inactive license status.
Page 23, Line 24 thru Page 24, Line 15	Increases the level of regulation from a title act to a practice regulation act.
Page 25, Line 2	Adds improper remuneration for referrals to the list of actions for which the board may sanction a licensee.
Page 25, Line 14 Page 33, Line 4	Transfers the board’s hearing function from the hearing division of the Texas Department of Health to the State Office of Administrative Hearings.
Page 26, Line 1 Page 32, Line 22	Authorizes the board to temporarily suspend a license pending a hearing if continued practice could put the public in danger.
Page 31, Line 6	Requires that fees be set by the boards as necessary to cover the cost of regulation.
Page 32, Line 3	Continues the State Board of Examiners of Professional Counselors until 2005.
Page 32, Line 4	Adds an instructional provision that specifies that change to law relating to board members apply only to those members appointed after the effective date of the act.
Page 32, Line 14	Sets September 1, 1993 as the effective date of the Act.
Page 33, Line 13	Emergency clause.

Board of Vocational Nurse Examiners

Final Action: *The Board of Vocational Nurse Examiners was continued for a 12-year period with changes.*

SB 839 by Moncrief

Analysis of Major Provisions in the Final Bill

Senate Bill 839, as introduced, contained the Sunset Commission's recommendations for the continued state regulation of vocational nurses. In addition to the standard recommendations applied to all the health care licensing boards, the commission recommended that the existing board used to regulate vocational nurses be merged with the board that regulates registered nurses. The legislature chose not to merge the nursing boards but rather to continue them as separate boards. Senate Bill 839, and its companion bill, House Bill 2180, were modified to accomplish this purpose. Senate Bill 839, was enacted to continue the regulation of vocational nurses through the existing separate board for the usual 12-year period. Major provisions in the final bill are discussed below.

Require that the governor designate the board chair. The legislature adopted a provision specifying that the governor designate the chair of the board. This provision makes the board and its chair more accountable to the governor.

Require board members to participate in training before serving on the board. Based on a recommendation of the Sunset Commission, the legislature required that board members receive training in specific areas before serving on the board. The training must include information regarding laws enforced by the board; programs and budget of the board; and the requirements of state laws regarding open meetings, open records, administrative procedures, and ethics. If adequate training is not available through another state agency or entity, the board is required to develop the training in consultation with the governor's office, the attorney general's office, and the Texas Ethics Commission.

Require one-third public membership on the board. The legislature adopted the recommendation of the Sunset Commission that requires at least one-third of the board's members to be representatives of the general public. Currently the 12-member board has 10 state licensed health care providers and two public members. This was changed to a 15-member board with 10 state licensed health care providers and five public members. Adding three additional public members will help ensure that the board's policies and actions reflect a balance between the interests of the general public and those of the profession.

Strengthen and standardize the complaint investigation and enforcement provisions. The legislature adopted a standard approach to complaint investigation and enforcement recommended by the Sunset Commission for all the health care licensing boards. The approach strengthens statutory requirements for handling complaints by requiring the board

to use a toll-free phone number for complaints, adopt standardized complaint forms, provide assistance to people filing complaints, and maintain specific information in complaint files. Complaints must be investigated in a timely manner and may not be dismissed without appropriate consideration. Complainants must be notified of investigation timelines and unexpected changes in the timelines. The board is also required to adopt procedures for the informal disposition of a complaint and both the complainant and the licensee must be given an opportunity to be heard. Finally, the board is required to develop a schedule of disciplinary sanctions to encourage the consistent use of sanction authority and to develop a procedure for monitoring licensees placed on probation. Use of this standard complaint process will help ensure consistent, thorough investigation and resolution of complaints.

Require mandatory continuing education as a condition of license renewal. The legislature adopted the recommendation of the Sunset Commission requiring licensees to meet standardized mandatory continuing education requirements established by the board. Existing law authorized the board to require continuing education but limited the number of hours to 20 clock hours every two years with no more than 10 hours in the classroom. Under the new provision, the maximum is lifted and the board is mandated to establish a minimum number of hours of continuing education. The board must also identify the key factors that lead to the competent performance of professional duties, develop a process to assess a licensee's participation and performance in continuing education courses, evaluate the overall effectiveness of the program, and assess the continuing education needs of licensees.

Set up a procedure to allow practitioners licensed in other states to come to Texas and, after meeting certain requirements, get a license to practice. The legislature adopted the Sunset Commission recommendation creating a standardized process for licensing out-of-state practitioners. The process provides for issuance of a provisional license while the applicant is considered for a permanent license. To qualify for a provisional license, an out-of-state practitioner must be in good standing in the state in which the applicant is licensed, must have passed a national or recognized examination, and must be sponsored by a licensed health care practitioner in Texas. The board is required to issue a permanent license to the provisional license holder once the applicant's credentials are verified and the applicant meets other requirements for licensure under the Act. The board must complete processing of a provisional license holder's application for a permanent license within 180 days or at the time licenses are issued following successful completion of an examination.

Authorize the board to assess administrative penalties for violations of law or board rules. The legislature adopted the recommendation of the Sunset Commission to authorize the board to assess administrative penalties of up to \$1,000 per day of violation against licensees who commit serious violations of law or board rules. An administrative penalty may be assessed in addition to other sanctions ordered by the board. Authorizing the board to assess administrative penalties provides the board with another enforcement tool to allow it to deal appropriately with the different levels of violations and the circumstances that surround them.

Authorize the courts to assess civil penalties of up to \$1,000 per violation per day. The legislature adopted the recommendation of the Sunset Commission that civil penalty authority of \$1,000 per day of violation be added to the enforcement powers provided in

the Act. A civil penalty is a monetary penalty imposed by a court for a violation that is not criminal in nature. Civil penalties are often used against persons who are practicing without a license. The board may request the attorney general to bring an action to assess a civil penalty.

Require fees be set by the health care licensing boards to cover the cost of regulation.

Based on a recommendation of the Sunset Commission, the legislature removed current statutory fee levels and authorized the board to set fees as necessary to cover the costs of regulation. This allows the board by rule to establish and adjust fees to meet the expenses of administering the board's enabling Act. The board is prohibited from setting a fee at an amount less than the fee's level as of September 1, 1993 to prevent a revenue loss.

Comparison of Original Sunset Commission Legislation with Final Legislation

A comparison of S.B. 839 with the original sunset bill as introduced shows that all recommended Sunset Commission across-the-board recommendations were included in the final bill.

All but one of the Sunset Commission's specific program recommendations remained in the final bill. The deleted provision is set out below.

Merge the policy boards that regulate vocational nurses and registered nurses into a single board to regulate both professions.

The Sunset Commission recommended merging the policy boards that regulate vocational nurses and registered nurses. The commission determined that the two nursing professions were closely related and performed many of the same types of activities. In addition, members of the two nursing groups often work together closely and perform many of the same duties. Under the current structure each of two boards sets the requirements for regulation separately including: professional code of ethics, continuing education, and complaint investigation and disciplinary process. The commission recommended merging the boards as a way to simplify state regulation for the consumer and licensee and provide consistency in the regulation of these similar professions. The merger provision was not adopted by the legislature due to concerns from the nursing organizations that such a merger would further blur the distinction between the professions.

Fiscal Impact

Implementation of the bill will increase the cost of the program by approximately \$32,000 a year. The additional costs are due to provisions that strengthen the complaint investigation and enforcement requirements. The additional cost of the new requirements will be offset by fund surpluses and additional fee revenue generated by the board.

Bill Summary - Enrolled Version
Board of Vocational Nurse Examiners
SB 839 - Moncrief

Bill Reference	Bill Provision
Page 1, Line 18 Page 2, Line 19 Page 8, Line 7 Page 34, Line 9	Expands the size of the board to provide one-third public members on the board by adding three public members for a total of five.
Page 1, Line 20	Requires that appointments to the board be made without regard to race, color, disability, sex, religion, age, or national origin. (ATB)
Page 2, Line 21 thru Page 3, Line 15	Requires public members on the board and prohibits appointment as a public member if the person or the person's spouse is a licensee, conducts business with the agency, or otherwise has financial ties to the regulated industry. (ATB)
Page 3, Line 17 Page 9, Line 4	Eliminates gender specific language.
Page 3, Line 22	Standardizes references to the board.
Page 3, Line 25 thru Page 4, Line 14 Page 4, Line 20	Prohibits board members or their spouses and employees compensated at or above Group 17 in the appropriations act or their spouses from being an officer or employee of a related trade association. Also defines trade association. (ATB)
Page 4, Line 15 Page 10, Line 22	Prohibits registered lobbyists from serving as a member of the board or from being employed as general counsel to the board. (ATB)
Page 4, Line 25 thru Page 6, Line 3	Defines grounds for removing a board member and requires the director to notify the board chair if knowledge that a potential ground for removal exists. Affirms that an action of the board is valid even if it is taken when a ground for removal exists. (ATB)
Page 6, Line 4	Requires the governor to designate the board chair.
Page 7, Line 3 Page 11, Line 13	Requires the director or a designee to develop an annual job performance evaluation system upon which merit salary increases must be based. (ATB)
Page 7, Line 16	Authorizes the board to charge a separate fee for surveying approved nursing schools.
Page 7, Line 19 Page 16, Line 1	Eliminates unnecessary language.

Bill Summary - Enrolled Version
Board of Vocational Nurse Examiners
SB 839 - Moncrief

Bill Reference	Bill Provision
Page 8, Line 3 Page 16, Line 15	Minor technical changes to provisions on examinations.
Page 9, Line 9 thru Page 10, Line 10 Page 23, Line 11	Standardizes authority for mandatory continuing education and eliminates the maximum number of hours that may be required.
Page 10, Line 11 Page 12, Line 20 thru Page 13, Line 17	Requires the agency to prepare and distribute information to the public concerning the agency's functions and complaint procedures. Also requires the board to enter into a MOU with agencies that license facilities concerning the coordination of this requirement. (ATB)
Page 11, Line 3	Continues the Board of Vocational Nurse Examiners until 2005.
Page 11, Line 9	Requires the director or a designee to develop an intra-agency career ladder program and requires intra-agency posting of job openings concurrently with any public posting. (ATB)
Page 11, Line 9 thru Page 12, Line 19	Requires the director or a designee to prepare and maintain an equal employment opportunity policy and to report findings to the Human Rights Commission and the governor's office. (ATB)
Page 13, Line 18	Requires the board to list a 1-800 telephone number for complaint information.
Page 13, Line 22	Requires the board to provide the public with reasonable opportunity to appear before it regarding issues under its jurisdiction. (ATB)
Page 14, Line 1	Requires the agency to develop a plan that describes how non-English speaking persons can be provided reasonable access to the agency's programs. Also requires the board to comply with federal and state laws for program and facility accessibility. (ATB)
Page 14, Line 6 thru Page 15, Line 18	Requires compliance with board member training requirements if established in another bill. Also requires the board to establish a training program for its members and specifies the required components of that training.
Page 15, Line 19	Requires the board to provide information to its members and employees on the qualifications for office or employment and each person's responsibilities under the law. (ATB)

**Bill Summary - Enrolled Version
Board of Vocational Nurse Examiners
SB 839 - Moncrief**

Bill Reference	Bill Provision
Page 15, Line 24	Authorizes the board to enter into interagency contracts.
Page 16, Line 21	For vocational nurse regulation, removes the 12-month course length requirement for a vocational nurse program.
Page 17, Line 6 Page 18, Line 11	Deletes the two-year education requirement for registered nurse candidates seeking licensure as a vocational nurse.
Page 17, Line 11	Requires that all licensing examinations be validated.
Page 17, Line 19	Requires the agency to notify license applicants of licensing examination results within a reasonable time of the examination date. (ATB)
Page 18, Line 25 thru Page 19, Line 15 Page 19, Line 24 thru Page 21, Line 13	Establishes a procedure for licensing out-of-state practitioners seeking licensure in Texas.
Page 19, Line 18	Eliminate outdated provision requiring licensees to wear an identifying insignia on a white cap or uniform.
Page 21, Line 17	Authorizes the board to adopt a staggered license renewal system. (ATB)
Page 22, Line 10 thru Page 23, Line 7	Establishes a method for license renewal and a time-frame and penalty structure for delinquent renewals. (ATB)
Page 24, Line 3	Requires that fees be set by the boards as necessary to cover the cost of regulation.
Page 25, Line 6	Requires the board to file an annual report with the governor and the legislature detailing the agency's financial transactions. (ATB)
Page 25, Line 11	Requires the agency to maintain files on complaints. (ATB)
Page 25, Line 12 thru Page 28, Line 11 Page 33, Line 17	Standardizes the enforcement process of the health care licensing boards. Requires that standard procedures be established for complaint intake, investigations, informal hearings, and development of disciplinary sanctions. In addition, develops procedures for monitoring, record keeping, and meeting timelines for complaint resolution.

**Bill Summary - Enrolled Version
Board of Vocational Nurse Examiners
SB 839 - Moncrief**

Bill Reference	Bill Provision
Page 28, Line 12 thru Page 33, Line 16 Page 33, Line 24 thru Page 34, Line 1	Authorizes administrative and civil penalties up to \$1,000 a day per violation.
Page 34, Line 2	Adds an instructional provision that specifies that changes made by the bill regarding board members apply only to those members appointed after the effective date of the Act.
Page 34, Line 17	Sets September 1, 1993 as the effective date of the Act.
Page 34, Line 18	Emergency clause.

Board of Nurse Examiners

Final Action: *The Board of Nurse Examiners was continued for a 12-year period with changes.*

HB 2180 by Black

Analysis of Major Provisions in the Final Bill

House Bill 2180, as introduced, contained the Sunset Commission's recommendations for the continued state regulation of registered nurses. In addition to the standard recommendations applied to all the health care licensing boards, the commission recommended that the existing board used to regulate registered nurses be merged with the board that regulates vocational nurses. The legislature chose not to merge the nursing boards but rather to continue them as separate boards. House Bill 2180, was modified to accomplish this purpose. House Bill 2180, was enacted to continue the regulation of registered nurses through the existing separate board for the usual 12-year period. Major provisions in the final bill are discussed below.

Require that the governor designate the board chair. The legislature adopted a provision specifying that the governor designate the chair of the board. This provision makes the board and its chair more accountable to the governor.

Require board members to participate in training before serving on the board. Based on a recommendation of the Sunset Commission, the legislature required that board members receive training in specific areas before serving on the board. The training must include information regarding laws enforced by the board; programs and budget of the board; and the requirements of state laws regarding open meetings, open records, administrative procedures, and ethics. If adequate training is not available through another state agency or entity, the board is required to develop the training in consultation with the governor's office, the attorney general's office, and the Texas Ethics Commission.

Strengthen and standardize the complaint investigation and enforcement provisions. The legislature adopted a standard approach to complaint investigation and enforcement that was recommended by the Sunset Commission for all the health care licensing boards. The approach strengthens statutory requirements for handling complaints by requiring the board to list a toll-free phone number for complaints, adopt standardized complaint forms, provide assistance to people filing complaints, and maintain specific information in complaint files. Complaints must be investigated in a timely manner and may not be dismissed without appropriate consideration. Complainants must be notified of investigation timelines and unexpected changes in the timelines. The board is also required to adopt procedures for the informal disposition of a complaint and both the complainant and the licensee must be given an opportunity to be heard. Finally, the board is required to develop a schedule of disciplinary sanctions to encourage the consistent use of sanction authority and to develop

a procedure for monitoring licensees placed on probation. Use of this standard complaint process will help ensure consistent, thorough investigation and resolution of complaints.

Set up a procedure to allow practitioners licensed in other states to come to Texas and, after meeting certain requirements, get a license to practice. The legislature adopted the Sunset Commission recommendation creating a standardized process for licensing out-of-state practitioners. The process provides for issuance of a provisional license while the applicant is considered for a permanent license. To qualify for a provisional license, an out-of-state practitioner must be in good standing in all states in which the applicant is licensed, must have passed a national or recognized examination and must have met license qualifications similar to those required in Texas when the original license was obtained. The board is required to issue a permanent license to the provisional license holder once the applicant's credentials are verified and the applicant meets other requirements for licensure under the Act. The board must complete processing of a provisional license holder's application for a permanent license within 180 days or at the time licenses are issued following successful completion of an examination. The legislature modified this provision from the standard approach recommended by the Sunset Commission by eliminating a requirement that provisional licensees practice under the supervision of a state-licensed sponsor until they receive full licensure.

Authorize the board to assess administrative penalties for violations of law or board rules. The legislature adopted the recommendation of the Sunset Commission to authorize the board to assess administrative penalties of up to \$2,500 per day of violation against licensees who commit serious violations of law or board rules. An administrative penalty may be assessed in addition to other sanctions ordered by the board. Authorizing the board to assess administrative penalties provides the board with another enforcement tool to allow it to deal appropriately with the different levels of violations and the circumstances that surround them.

Authorize the courts to assess civil penalties of up to \$1,000 per violation per day. The legislature adopted the recommendation of the Sunset Commission that civil penalty authority of \$1,000 per day of violation be added to the enforcement powers provided in the Act. A civil penalty is a monetary penalty imposed by a court for a violation that is not criminal in nature. Civil penalties are often used against persons who are practicing without a license. The board may request the attorney general to bring an action to assess a civil penalty.

Authorize the board to temporarily suspend a license without notice or formal hearing in situations that seriously endanger the public. The legislature adopted a provision that authorizes the board to temporarily suspend a license without notice or hearing. This authority can be used in cases where a licensee's condition or activities constitute a serious and immediate threat to the public welfare and the time required to initiate formal disciplinary proceedings would cause excessive risk to the public. The decision to issue a temporary suspension would be made by an executive committee of the board consisting of the chair and two other members appointed by the chair. At the time the temporary suspension is ordered, a hearing on whether disciplinary proceedings should be initiated against the licensee must be scheduled within 14 days. A second hearing on the suspended

license must be held no later than 60 days after the temporary suspension is ordered. Otherwise, the license is automatically reinstated.

Require fees be set by the health care licensing boards to cover the cost of regulation.

Based on a recommendation of the Sunset Commission, the legislature removed current statutory fee levels and authorized the board to set fees as necessary to cover the costs of regulation. This allows the board by rule to establish and adjust fees to meet the expenses of administering the board's enabling Act. The board is prohibited from setting a fee at an amount less than the fee's level as of September 1, 1993 to prevent a revenue loss.

Comparison of Original Sunset Commission Legislation with Final Legislation

A comparison of H.B. 2180 with the original sunset bill as introduced shows that all recommended Sunset Commission across-the-board recommendations were included in the final bill.

All but two of the Sunset Commission's specific program recommendations remained in the final bill. The deleted provisions are set out below.

Merge the policy boards that regulate vocational nurses and registered nurses into a single board to regulate both professions.

The Sunset Commission recommended merging the policy boards that regulate vocational nurses and registered nurses. The commission determined that the two nursing professions were closely related and performed many of the same types of activities. In addition, members of the two nursing groups often work together closely and perform many of the same duties. Under the current structure each of two boards sets the requirements for regulation separately including: professional code of ethics, continuing education, and complaint investigation and disciplinary process. The commission recommended merging the boards as a way to simplify state regulation for the consumer and licensee and provide consistency in the regulation of these similar professions. The merger provision was not adopted by the legislature due to concerns from the nursing organizations that such a merger would further blur the distinction between the professions.

Require mandatory continuing education as a condition of license renewal.

The Sunset Commission recommended requiring licensees to meet standardized mandatory continuing education requirements established by the board. Existing law authorized the board to require continuing education but limited the number of hours to 20 classroom hours every two years with no more than 10 hours classroom instruction in approved courses. Under the proposed provision, the maximum would have been lifted and the board would have instead established a minimum number of hours of continuing education. The board would also have been required to identify the key factors that lead to the competent performance of professional duties, develop a process to assess a licensee's participation and performance in continuing education courses, evaluate the overall effectiveness of the program, and assess the continuing education needs of licensees. The legislature removed this provision from the bill before final passage after concerns were raised that the existing statutory provisions incorporated a policy that had evolved over the years and was working well.

Fiscal Impact

Implementation of the bill will increase the cost of the program by approximately \$46,000 a year. The additional costs are due to provisions that strengthen the complaint investigation and enforcement requirements. The additional cost of the new requirements will be offset by fund surpluses and additional fee revenue generated by the board.

Bill Summary - Enrolled Version
Board of Nurse Examiners
HB 2180 - Black

Bill Reference	Bill Provision
Page 1, Line 8 Page 17, Line 2 Page 13, Line 20 Page 15, Line 9 Page 16, Line 16 Page 17, Line 2 Page 24, Line 9 Page 26, Line 4 Page 27, Line 16	Standardizes references to the board.
Page 1, Line 12	Requires that appointments to the board be made without regard to race, color, disability, sex, religion, age, or national origin. (ATB)
Page 2, Line 10 thru Page 3, Line 5	Requires public members on the board and prohibits appointment as a public member if the person or the person's spouse is a licensee, conducts business with the agency, or otherwise has financial ties to the regulated industry. (ATB)
Page 3, Line 6 Page 9, Line 21	Prohibits board members or their spouses and employees compensated at or above Group 17 in the appropriations act or their spouses from being an officer or employee of a related trade association. Also defines trade association. (ATB)
Page 3, Line 26 thru Page 4, Line 4 Page 10, Line 2	Prohibits registered lobbyists from serving as a member of the board or from being employed as general counsel to the board. (ATB)
Page 4, Line 5 Page 10, Line 8	Defines grounds for removing a board member and requires the director to notify the board chair if knowledge that a potential ground for removal exists. Affirms that an action of the board is valid even if it is taken when a ground for removal exists. (ATB)
Page 5, Line 1	Requires the board to provide information to its members and employees on the qualifications for office or employment and each person's responsibilities under the law. (ATB)
Page 5, Line 6	Requires the board to develop and implement policies that clearly define the respective responsibilities of the board and the staff. (ATB)
Page 5, Line 9	Requires the board to file an annual report with the governor and the legislature detailing the agency's financial transactions. (ATB)

**Bill Summary - Enrolled Version
Board of Nurse Examiners
HB 2180 - Black**

Bill Reference	Bill Provision
Page 5, Line 16	Requires the director or a designee to develop an intra-agency career ladder program and requires intra-agency posting of job openings concurrently with any public posting. (ATB)
Page 5, Line 20 Page 15, Line 2	Requires the director or a designee to develop an annual job performance evaluation system upon which merit salary increases must be based. (ATB)
Page 5, Line 24 thru Page 6, Line 25	Requires the director or a designee to prepare and maintain an equal employment opportunity policy and to report findings to the Human Rights Commission and the governor's office. (ATB)
Page 6, Line 26 thru Page 7, Line 15 Page 7, Line 20 Page 12, Line 21	Requires the agency to prepare and distribute information to the public concerning the agency's functions and complaint procedures. Also includes a provision to require the board to establish a MOU with agencies that regulate health facilities to coordinate this requirement. (ATB)
Page 7, Line 16	Requires listing a 1-800 telephone number for complaint information.
Page 7, Line 26 thru Page 8, Line 2	Requires the board to provide the public with reasonable opportunity to appear before it regarding issues under its jurisdiction. (ATB)
Page 8, Line 3	Requires the agency to develop a plan that describes how non-English speaking persons can be provided reasonable access to the agency's programs. Also requires the board to comply with federal and state laws for program and facility accessibility. (ATB)
Page 8, Line 9 thru Page 9, Line 18	Establishes detailed training requirements for members of the governing board. Requires members to participate in training before serving.
Page 9, Line 19	Authorizes the board to enter into interagency contracts.
Page 10, Line 27	Continues the Board of Nurse Examiners until 2005.
Page 11, Line 4	Requires the governor to designate the board chair.
Page 11, Line 20 thru Page 12, Line 1	Eliminates outdated provision relating to legislative review of rules.
Page 12, Line 12 Page 14, Line 24 Page 17, Line 3	Eliminates gender specific language.

Bill Summary - Enrolled Version
Board of Nurse Examiners
HB 2180 - Black

Bill Reference	Bill Provision
Page 12, Line 19 Page 14, Line 14 Page 18, Line 13	Changes the name of the "executive secretary" to "executive director".
Page 14, Line 9	Names the statute the "Nurse Practice Act".
Page 16, line 7	Specifies that the 30 days for filing a judicial appeal starts from the day the decision was issued "and approved by the board".
Page 16, line 20	Modifies exam language to replace the wording on a passing score with the concept of passing criteria since the national exam does not yield a score.
Page 17, Line 7	Modifies the test application process to eliminate board handling of exam application and fees.
Page 17, Line 20	Requires that all licensing examinations be validated.
Page 17, Line 23 thru Page 18, Line 13	Requires the agency to notify license applicants of licensing examination results within a reasonable time of the examination date. (ATB)
Page 18, Line 16	Authorizes the board to limit the number of exam retakes.
Page 18, Line 25 thru Page 21, Line 5 Page 24, Line 13	Establishes a procedure for licensing out-of-state practitioners seeking licensure in Texas. Provision changed by eliminating the sponsorship requirement.
Page 21, Line 11 thru Page 24, Line 5 Page 28, Line 11	Standardizes the enforcement process of the health care licensing boards. Requires that standard procedures be established for complaint intake, investigations, informal hearings, and development of disciplinary sanctions. In addition, develops procedures for monitoring, record keeping, and meeting timelines for complaint resolution.
Page 21, Line 11 Page 26, Line 9	Requires the agency to maintain files on complaints. (ATB)
Page 21, Line 22 Page 26, Line 11	Requires the agency to periodically provide written notice to all parties to a formal complaint of the status of the complaint. (ATB)
Page 26, Line 8	Authorizes the board to conduct preliminary investigations to verify the identity of the licensee before notification.
Page 26, Line 20	Authorizes the board to conduct settlement conferences before filing formal charges.

**Bill Summary - Enrolled Version
Board of Nurse Examiners
HB 2180 - Black**

Bill Reference	Bill Provision
Page 27, Line 2	Conforms the statute to the previous transfer of board hearings to the State Office of Administrative Hearings.
Page 29, Line 4	Authorizes the board to define the types of incidents reported under the mandatory reporting requirement.
Page 29, Line 12	Requires an MOU with agencies that license health facilities to ensure compliance with peer review.
Page 29, Line 23 thru Page 30, Line 15	Authorizes the board to temporary suspend a license pending a hearing.
Page 30, Line 18 thru Page 31, Line 3	Authorizes the board to adopt a staggered license renewal system. (ATB)
Page 31, Line 4 thru Page 32, Line 6	Establishes a method for license renewal and a time-frame and penalty structure for delinquent renewals. (ATB)
Page 32, Line 12 thru Page 33, Line 7 Page 33, Line 26 thru Page 34, Line 7	Requires that fees be set by the boards as necessary to cover the cost of regulation.
Page 33, Line 8	Authorizes the board to receive grant monies.
Page 34, Line 10 thru Page 39, Line 21	Authorizes administrative penalties up to \$2,500 and civil penalties up to \$1,000.
Page 39, Line 22	Eliminates statutory requirement for an educational secretary.
Page 39, Line 23	Adds an instructional provision that specifies that changes to board member qualifications made by this Act apply only to members appointed after the effective date of the Act.
Page 40, Line 2	Sets September 1, 1993 as the effective date of the Act.
Page 40, Line 3	Emergency clause.

State Board of Examiners in the Fitting and Dispensing of Hearing Aids

Final Action: The State Board of Examiners in the Fitting and Dispensing of Hearing Aids was moved to the Department of Health and continued for a 12-year period as an advisory committee with changes.

SB 953 by Wentworth

Analysis of Major Provisions in the Final Bill

Senate Bill 1079, as introduced, contained the Sunset Commission's recommendations for the State Board of Examiners in the Fitting and Dispensing of Hearing Aids. Provisions in S.B. 1079 would have merged the State Board of Examiners in the Fitting and Dispensing of Hearing Aids and the State Committee of Examiners for Speech-Language Pathology and Audiology to form a new licensing agency. These provisions were not adopted and S.B. 1079 was split into two bills: S.B. 953 relating to the regulation of hearing aid fitters and dispensers and S.B. 1077 relating to the regulation of speech-language pathology and audiology. In S.B. 953, the legislature changed the State Board of Examiners in the Fitting and Dispensing of Hearing Aids from an independent board to an advisory committee and continued the committee for a 12-year period. The committee would be located in and receive administrative support from the Department of Health. Major provisions in the final bill are discussed below.

Prohibit a licensed hearing aid fitter or licensed audiologist from selling a hearing aids to minors. The legislature adopted provisions prohibiting a hearing instrument fitter or an audiologist from selling a hearing instrument to a person under 18 years of age unless that person or the person's guardian presents a written statement signed by a doctor. The statement must indicate that the patient's hearing loss has been medically evaluated and the patient may be considered as a candidate for a hearing instrument.

Increase and strengthen the training requirements for temporary training permit holders. The legislature adopted provisions that would require the temporary training permit holder to be directly supervised by an approved supervisor. The supervisor would be responsible for the day-to-day activities and training of the permit holder, provide the permit holder with the proper equipment and materials, and establish a course of training based on requirements in statute and rule. The permit holder would be required to have at least 150 hours of study in nine specific areas related to fitting and dispensing hearing instruments. The temporary training permit holder would be prohibited from owning or managing a business that fits or sells hearing instruments or from advertising or otherwise representing that the permit holder holds a license as a hearing instrument dispenser.

Establish an apprentice permit to be issued after a temporary training permit holder has successfully completed the required course of study. The legislature adopted provisions that would require temporary training permit holders who have met training requirements and passed any required examinations to serve as an apprentice under the supervision of a licensed hearing instrument dispenser for up to one year. The apprentice would be required to complete 18 hours of classroom education in subjects required by the committee. A hearing instrument dispenser's license would be issued to an apprentice permit holder when the committee received evidence that the apprentice met all requirements in statute for a hearing instrument dispenser's license.

Authorize the committee, upon approval of the Board of Health, to assess administrative penalties for violations of law or committee rules. The legislature adopted a provision that would authorize the committee, upon approval of the Board of Health, to assess administrative penalties of up to \$1,000 per day of violation against licensees who commit serious violations of law or committee rules. An administrative penalty may be assessed in addition to other sanctions ordered by the committee. Authorizing the committee to assess administrative penalties provides the committee with another enforcement tool to allow it to deal appropriately with the different levels of violations and the circumstances that surround them.

Require license holders to file a bond or surety in the amount of \$10,000 with the committee to ensure required performance. The legislature adopted provisions that would require a licensed hearing instrument dispenser to file a bond or surety with the committee in the amount of \$10,000. This bond would be used to satisfy any unpaid taxes or contributions due to the state or political subdivisions of the state and any judgements that the license holder may be required to pay for negligently or improperly dispensing hearing instruments or for breaching a contract relating to the dispensing of hearing instruments.

Require a person who owns a business that fits and dispenses hearing instruments to be licensed under this Act. The legislature adopted provisions that would require a person who owns, maintains, or operates an office or place of business where the person employs or engages under contract a person who practices the fitting and dispensing of hearing instruments to be licensed as a hearing instrument dispenser or an audiologist.

Establish a state policy to safeguard the health and welfare of communicatively handicapped people. The legislature adopted provision that would safeguard the health and welfare of the communicatively handicapped people of Texas. This state policy will establish standards of practitioners competency, provide regulatory authority over practitioners offering hearing instruments dispensing services to the public and ensure professional ethical conduct of licensed hearing instruments dispensers.

Comparison of Original Sunset Commission Legislation with Final Legislation

A comparison of S.B. 953 with the original sunset bill as introduced shows that the majority of Sunset Commission across-the-board recommendations proposed by the commission were deleted

from the final bill. While a majority of these standard provisions are currently in statute, they are not updated to reflect the latest legislative thought.

Several of the Sunset Commission's specific recommendations remained in the final bill. However, other significant recommendations were deleted during the legislative process. Many provisions were removed when the original merger bill, S.B. 1079, was rewritten to continue the two regulatory agencies as separate entities. The deleted provisions are set out below.

Merge the State Committee of Examiners for Speech-Language Pathology and Audiology and the State Board of Examiners in the Fitting and Dispensing of Hearing Aids to form a free-standing licensing agency. The Sunset Commission had recommended merging the State Board of Examiners in the Fitting and Dispensing of Hearing Aids and the State Committee of Examiners for Speech-Language Pathology and Audiology to form a single regulatory agency. This agency would be responsible for licensing speech-language pathologists, audiologists, hearing aid fitters and dispensers and any interns or trainees. The merger provision was dropped because a board composition that would please all interested parties could not be found. The regulation of these professions was continued in the Committee of Examiners in the Fitting and Dispensing of Hearing Aids which was moved into the Department of Health and the State Board of Examiners for Speech-language Pathology and Audiology.

Strengthen and standardize the complaint investigation and enforcement provisions. The Sunset Commission had recommended a standard approach to complaint investigation and enforcement for all the health care licensing boards. The approach strengthens statutory requirements for handling complaints by requiring the board to use a toll-free phone number for complaints, adopt standardized complaint forms, provide assistance to people filing complaints, and maintain specific information in complaint files. Complaints must be investigated in a timely manner and may not be dismissed without appropriate consideration. Complainants must be notified of investigation timelines and unexpected changes in the timelines. The board is also required to adopt procedures for the informal disposition of a complaint and both the complainant and the licensee must be given an opportunity to be heard. Finally, the board is required to develop a schedule of disciplinary sanctions to encourage the consistent use of sanction authority and to develop a procedure for monitoring licensees placed on probation. Use of this standard complaint process will help ensure consistent, thorough investigation and resolution of complaints. The provision was not included in the final bill.

Set up a procedure to allow practitioners licensed in other states to come to Texas and, after meeting certain requirements, get a license to practice. The Sunset Commission had recommended creating a standardized process for licensing out-of-state practitioners. The process provides for issuance of a provisional license by the board after verification of the applicant's credentials and license status in the state of current licensure. To qualify for a provisional license, an out-of-state practitioner must be in good standing in the state in which the applicant is licensed, must have passed a national or recognized examination, and must be sponsored by a licensed practitioner in Texas. The board is required to issue a permanent license to the provisional license holder if that person passes the state

jurisprudence examination and meets education, experience, and other requirements for licensure under the Act. The board must complete processing of a provisional license holder's application for a permanent license within 180 days or at the time licenses are issued following successful completion of an examination. This provision was not included in the final bill.

Fiscal Impact

No fiscal impact. Any additional costs associated with implementing this legislation will be offset by additional fee revenue generated by the committee.

**Bill Summary - Enrolled Version
Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids
SB 953 - Wentworth**

Bill Reference	Bill Provision
Page 1, Line 9 thru Page 2, Line 19	Modifies the definitions of "Board", "License", "Temporary training permit", "Hearing aid", "Fitting and dispensing hearing aids", and "30-day trial period".
Page 2, Line 20 thru Page 3, Line 11	Adds definitions for "Committee", "Department", "Person", "Apprentice permit", "Supervisor", and "Direct supervision".
Page 3, Line 16 thru Page 4, Line 1	Establishes a policy statement related to safeguarding the health and welfare of the communicatively handicapped people of the state.
Page 4, Line 5 Page 9, Line 8 thru Page 10, Line 15 Page 10, Line 20 thru Page 12, Line 18 Page 12, Line 24 thru Page 13, Line 16 Page 31, Line 19 thru Page 32, Line 21 Page 34, Line 5 thru Page 35, Line 2 and throughout the bill	Changes the board to a nine member advisory committee located in the Department of Health.
Page 4, Line 14	Requires six members of the committee to be licensed as hearing aid fitters and dispensers. Limits the number of committee members that are licensed as both hearing aid fitters and dispensers and audiologists to two.
Page 8, Line 5	Continues the State Committee of Examiners in the Fitting and Dispensing Hearing Aids until 2005.
Page 10, Line 16 Page 43, Line 15 thru Page 45, Line 11	Requires mandatory continuing education and sets the number of hours of continuing education hours required each year for license renewal. Requires the committee to approve continuing education courses. Specifies exemptions from continuing education requirements. Requires licensee to provide written proof of completion of continuing education courses.
Page 12, Line 22	Authorizes the committee to adopt an official seal.

Bill Summary - Enrolled Version
Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids
SB 953 - Wentworth

Bill Reference	Bill Provision
Page 14, Line 10 thru Page 16, Line 15	Requires that all licensing examinations be validated. Requires that the examination be offered at least twice a year and authorizes the committee to arrange for the administration of the examination. Expands the subject areas covered by the examination.
Page 17, Line 5	Exempts persons licensed as audiologists or audiology interns from the examination requirements of the Act.
Page 17, Line 12 thru Page 19, Line 6	Modifies the reciprocal licensing process. Requires that the applicant provide documentation that clearly shows that the jurisdiction in which the applicant was practicing has equivalent or higher standards than Texas. Requires the applicant to provide documentation concerning examinations and any other information required by the committee.
Page 19, Line 24 thru Page 20, Line 5	Exempts students of audiology from provisions of the Act provided that their activities and services constitute part of their supervised course of study.
Page 20, Line 20 thru Page 24, Line 11	Modifies the temporary training permit process by expanding the training requirements and increasing the length of time that the permit is effective from six months to one year.
Page 24, Line 16 thru Page 25, Line 10	Creates an apprentice program. Requires an apprentice to work under the supervision of a licensed hearing aid dispenser for at least one year. During that year, the apprentice will be trained by the licensee and receive 18 hours of classroom continuing education.
Page 25, Line 14 thru Page 31, Line 4	Authorizes the board to refuse to issue or renew a license if the applicant or licensee violates specific provisions of the Act. Modifies the grounds for disciplinary action.
Page 33, Line 7	Increases fees to cover the costs of administering the Act. The temporary training permit fee will increase from \$40 to \$200, the examination fee from \$125 to \$250, the license fee from \$75 to \$220, the license renewal fee from \$220 to \$440, and the duplicate document fee from \$10 to \$50. A new fee for the apprentice license will be set at \$300.

Bill Summary - Enrolled Version
Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids
SB 953 - Wentworth

Bill Reference	Bill Provision
Page 35, Line 11 thru Page 37, Line 3	Defines a false, misleading, or deceptive advertisement.
Page 38, Line 16	Authorizes the board to adopt a staggered license renewal system. (ATB)
Page 41, Line 8	Deletes a provision requiring licensed fitters and dispensers to provide a written statement to customers stating that an examination by a fitter and dispenser is not a medical examination or diagnosis.
Page 41, Line 20	Deletes a provision requiring hearing aid fitters and dispensers to recommend to customers under 10 years of age that they be examined by a doctor.
Page 42, Line 14	Authorizes hearing and fitters and dispensers to test hearing using acceptable verification techniques.
Page 42, Line 15	Requires hearing aid fitters and dispensers to verify that a hearing instrument is performing appropriately through an evaluation by a calibrated system.
Page 42, Line 18 thru Page 43, Line 1	Prohibits a licensed audiologist or hearing aid fitter and dispenser from selling a hearing aid to a person under 18 years of age unless the person presents a letter from a doctor.
Page 43, Line 2	Specifies that if a hearing test is not conducted in a stationary acoustical enclosure, ambient noise levels must meet certain standards.
Page 46, Line 21	Prohibits a person from selling hearing instruments by mail.
Page 47, Line 19 thru Page 48, Line 1	Authorizes the board to impose administrative penalties of up to \$1,000 for violations of the Act.
Page 48, Line 2	Authorizes a district court to issue an injunction against a person practicing without a license.
Page 48, Line 14 thru Page 50, Line 5	Requires license holders to file a bond or a surety in lieu of bond in the amount of \$10,000 with the committee to ensure compliance with the statute, rules, and regulations.

Bill Summary - Enrolled Version
Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids
SB 953 - Wentworth

Bill Reference	Bill Provision
Page 50, Line 10	Requires a person who owns, maintains, or operates an office or place of business that fits and dispenses hearing aids to be licensed by the committee.
Page 51, Line 10	Repeals Sections 18, 20 and 21 of the Act. Section 18 specifies that nothing in the Act shall prohibit a corporation or like business organization from maintaining a business to fit and sell hearing aids and requires that licensees supply the name of the corporation for which they work. Section 20 has already been repealed. Section 21 specifies that if any section of this Act is held invalid other sections not related to the invalid section would continue in effect.
Page 51, Line 16	Specifies that this Act takes effect September 1, 1993.
Page 51, Line 17 thru Page 52, Line 9	Specifies that all licensees must apply to the committee to renew licenses prior to December 31, 1993.
Page 52, Line 10	Specifies that all duties, powers, obligations, equipment and personnel are transferred to the committee on the effective date of the Act.
Page 52, Line 24 thru Page 53, Line 9	Specifies that the Department of Health shall continue all proceedings of the board and any unobligated or unexpended balance of appropriations is transferred to the Department of Health.
Page 53, Line 10	Emergency clause

State Committee of Examiners for Speech-Language Pathology and Audiology

Final Action: The State Committee of Examiners for Speech-Language Pathology and Audiology was continued for a 12-year period with changes.

S.B. 1077 by Harris of Dallas

Analysis of Major Provisions in the Final Bill

Senate Bill 1079, as introduced, contained the Sunset Commission's recommendations for the State Committee of Examiners for Speech-Language Pathology and Audiology. Provisions in S.B. 1079 would have merged the State Committee of Examiners for Speech-Language Pathology and Audiology and the State Board of Examiners in the Fitting and Dispensing of Hearing Aids to form a new licensing agency. These provisions were not adopted and S.B. 1079 was split into two bills: S.B. 1077 relating to the regulation of speech-language pathology and audiology and S.B. 953 relating to the regulation of hearing aid fitters and dispensers. In S.B. 1077, the legislature changed the State Committee of Examiners for Speech-Language Pathology and Audiology from an advisory committee to a board with rulemaking authority and continued the board for a 12-year period. The board would continue to be located in and receive administrative support from the Department of Health. Major provisions in the final bill are discussed below.

Prohibit a licensed audiologist or licensed hearing instrument fitter from selling hearing instruments to minors. The legislature adopted provisions prohibiting a hearing instrument dispenser or an audiologist from selling a hearing instrument to a person under 18 years of age unless that person or the person's guardian presents a written statement signed by a doctor stating that the patient's hearing loss has been medically evaluated and the patient may be considered a candidate for a hearing instrument.

Authorize audiologists and interns in audiology to dispense hearing aids without meeting additional licensing requirements. The legislature adopted a provision that would allow licensed audiologists and audiology interns to fit and dispense hearing instruments under an audiologist license. Before this change, audiologists were required to obtain a hearing aid fitter and dispenser license to fit and dispense hearing aids.

Require applicants for a certificate in speech-language pathology from the Central Education Agency to possess a master's degree. The legislature adopted a provision that would require applicants for a certificate in speech-language pathology to possess a master's degree in communicative disorders or an equivalent course of study and pass a national examination approved by the board. Before this change, applicants for the certificate were required to have a bachelor's degree, but not a master's degree, and were not required to

pass a national examination approved by the board. This change was necessary to meet federal regulations. Language in the bill exempts those persons currently holding the certificate and does not go into effect until September 1, 1994.

Strengthen and standardize the complaint investigation and enforcement provisions. The legislature adopted a standard approach to complaint investigation and enforcement recommended by the Sunset Commission for all the health care licensing boards. The approach strengthens statutory requirements for handling complaints by requiring the board to use a toll-free phone number for complaints, adopt standardized complaint forms, provide assistance to people filing complaints, and maintain specific information in complaint files. Complaints must be investigated in a timely manner and may not be dismissed without appropriate consideration. Complainants must be notified of investigation timelines and unexpected changes in the timelines. The board is also required to adopt procedures for the informal disposition of a complaint and both the complainant and the licensee must be given an opportunity to be heard. Finally, the board is required to develop a schedule of disciplinary sanctions to encourage the consistent use of sanction authority and to develop a procedure for monitoring licensees placed on probation. Use of this standard complaint process will help ensure consistent, thorough investigation and resolution of complaints.

Set up a procedure to allow practitioners licensed in other states to come to Texas and, after meeting certain requirements, get a license to practice. The legislature adopted the Sunset Commission recommendation creating a standardized process for licensing out-of-state practitioners. The process provides for issuance of a provisional license by the board after verification of the applicant's credentials and license status in the state of current licensure. To qualify for a provisional license, an out-of-state practitioner must be in good standing in the state in which the applicant is licensed, must have passed a national or recognized examination, and must be sponsored by a licensed practitioner in Texas. The board is required to issue a permanent license to the provisional license holder if that person passes the validated examination and meets education, experience, and other requirements for licensure under the Act. The board must complete processing of a provisional license holder's application for a permanent license within 180 days or at the time licenses are issued following successful completion of an examination.

License interns that meet the board's academic requirements. The legislature adopted the provision that would require applicants that have successfully completed all academic requirements for licensure to be licensed by the board as audiology or speech-language pathology interns.

Comparison of Original Sunset Commission Legislation with Final Legislation

A comparison of S.B. 1077 with the original sunset bill as introduced shows that the majority of Sunset Commission across-the-board recommendations proposed by the commission were deleted from the final bill. While a majority of these standard provisions are currently in statute, they are not updated to reflect the latest legislative thought.

Most of the Sunset Commission's specific recommendations remained in the final bill. However, one significant recommendation was deleted during the legislative process.

Merge the State Committee of Examiners for Speech-Language Pathology and Audiology and the State Board of Examiners in the Fitting and Dispensing of Hearing Aids to form a free-standing licensing agency. The Sunset Commission had recommended merging the State Board of Examiners in the Fitting and Dispensing of Hearing Aids and the State Committee of Examiners for Speech-Language Pathology and Audiology to form a single regulatory agency. This agency would be responsible for licensing speech-language pathologists, audiologists, hearing aid fitters and dispensers and any interns or trainees. The merger provision was dropped because a compromise on board composition could not be reached. The regulation of these professions was continued through separate organizational structures.

Fiscal Impact

No fiscal impact. Any additional costs associated with implementing this legislation will be offset by additional fee revenue generated by the board.

Bill Summary - Enrolled Version
State Committee of Examiners for Speech-Language Pathology and Audiology
SB 1079 - I. Harris

Bill Reference	Bill Provision
Page 1, Line 10 and throughout the bill	Changes "commission" to "board."
Page 2, Line 4 Page 2, Line 22 thru Page 3, Line 4	Modifies the definitions of "the practice of speech-language pathology" and "the practice of audiology."
Page 2, Line 15	Modifies the definition of "Audiologist."
Page 3, Line 11	Changes "Speech-language pathology aide" and "Audiology aide" to "Licensed assistant in speech-language pathology" and "Licensed assistant in audiology."
Page 5, Line 20	Establishes training requirements for members of the governing board.
Page 6, Line 22	Subjects the board to the open meetings law.
Page 7, Line 9	Grants the board rulemaking authority.
Page 8, Line 12	Requires the board to develop and implement policies that clearly define the respective responsibilities of the board and the staff. (ATB)
Page 8, Line 15	Requires the agency to develop a plan that describes how non-English speaking persons can be provided reasonable access to the agency's programs. Also requires the board to comply with federal and state laws for program and facility accessibility. (ATB)
Page 8, Line 20	Requires the board provide the public with reasonable opportunity to appear before it regarding issues under its jurisdiction. (ATB)
Page 9, Line 18	Specifies that qualifications for dual licensure in speech-language pathology and audiology be established by rule.
Page 10, Line 5 thru Page 11, Line 3	Requires applicants for a certificate in speech-language pathology from the Central Education Agency to possess a master's degree in communicative disorders or an equivalent and pass a national licensing examination approved by the board effective September 1, 1994.

Bill Summary - Enrolled Version
State Committee of Examiners for Speech-Language Pathology and Audiology
SB 1079 - I. Harris

Bill Reference	Bill Provision
Page 11, Line 27 thru Page 11, Line 5	Exempts students of audiology from the Hearing Aid Fitting and Dispensing Act if their activities are part of a supervised course of study.
Page 12, Line 6	Deletes the licensure exemptions for non-residents.
Page 12, Line 20	Removes unnecessary language that prohibits speech-language pathologists and audiologists from providing medical or surgical diagnosis or treatment of ear disorders.
Page 13, Line 1	Deletes the licensure exemptions for individuals who work for the Texas Department of Health in programs concerning speech or hearing services.
Page 13, Line 7	Prohibits individuals trained by the Texas Department of Health in hearing screening programs from practicing speech-language pathology or audiology.
Page 13, Line 16	Deletes provision prohibiting audiologists from fitting and selling hearing aids. Authorizes audiologists to dispense hearing aids without meeting additional licensing requirements.
Page 13, Line 21 thru Page 14, Line 13	Allows hearing aid fitters and dispensers to fit and sell hearing aids and to test hearing using an audiometer and use other procedures to fit hearing aids. Prohibits a person who is not an audiologists from practicing speech-language pathology or audiology.
Page 14, Line 27 thru Page 15, Line 5	Deletes the licensure exemptions for individuals using the title "Certified Hearing Aid Audiologist".
Page 15, Line 6	Deletes language which states that Article 4516j does not, in anyway, restrict the practice of psychology.
Page 15, Line 13	Specifies that speech-language pathologists are not authorized to fit and dispense hearing aids unless they meet specific requirements for fitting and dispensing hearing aids.
Page 15, Line 21 thru Page 16, Line 7	Specifies the requirements that an audiologist or audiologist intern must meet before fitting and dispensing hearing aids.
Page 16, Line 8	Specifies that if a hearing test is not conducted in a stationary acoustical enclosure, ambient noise levels must meet certain standards.

Bill Summary - Enrolled Version
State Committee of Examiners for Speech-Language Pathology and Audiology
SB 1079 - I. Harris

Bill Reference	Bill Provision
Page 16, Line 17	Prohibits a licensed audiologist or hearing aid fitter and dispenser from selling a hearing aid to a person under 18 years of age unless the person presents a letter from a doctor.
Page 17, Line 6 thru Page 18, Line 21	Requires an applicant for licensure in speech-language pathology or audiology to possess at least a master's degree in communicative sciences or disorders from a program accredited by the American Speech-Language-Hearing Association and complete other requirements as specified by the board.
Page 18, Line 22 thru Page 19, Line 7	Requires an applicant who has successfully completed all academic requirements to be licensed by the board as an intern in speech-language pathology or audiology.
Page 19, Line 19	Requires that all licensing examinations be validated.
Page 19, Line 21 thru Page 20, Line 3	Establishes procedures for administration of the examination.
Page 20, Line 20	Requires the testing service, upon request of an applicant who failed a licensing examination, to provide an analysis of the applicant's exam performance. (ATB)
Page 20, Line 25 thru Page 21, Line 10	Requires the agency to notify license applicants of licensing examination results within a reasonable time of the examination date. (ATB)
Page 21, Line 22 thru Page 23, Line 27	Establishes a procedure for licensing out-of-state practitioners seeking licensure in Texas.
Page 24, Line 19 thru Page 25, Line 1	Authorizes the board to adopt a staggered license renewal system. (ATB)
Page 25, Line 5	Authorizes a full range of licensing options including temporary licenses and inactive status. Authorizes the board to limit the length of time that a person may remain on inactive status.
Page 25, Line 21 Page 26, Line 13 thru Page 27, Line 12	Establishes a method for license renewal and a time-frame and penalty structure for delinquent renewals. (ATB)
Page 25, Line 27 thru Page 26, Line 1	Requires licensees to meet mandatory continuing education requirements set by the board for license renewal.

Bill Summary - Enrolled Version
State Committee of Examiners for Speech-Language Pathology and Audiology
SB 1079 - I. Harris

Bill Reference	Bill Provision
Page 27, Line 16 thru Page 28, Line 4	Requires that fees be set by the board as necessary to cover the cost of regulation.
Page 29, Line 17	Provides authority for an adequate range of enforcement powers.
Page 29, Line 24 thru Page 30, Line 9	Requires the board to use a full range of penalties, such as reprimand, suspension or revocation, for violations of state laws or agency rules. (ATB)
Page 31, Line 2 thru Page 32, Line 4 Page 33, Line 11 thru Page 36, Line 22	Standardizes the enforcement process of the board. Requires that standard procedures be established for complaint intake, investigations, informal hearings, and development of disciplinary sanctions. In addition, develops procedures for monitoring, record keeping, and meeting timelines for complaint resolution.
Page 33, Line 7	Continues the State Committee of Examiners for Speech-Language Pathology and Audiology until 2005.
Page 33, Line 11	Requires the agency to maintain files on complaints that the agency has the authority to resolve. (ATB)
Page 34, Line 6	Establishes a 1-800 telephone number for complaint information.
Page 34, Line 21	Requires the agency to periodically provide written notice to all parties to a formal complaint of the status of the complaint. (ATB)
Page 36, Line 23	Specifies that Section 21 relating to basic science law is repealed. Section 21 exempted speech-language pathologists and audiologists who confined their activities to those authorized by the Act from Article 4590c, Basic Science Law.
Page 36, Line 26	Specifies that the effective date of this Act is September 1, 1993.
Page 36, Line 27 thru Page 37, Line 4	Emergency clause

Texas Board of Chiropractic Examiners

Final Action: *The Texas Board of Chiropractic Examiners was continued for a 12-year period with changes.*

SB 1061 by Parker and Moncrief

Analysis of Major Provisions in the Final Bill

Senate Bill 1061, as introduced, contained the Sunset Commission's original recommendations for the Texas Board of Chiropractic Examiners. Most of these recommendations remained in the final version of the bill, along with a number of new provisions added by the legislature. The major provisions in the final bill are discussed below.

Require that the governor designate the board chair. The legislature adopted a provision specifying that the governor designate the chair of the board. This provision makes the board and its chair more accountable to the governor.

Require board members to participate in training before serving on the board. Based on a recommendation of the Sunset Commission, the legislature required that board members receive training in specific areas before serving on the board. The training must include information regarding laws enforced by the board; programs and budget of the board; and the requirements of state laws regarding open meetings, open records, administrative procedures, and ethics. If adequate training is not available through another state agency or entity, the board is required to develop the training in consultation with the governor's office, the attorney general's office, and the Ethics Commission.

Strengthen and standardize the complaint investigation and enforcement provisions. The legislature adopted a standard approach to complaint investigation and enforcement procedures that was recommended by the Sunset Commission for all the health care licensing boards. The approach strengthens statutory requirements for handling complaints by requiring the board to list a toll-free phone number for complaints, adopt standardized complaint forms, provide assistance to people filing complaints, and maintain specific information in complaint files. Complaints must be investigated in a timely manner and may not be dismissed without appropriate consideration. All parties to the complaint must be notified of investigation timelines and unexpected changes in the timelines. The board is also required to adopt procedures for the informal disposition of a complaint and both the complainant and the licensee must be given an opportunity to be heard. Finally, the board is required to develop a schedule of disciplinary sanctions to encourage the consistent use of sanction authority and to develop a procedure for monitoring licensees placed on probation. Use of this standard complaint process will help ensure consistent, thorough investigation and resolution of complaints.

Require mandatory continuing education as a condition of license renewal. The legislature adopted the recommendation of the Sunset Commission requiring licensees to meet standardized mandatory continuing education requirements established by the board. The board is required to establish a minimum number of hours of continuing education required for license renewal, identify the key factors that lead to the competent performance of professional duties, develop a process to assess a licensee's participation and performance in continuing education courses, evaluate the overall effectiveness of the program, and assess the continuing education needs of licensees.

Set up a procedure to allow practitioners licensed in other states to come to Texas and, after meeting certain requirements, get a license to practice. The legislature adopted the Sunset Commission recommendation creating a standardized process for licensing out-of-state practitioners. The process provides for issuance of a provisional license while the applicant is considered for a permanent license. To qualify for a provisional license, an out-of-state practitioner must be in good standing in the state in which the applicant is licensed, must have passed a national or recognized examination, and must be sponsored by a licensed practitioner in Texas. The board is required to issue a permanent license to the provisional license holder if that person passes the state jurisprudence examination and meets education, experience, and other requirements for licensure under the Act. The board must complete processing of a provisional license holder's application for a permanent license within 180 days or at the time licenses are issued following successful completion of an examination.

Authorize the board to assess administrative penalties for violations of law or board rules. The legislature adopted the recommendation of the Sunset Commission to authorize the board to assess administrative penalties of up to \$1,000 per day of violation against licensees who commit serious violations of law or board rules. An administrative penalty may be assessed in addition to other sanctions ordered by the board. Authorizing the board to assess administrative penalties provides the board with another enforcement tool to allow it to deal appropriately with the different levels of violations and the circumstances that surround them.

Authorize the courts to assess civil penalties of up to \$1,000 per violation per day. The legislature adopted the recommendation of the Sunset Commission that civil penalty authority of \$1,000 per day of violation be added to the enforcement powers provided in the Act. A civil penalty is a monetary penalty imposed by a court for a violation that is not criminal in nature. Civil penalties are often used against persons who are practicing without a license. The board may request the attorney general to bring an action to assess a civil penalty.

Authorize the board to temporarily suspend a license without notice or formal hearing in situations that seriously endanger the public. The legislature adopted the recommendation of the Sunset Commission that the board be authorized to temporarily suspend a license without notice or hearing. This authority can be used in cases where a licensee's condition or activities constitute a serious and immediate threat to the public welfare and the time required to initiate formal disciplinary proceedings would cause excessive risk to the public. The decision to issue a temporary suspension would be made by an enforcement committee of the board consisting of two board members, the executive director, and a representative

of the attorney general's office. At the time the temporary suspension is ordered, a hearing on whether disciplinary proceedings should be initiated against the licensee must be scheduled within 14 days. A second hearing on the suspended license must be held no later than 60 days after the temporary suspension is ordered. Otherwise, the license is automatically reinstated.

Require fees be set by the board to cover the cost of regulation. Based on a recommendation of the Sunset Commission, the legislature removed current statutory fee levels and authorized the board to set fees as necessary to cover the costs of regulation. This allows the board by rule to establish and adjust fees to meet the expenses of administering the board's enabling Act. The board may not set a fee at an amount less than the fee's level as of September 1, 1993.

Require the board to review and amend or readopt rules adopted by the board after December 31, 1988, and to report on the result of the review. The legislature adopted a provision that requires the board to review and amend or readopt all the rules adopted by the board after December 31, 1988. The bill also requires the board to submit a report to the governor, the lieutenant governor, and the speaker of the house on the result of its review and rulemaking actions.

Require the board to license and regulate chiropractic facilities. The legislature adopted the Sunset Commission's recommendation that requires the board to license and regulate chiropractic facility in the state. The provision mandates that each owner of a chiropractic facilities must be licensed, regardless the number of facilities the owner owns. This provision will improve the protection of the general public by holding owners of chiropractic facilities responsible for meeting certain standards of operation.

Specify that it is a cause for licensure refusal and disciplinary action to use an accident report to solicit patients. The legislature adopted a provision specifying that using accident reports prepared by a peace officer to solicit patients, as prohibited by the Penal Code, is unlawful and that a chiropractor may be subject to disciplinary actions by the board.

Protect the confidentiality of chiropractor-patient communication except for certain court and administrative proceedings. The legislature adopted a provision that specifically protects the confidentiality of the patient records of chiropractic facilities and communication between the chiropractor and the patient. Exceptions are provided for court and administrative proceedings.

Require the board to set limits and conditions on examination retakes. Based on the Sunset Commission's recommendation, the legislature required the board to adopt rules restricting the number of times an applicant can take licensure examinations and specifying additional education and training before retaking them. This requirement ensures that applicants for licensure have sufficient knowledge and training to provide chiropractic services and do not pass licensure examination through sheer repetition.

Comparison of Original Sunset Commission Legislation with Final Legislation

A comparison of S.B. 1061 with the original sunset bill as introduced shows that all standard Sunset Commission across-the-board recommendations proposed by the commission were included in the final bill.

Most of the Sunset Commission's specific program recommendations remained in the final bill, however, one significant recommendation was changed and one new provisions was added during the legislative process.

Terminate the current board members and allow the govern to appoint an entirely new board. The Sunset Commission had recommended terminating all the terms of the current board members and requiring the governor to reappoint an entirely new board. The legislature changed this recommendation to allow the current board members to serve for the remainder of their terms and specifically provided that the current member may be reappointed.

Establish an enforcement committee of the board to carry out the responsibilities of complaint investigation and other authorities. The Sunset Commission had made recommendations that gave the board the authority to use a standard enforcement process, to impose administrative penalty, and gave the board's executive committee the authority to temporarily suspend a license in case of severe harm to the public. The legislature instead created an enforcement committee of the board consisting of two board members, with one licensed chiropractor and one public member, the executive director, and a representative of the attorney general's office to carry out the responsibilities related to enforcement.

Fiscal Impact

No fiscal impact. Any additional responsibilities associated with the legislation would be carried out by the board without additional appropriations. While additional fee revenue is authorized by the legislation, the legislature did not appropriate any additional fee revenues.

**Bill Summary - Enrolled Version
Texas Board of Chiropractic Examiners
SB 1061 - Parker and Moncrief**

Bill Reference	Bill Provision
Page 1, Line 18	Requires that appointments to the board be made without regard to race, color, disability, sex, religion, age, or national origin. (ATB)
Page 1, Line 20 thru Page 2, Line 18	Requires public members on the board and prohibits appointment as a public member if the person or the person's spouse is a licensee, conducts business with the agency, or otherwise has financial ties to the regulated industry. (ATB)
Page 2, Line 23 thru Page 4, Line 2	Prohibits board members or their spouses and employees compensated at or above Group 17 in the appropriations act or their spouses from being an officer or employee of a related professional or trade association. Also defines trade association. (ATB)
Page 3, Line 3	Prohibits registered lobbyists from serving as a member of the board or from being employed as general counsel to the board. (ATB)
Page 4, Line 10 Page 44, Line 11	Deletes provisions that require appointment of an entirely new board. Provides that the current board members are entitled to serve out the remainder of their terms. Specifies the staggered terms of board members.
Page 4, Line 20	Continues the Texas Board of Chiropractic Examiners until 2005.
Page 4, Line 24 thru Page 6, Line 1	Requires the agency to prepare and distribute information to the public concerning the agency's functions and complaint procedures. (ATB)
Page 5, Line 18	Establishes a 1-800 telephone number for complaint information.
Page 6, Line 2 thru Page 7, Line 5	Defines grounds for removing a board member. The change requires the executive director to notify, instead of the board's president, the governor and the attorney general of knowledge that a potential ground for removal exists. Affirms that an action of the board is valid even if it is taken when a ground for removal exists. (ATB)
Page 7, Line 6	Establishes training requirements for members of the board.
Page 7, Line 13	Requires the board to provide information to its members and employees on the qualifications for office or employment and each person's responsibilities under the law. (ATB)

**Bill Summary - Enrolled Version
Texas Board of Chiropractic Examiners
SB 1061 - Parker and Moncrief**

Page 7, Line 18	Requires the board to develop and implement policies that clearly define the respective responsibilities of the board and the staff. (ATB)
Page 7, Line 24 thru Page 8, Line 19	Changes the provision to require the governor to designate the board's president instead of having the board elect its president.
Page 8, Line 20 thru Page 9, Line 7	Deletes outdated provision and makes technical changes.
Page 9, Line 8	Prohibits the board from adopting a rule relating to the definition of chiropractic practice, except for a rule relating to certain procedures and to the definition of unacceptable practice.
Page 9, Line 19	Requires the board to file an annual report with the governor and the legislature detailing the agency's financial transactions. (ATB)
Page 10, Line 1	Requires the executive director or a designee to develop an intra-agency career ladder program and requires intra-agency posting of job openings concurrently with any public posting. (ATB)
Page 10, Line 9	Requires the executive director or a designee to develop an annual job performance evaluation system upon which merit salary increases must be based. (ATB)
Page 10, Line 15 thru Page 11, Line 20	Requires the executive director or a designee to prepare and maintain an equal employment opportunity policy and to report findings to the Human Rights Commission and the governor's office. (ATB)
Page 11, Line 21	Requires the board to provide the public with reasonable opportunity to appear before it regarding issues under its jurisdiction. (ATB)
Page 11, Line 25 thru Page 12, Line 4	Requires the agency to develop a plan that describes how non-English speaking persons can be provided reasonable access to the agency's programs. Also requires the board to comply with federal and state laws for program and facility accessibility. (ATB)
Page 12, Line 5 thru Page 14, Line 1	Establishes a method for license renewal and a time-frame and penalty structure for delinquent renewals. (ATB)
Page 14, Line 4	Requires mandatory continuing education.
Page 14, Line 17 thru Page 15, Line 4	Authorizes the board to adopt a staggered license renewal system. (ATB)
Page 15, Line 5	Authorizes a full range of licensing options and require the board to set a time limit for inactive status and temporary licenses.

**Bill Summary - Enrolled Version
Texas Board of Chiropractic Examiners
SB 1061 - Parker and Moncrief**

Page 15, Line 17 thru Page 18, Line 20	Establishes a procedure for licensing out-of-state practitioners seeking licensure in Texas. Adds Washington, D.C. and foreign country as out-of-state locations, and maintains the current statutory language that requires a minimum of two years good standing in other states before coming to Texas.
Page 18, Line 21 thru Page 19, Line 18	Authorizes conditions to limit the number of examination retakes.
Page 19, Line 19 thru Page 20, Line 5	Requires the agency to notify license applicants of licensing examination results within a reasonable time of the examination date.
Page 20, Line 6	Requires that fees be set by the board as necessary to cover the cost of regulation. Also repeals the provision that sets specific fee levels.
Page 20, Line 23 thru Page 22, Line 2	Requires that all licensing examinations be validated.
Page 22, Line 3	Authorizes the board to license and regulate chiropractic facilities, with one license per owner instead of individual licenses for each location.
Page 22, Line 17	Requires the board to use a full range of penalties, such as reprimand, suspension or revocation, for violations of state laws or agency rules. (ATB)
Page 22, Line 17 thru Page 26, Line 9 Page 29, Line 10 thru Page 31, Line 19	Standardizes the enforcement process of the health care licensing boards. Requires that standard procedures be established for complaint intake, investigations, informal hearings, and development of disciplinary sanctions. In addition, requires development of procedures for monitoring, record keeping, and meeting timelines for complaint resolution. Also establishes an enforcement committee to oversee and conduct the investigation of complaints and other enforcement duties directed by the board. The change further clarifies that the authority of enforcement rests with the board's enforcement committee instead of the executive director, and that the board's monitoring of compliance applies only to those license holders subject to disciplinary actions instead of all licensees.
Page 24, Line 17	Requires the agency to maintain files on complaints that the agency has the authority to resolve. (ATB)
Page 25, Line 2	Requires the agency to periodically provide written notice to all parties to a formal complaint of the status of the complaint. (ATB)

**Bill Summary - Enrolled Version
Texas Board of Chiropractic Examiners
SB 1061 - Parker and Moncrief**

Page 26, Line 10 thru Page 29, Line 9	Adds as a cause for licensure refusal and disciplinary action the use of an accident report to solicit patients as prohibited by Section 38.12, Penal Code.
Page 31, Line 20 thru Page 37, Line 5 Page 44, Line 24 thru Page 45, Line 9	Provides authority for an adequate range of enforcement powers of administrative penalty and civil penalty authority, up to \$1,000 per day per violation. The change standardizes the provision with AG's language on administrative penalty and allows the board to keep five percent of the funds for the board's peer review program. Also clarifies the language on civil penalty.
Page 37, Line 6 thru Page 38, Line 2	Authorizes summary suspension of licenses.
Page 38, Line 3 thru Page 44, Line 10	Protects the confidentiality of chiropractor-patient communication except for certain court and administrative proceedings. The change adds specific protection to the confidentiality of patients.
Page 45, Line 10 thru Page 46, Line 5	Adds a provision to require the board to review and amend or readopt rules adopted by the board after December 31, 1988, and to submit a report to the governor, lt. governor, and speaker of the house on the result of the review and rulemaking actions.
Page 46, Line 6	Establishes the effective date of the Act as September 1, 1993.
Page 46, Line 7	Emergency clause.

Texas State Board of Medical Examiners

Final Action: *The Texas State Board of Medical Examiners was continued for a 12-year period with changes.*
SB 1062 by Parker/Moncrief

Analysis of Major Provisions in the Final Bill

Senate Bill 1062, as introduced, contained the Sunset Commission's recommendations for the Texas State Board of Medical Examiners. Most of these recommendations remained in the final version of the bill, along with a number of new provisions added by the legislature. The major provisions in the final bill are discussed below.

Require that the governor designate the board chair. The legislature adopted a provision specifying that the governor designate the chair of the board. This approach makes the board and its chair more accountable to the governor.

Expand the board size to eighteen members and require one-third public membership on the board. The legislature adopted an alternative way to achieve the Sunset Commission's recommendation that required at least one-third of the board's members to be representatives of the general public. Currently, the board has 12 licensee members and three public members. The commission originally recommended achieving the one-third public membership by replacing two members of the profession with public members. Instead the legislature decided to expand the size of the board to 18 and to change the composition to 12 licensees and six public members. The addition of three public members will help ensure that the board's policies and actions reflect a balance between the interests of the general public and the profession.

Require board members to participate in training before serving on the board. Based on a recommendation of the Sunset Commission, the legislature required that board members receive training in specific areas before serving on the board. The training must include information regarding laws enforced by the board; programs and budget of the board; and the requirements of state laws regarding open meetings, open records, administrative procedures, and ethics. Unless adequate training is available through another state agency or entity, the board is required to develop the training in consultation with the governor's office, the attorney general's office, and the Texas Ethics Commission.

Strengthen and standardize the complaint investigation and enforcement provisions. The legislature adopted a standard approach to complaint investigation and enforcement procedures that was recommended by the Sunset Commission for all the health care licensing boards. The approach strengthens statutory requirements for handling complaints by requiring the board to list a toll-free phone number for complaints, adopt standardized complaint forms, provide assistance to people filing complaints, and maintain specific

information in complaint files. Complaints must be investigated in a timely manner and may not be dismissed without appropriate consideration. Complainants must be notified of investigation timelines and unexpected changes in the timelines. The board is also required to adopt procedures for the informal disposition of a complaint and both the complainant and the licensee must be given an opportunity to be heard. Finally, the board is required to develop a schedule of disciplinary sanctions to encourage the consistent use of sanction authority and to develop a procedure for monitoring licensees placed on probation. Use of this standard complaint process will help ensure consistent, thorough investigation and resolution of complaints.

Require mandatory continuing education as a condition of license renewal. The legislature adopted the recommendation of the Sunset Commission requiring licensees to meet standardized mandatory continuing education requirements established by the board. The board is required to establish a minimum number of hours of continuing education required for license renewal, identify the key factors that lead to the competent performance of professional duties, develop a process to assess a licensee's participation in continuing education courses, evaluate the overall effectiveness of the program, assess the continuing education needs of licensees, and require licensees to attend specific continuing education courses. In addition, the board may allow up to one-half of the continuing education hours to be self-directed and is further authorized to exempt licensees from the requirement under selected circumstances.

Set up a procedure to allow practitioners licensed in other states to come to Texas and, after meeting certain requirements, get a license to practice. The legislature adopted the Sunset Commission recommendation creating a standardized process for licensing out-of-state practitioners. The process provides for issuance of a temporary license while the applicant is considered for a permanent license. To qualify for a temporary license, an out-of-state practitioner must be in good standing in the state in which the applicant is licensed, must have passed a national or recognized examination, and must be sponsored by a licensed practitioner in Texas. The board is required to issue a permanent license to the temporary license holder if that person passes the state medical jurisprudence examination and meets education, experience, and other requirements for licensure under the Act. The board must complete processing of a temporary license holder's application for a permanent license within 180 days at which time the board is required to review the application to determine the cause for delay in processing.

Provide for the licensing and regulation of acupuncturists by establishing the Texas State Board of Acupuncture Examiners. The legislature adopted provisions creating a nine-member advisory board that is administratively attached to the medical board. The advisory board is composed of four acupuncturists, two physicians with experience in acupuncture, and three public members. The advisory board is responsible for developing and enforcing acupuncturist license qualifications including minimum education and training requirements. The board is required to administer an examination, develop licensure requirements for out-of-state applicants, and establish a procedure for receiving and processing complaints. Civil penalty authority is also provided. Licensure for acupuncturists becomes effective June 1, 1994.

Authorize the board to assess administrative penalties for violations of law or board rules.

The legislature adopted the recommendation of the Sunset Commission to authorize the board to assess administrative penalties of up to \$5,000 per day of violation against licensees who commit serious violations of law or board rules. An administrative penalty may be assessed in addition to other sanctions ordered by the board. Authorizing the board to assess administrative penalties provides the board with another enforcement tool to allow it to deal appropriately with the different levels of violations and the circumstances that surround them.

Authorize the courts to assess civil penalties of up to \$1,000 per violation per day.

The legislature adopted the recommendation of the Sunset Commission that civil penalty authority of \$1,000 per day of violation be added to the enforcement powers provided in the Act. A civil penalty is a monetary penalty imposed by a court for a violation that is not criminal in nature. Civil penalties are often used against persons who are practicing without a license. The board may request the attorney general to bring an action to assess a civil penalty.

Require fees be set by the health care licensing boards to cover the cost of regulation.

Based on a recommendation of the Sunset Commission, the legislature removed current statutory fee levels and authorized the board to set fees as necessary to cover the costs of regulation. This allows the board by rule to establish and adjust fees to meet the expenses of administering the board's enabling Act. The board may not set a fee at an amount less than the fee's level as of September 1, 1993.

Comparison of Original Sunset Commission Legislation with Final Legislation

A comparison of S.B. 1062 with the original bill as introduced shows that all standard Sunset Commission across-the-board recommendations proposed by the commission were included in the final bill.

All but one of the Sunset Commission's specific program recommendations remained in the final bill. The deleted provision is set out below.

Terminate the current board members and allow the governor to appoint an entirely new board.

The Sunset Commission recommended that the terms of the current board members be discontinued as a result of significant problems that were found during the course of the review. An extensive number of serious complaints about the board's administrative procedures and enforcement program were received by the commission in its public hearing and in substantial criticism presented by the news media. The commission recommended appointing new members to the board to initiate changes in the board's policies and operations. This recommendation was not adopted by the legislature.

Fiscal Impact

No fiscal impact. Any additional costs associated with implementing this legislation will be offset by additional fee revenue generated by the board.

Bill Summary - Enrolled Version
Texas State Board of Medical Examiners
SB 1062 - Parker/Moncrief

Bill Reference	Bill Provision
Page 1, Line 23 thru Page 2, Line 8	Expands the definition of health care entity to include organizations that collect and verify documents related to the competence and performance of health care professionals.
Page 2, Line 16	Expands the definition of medical peer review committee to include expert review panels that are responsible for advising HIV infected health care workers on capacity to perform exposure-prone procedures. Including these expert review panels would provide confidentiality for matters considered by the panels and immunity from civil liability for members of the review panels.
Page 2, Line 22 thru Page 3, Line 3	Provides definition of surgery and operation.
Page 3, Line 15	Requires that appointments to the board be made without regard to race, color, disability, sex, religion, age, or national origin. (ATB)
Page 3, Line 22 thru Page 5, Line 1	Defines grounds for removing a board member and requires the executive director to notify the board chair if knowledge that a potential ground for removal exists. Affirms that an action of the board is valid even if it is taken when a ground for removal exists. (ATB)
Page 5, Line 14 thru Page 6, Line 3	Requires board members to have been actively engaged in organized peer review at a health care entity for at least three years immediately preceding their appointment.
Page 6, Line 4	Adds three public members to expand the board to eighteen members consisting of nine doctors of medicine, three doctors of osteopathic medicine, and six public members.
Page 8, Line 3	Prohibits board members or their spouses and employees compensated at or above Group 17 in the appropriations act or their spouses from being an officer or employee of a related trade association. Also defines trade association. (ATB)
Page 8, Line 22 thru Page 9, Line 5 Page 13, Line 5	Prohibits registered lobbyists from serving as a member of the board or from being employed as general counsel to the board. (ATB)
Page 9, Line 14	Requires that not later than December after each regular session of the legislature, the governor shall appoint the chair and the board shall elect its other officers.

Bill Summary - Enrolled Version
Texas State Board of Medical Examiners
SB 1062 - Parker/Moncrief

Bill Reference	Bill Provision
Page 9, Line 24 thru Page 11, Line 12 Page 15, Line 21	Requires training for members of the board before the member can assume his or her position. The training must include information on the enabling statute, board programs and functions, and the requirements of applicable state laws such as open meetings law, open records law and the Administrative Procedure and Texas Register Act.
Page 11, Line 17	Requires the board to develop and implement policies that clearly define the respective responsibilities of the board and the staff. (ATB)
Page 12, Line 5 Page 20, Line 3 thru Page 21, Line 8 Page 69, Line 21 thru Page 70, Line 19	Removes the authority for the executive director of the Board of Medical Examiners to perform any duty of the board's secretary-treasurer and transfers temporary suspension authority to a three-member disciplinary panel of the board.
Page 12, Line 10	Authorizes the executive director to employ a chief operating officer to handle administrative functions of the board. Also, if the board appoints an executive director who is not a physician, the substitute requires the executive director to appoint a medical director to be responsible for agency operations regarding clinical and professional issues and determinations.
Page 13, Line 1	Authorizes a full range of licensing options and requires the board to set a limit for temporary licenses.
Page 13, Line 14 Page 43, Line 21 thru Page 44, Line 24 Page 45, Line 21 thru Page 46, Line 14	Requires that fees be set by the boards as necessary to cover the cost of regulation.
Page 14, Line 5	Requires the agency to prepare and distribute information to the public concerning the agency's functions and complaint procedures. (ATB)
Page 14, Line 23	Requires the board to list the toll-free telephone number for complaints along with its regular phone number provided that the toll-free number is established under other state law.

Bill Summary - Enrolled Version
Texas State Board of Medical Examiners
SB 1062 - Parker/Moncrief

Bill Reference	Bill Provision
Page 15, Line 13	Requires the executive director or a designee to develop an intra-agency career ladder program and requires intra-agency posting of job openings concurrently with any public posting. (ATB)
Page 15, Line 24 thru Page 16, Line 3	Requires the board to provide information to its members and employees on the qualifications for office or employment and each person's responsibilities under the law. (ATB)
Page 16, Line 4	Requires the board to provide the public with reasonable opportunity to appear before it regarding issues under its jurisdiction. (ATB)
Page 16, Line 8	Requires the agency to develop a plan that describes how non-English speaking persons can be provided reasonable access to the agency's programs. Also requires the board to comply with federal and state laws for program and facility accessibility. (ATB)
Page 16, Line 16 thru Page 17, Line 20	Requires the executive director or a designee to prepare and maintain an equal employment opportunity policy and to report findings to the Human Rights Commission and the governor's office. (ATB)
Page 18, Line 13	Requires the Board of Medical Examiners to request all information on sanctions and pending disciplinary matters from other states.
Page 18, Line 20 thru Page 20, Line 2 Page 22, Line 10	Establishes a method for license renewal and a time-frame and penalty structure for delinquent renewals. (ATB)
Page 21, Line 9	Technical corrections to update requirements on the executive director and use of the State Office of Administrative Hearings.
Page 22, Line 22 thru Page 24, Line 17	Requires mandatory continuing education. Allows for up to one-half of the hours to be self-study or self-directed. Allows specialty certifications to fulfill requirements and provides exemptions.
Page 24, Line 24 thru Page 26, Line 9	Provides technical corrections to licensing requirements for out-of-state applicants.

Bill Summary - Enrolled Version
Texas State Board of Medical Examiners
SB 1062 - Parker/Moncrief

Bill Reference	Bill Provision
Page 26, Line 16 thru Page 27, Line 13	Allows the Board of Medical Examiners to deny a reciprocal license based on sanctions in other states and expand the grounds for discipline and denial of a license.
Page 27, Line 14 thru Page 28, Line 2	Provides technical corrections to licensing requirements for out-of-state applicants.
Page 28, Line 7	Prohibits the board from refusing licensure to an out-of-state applicant who has been licensed for five years in another state, has not been the subject of disciplinary action, and is specialty board certified or successfully passes an examination that the board determines by rule.
Page 28, Line 22 thru Page 30, Line 9	Establishes a procedure for out-of-state practitioners seeking licensure in Texas. Requires the board to complete the administrative processing of the temporary license holder's application for a license in no longer than 90 days and then requires completion of board processing within an additional 90 days. If the time to process the application takes longer than 180 days, the board is required to review the application to determine the cause for delay.
Page 30, Line 14 thru Page 32, Line 7	Makes technical corrections to licensee qualifications and clarifies that medical education instruction taught in the United States must be accredited.
Page 32, Line 14	Makes technical corrections by removing obsolete language.
Page 32, Line 25 thru Page 33, Line 2	Requires that all licensing examinations be validated.
Page 33, Line 4	Makes technical corrections to exam procedures.
Page 33, Line 23	Changes the board's authority to set the number of exam retakes to establish a limit of two retakes.
Page 34, Line 7	Requires the agency to notify license applicants of licensing examination results within a reasonable time of the examination date. (ATB)
Page 34, Line 20	Requires advertisements for sites in medically underserved areas to include the name of the supervising physician for the site.

Bill Summary - Enrolled Version
Texas State Board of Medical Examiners
SB 1062 - Parker/Moncrief

Bill Reference	Bill Provision
Page 35, Line 1	Clarifies that the Act does not prohibit non-profit clinics from contracting with physicians for services.
Page 35, Line 22	Makes technical correction.
Page 37, Line 15 thru Page 38, Line 17	Changes reference to "a habitual user" to "an abuser" to clarify standard for inappropriate writing of prescription drugs. Makes a physician who is treating a patient for intractable pain under the Intractable Pain Treatment Act exempt from disciplinary action for the dispensing of narcotic drugs for pain treatment.
Page 38, Line 20	Changes authority to discipline for "overcharging or overtreating" to "persistently or flagrantly overcharging or overtreating."
Page 40, Line 18 thru Page 42, Line 20	Expands the grounds for denial of physician licensure and disciplinary action. Current law states that the board may discipline or refuse to license a physician who employs a person or associates in the practice of medicine with a person whose license has been suspended. The bill extends these grounds to include a person whose license has been "canceled or revoked."
Page 43, Line 4	Prevents the board from adopting rules that restrict competitive bidding or advertising except to prohibit false, misleading or deceptive practices. (ATB)
Page 45, Line 8	Requires the board to file an annual report with the governor and the legislature detailing the agency's financial transactions. (ATB)
Page 46, Line 20 thru Page 47, Line 2	Requires the board to use a full range of penalties, such as reprimand, suspension or revocation, for violations of state laws or agency rules. (ATB)
Page 47, Line 22 thru Page 49, Line 12 Page 50, Line 23 thru Page 51, Line 12 Page 52, Line 12 Page 54, Line 21 thru Page 57, Line 13 Page 61, Line 6	Standardizes the enforcement process of the health care licensing boards. Requires that standard procedures be established for complaint intake, investigations, informal hearings, formal hearings, and development of disciplinary sanctions. In addition, develops procedures for monitoring, record keeping, and meeting timelines for complaint resolution.

Bill Summary - Enrolled Version
Texas State Board of Medical Examiners
SB 1062 - Parker/Moncrief

Bill Reference	Bill Provision
Page 47, Line 22	Specifies who may file a complaint by stating that any person, a partnership, association, corporation, or other entity may file a complaint and that the board may file a complaint upon its own initiative.
Page 48, Line 17	Requires the agency to maintain files on complaints that the agency has the authority to resolve. (ATB)
Page 49, Line 2	Requires the agency to periodically provide written notice to all parties to a formal complaint of the status of the complaint. (ATB)
Page 50, Line 7	Specifies that an agreed disposition is considered a "settlement order" and not a disciplinary order for purposes of civil litigation except in cases of repeat offenders or orders seeking license revocation.
Page 51, Line 13 thru Page 52, Line 8	Requires the board to serve notice to the physician and provide an opportunity for the physician to show compliance with the law either in writing or in person. In addition, makes the staff of the board and representatives of the board subject to the ex parte provisions of the Administrative Procedure and Texas Register Act if the licensee exercises the option to personally appear at an informal meeting.
Page 52, Line 24 thru Page 53, Line 11	Requires that, in an informal proceeding, the board's staff present to the board's representatives the facts they reasonably believe can be proven by competent evidence or qualified witnesses. The licensee shall be given the opportunity to reply and present evidence. The board representative would then recommend whether the investigation should be closed or be further mediated and propose an agreed disposition for the case.
Page 53, Line 15	Makes technical changes to current language on initiation of charges. Also, requires that charges must be filed with the records custodian or assistant records custodian of the board. Requires that if a copy of the charges be served on the respondent's legal counsel, it shall be the counsel of record that is served.
Page 54, Line 2	Establishes requirements for notifying the State Office of Administrative Hearings (SOAH) of a formal complaint.

Bill Summary - Enrolled Version
Texas State Board of Medical Examiners
SB 1062 - Parker/Moncrief

Bill Reference	Bill Provision
Page 54, Line 4	Establishes requirements for the contents and nature of the formal complaint, particularly that it be in writing, specific, and clear about the alleged violations.
Page 54, Line 13	Requires the board to adopt rules that promote discovery by all parties to contested cases.
Page 54, Line 15	Defines formal complaint as a written statement made by a credible person under oath that is filed and presented by a representative of the board charging a person with having committed an act that if proven could affect the legal rights or privileges of a licensee or other person under the jurisdiction of the board.
Page 57, Line 22 thru Page 58, Line 14	Establishes statutory guidelines for discovery of evidence. Requires the board to provide the licensee with access to all information in its possession that the board intends to offer into evidence at the contested hearing. The board would not be required to provide investigative reports or memoranda, the identity of non-testifying complainants, attorney-client communication, attorney-work product, or other materials covered by privilege as recognized by the Texas Rules of Civil Procedure or the Texas Rules of Civil Evidence.
Page 60, Line 1 thru Page 61, Line 2	Provides judicial appeal of a board decision to deny reinstatement of a physician's license and limits petitions for reinstatement of a revoked license to one application annually.
Page 61, Line 6	Requires the board to develop a system for monitoring license holders' compliance with the Act to apply only to license holders who are the subject of disciplinary action.
Page 62, Line 9	Requires proof of violation of a probation order to rescind a licensee's probation, instead of allowing a majority vote by the board as in current law. Allows the board to take other disciplinary action in addition to enforcing the original order issued by the board. Also, makes it mandatory that the board revoke or suspend a probationer's license if a continuing threat exists.

Bill Summary - Enrolled Version
Texas State Board of Medical Examiners
SB 1062 - Parker/Moncrief

Bill Reference	Bill Provision
Page 63, Line 24 thru Page 69, Line 17	Provides authority for an adequate range of enforcement powers. Sets administrative penalty at \$5,000 per violation per day and civil penalty authority at \$1,000 per violation per day. Authorizes continuing education as an enforcement tool.
Page 70, Line 23 thru Page 72, Line 12	Establishes licensure requirements for graduates of unapproved foreign medical schools including three years graduate medical training in the United States and certification by the Educational Commission for Foreign Medical Graduates. Authorizes the board to require a graduate of a medical school outside the U.S. and Canada to provide additional information to the board concerning the school. Allows the board to refuse licensure of foreign medical graduates if the applicant does not possess the requisite qualifications to provide the same standard of medical care as provided by a Texas licensed physician and if the applicant fails to provide evidence that he or she completed medical education and training substantially equivalent to that of this state.
Page 72, Line 16 thru Page 74, Line 13	Clarifies requirements for license applicants that have completed the "Fifth Pathway" for foreign medical school students. Adds requirement to complete three years of graduate medical training in the United States or Canada.
Page 75, Line 6 Page 76, Line 1	Allows access to medical records 100 years old or older that are requested for historical purposes. Allows the records to be provided on paper, microfilm, microfiche, computer hard disk, magnetic tape, optical disk, or other machine readable medium if the record recipient agrees.
Page 75, Line 16	Improves access to medical records by requiring physicians to document and give reasons for denying a patient access to his or her medical records.
Page 76, Line 17	Continues the Texas State Board of Medical Examiners until 2005.
Page 76, Line 21 thru Page 87, Line 8	Establishes regulation of the practice of acupuncture. Creates a nine member board that is subject to the advice and approval of the medical board. The acupuncture board is responsible for setting qualifications and standards for the education and licensing of applicants. Enforcement authority is also provided.

Bill Summary - Enrolled Version
Texas State Board of Medical Examiners
SB 1062 - Parker/Moncrief

Bill Reference	Bill Provision
Page 87, Line 9 thru Page 88, Line 5	Modifies a grandfather clause for the licensing of medical physicists to allow grandfathering for those applicants who completed their educational coursework before January 1, 1993.
Page 88, Line 6	Specifies plan for the governor's appointment of new members to the medical board.
Page 88, Line 15	Specifies that the changes made related to the qualifications of persons appointed to the board apply only to a member appointed on or after September 1, 1993.
Page 89, Line 2	Specifies that the administrative and civil penalty provisions apply only to those violations that occur after the effective date of the Act.
Page 89, Line 13	Specifies that a person is not required to obtain a license to practice acupuncture until June 1, 1994.
Page 89, Line 17	The board is required to adopt rules related to the practice of acupuncture not later than February 1, 1994.
Page 89, Line 21	Requires governor appointments to the board of acupuncture not later than January 1, 1994.
Page 90, Line 1	Specifies that the penalty provisions for violations of the acupuncture regulations apply starting June 1, 1994.
Page 90, Line 5	Establishes the effective date of the Act as September 1, 1993.
Page 90, Line 6	Emergency clause.

Texas Board of Optometry

Final Action: ***The Texas Board of Optometry was continued for a 12-year period with changes.***

HB 1479 by Cain

Analysis of Major Provisions in the Final Bill

House Bill 1479, as introduced, contained the Sunset Commission's original recommendations for the Texas Board of Optometry. Most of these recommendations remained in the final version of the bill, along with a number of new provisions added by the legislature. The major provisions in the final bill are discussed below.

Strengthen and standardize the complaint investigation and enforcement provisions. The legislature adopted a standard approach to complaint investigation and enforcement recommended by the Sunset Commission for all the health care licensing boards. The approach strengthens statutory requirements for handling complaints by requiring the board to use a toll-free phone number for complaints, adopt standardized complaint forms, provide assistance to people filing complaints, and maintain specific information in complaint files. Complaints must be investigated in a timely manner and may not be dismissed without appropriate consideration. Complainants must be notified of investigation timelines and unexpected changes in the timelines. The board is also required to adopt procedures for the informal disposition of a complaint and both the complainant and the licensee must be given an opportunity to be heard. Finally, the board is required to develop a schedule of disciplinary sanctions to encourage the consistent use of sanction authority and to develop a procedure for monitoring licensees placed on probation. Use of this standard complaint process will help ensure consistent, thorough investigation and resolution of complaints.

Authorize the board to assess administrative penalties for violations of law or board rules. The legislature adopted the recommendation of the Sunset Commission to authorize the board to assess administrative penalties of up to \$2,500 per day of violation against licensees who commit serious violations of law or board rules. An administrative penalty may be assessed in addition to other sanctions ordered by the board. Authorizing the board to assess administrative penalties provides the board with another enforcement tool to allow it to deal appropriately with the different levels of violations and the circumstances that surround them.

Require fees be set by the board to cover the cost of regulation. Based on a recommendation of the Sunset Commission, the legislature removed current statutory fee levels and authorized the board to set fees as necessary to cover the costs of regulation. This allows the board by rule to establish and adjust fees to meet the expenses of

administering the board's enabling Act. The board may not set a fee at an amount less than the fee's level as of September 1, 1993.

Set up a procedure to allow practitioners licensed in other states to come to Texas and, after meeting certain requirements, get a license to practice. The legislature adopted the Sunset Commission recommendation creating a standardized process for licensing out-of-state practitioners. The process provides for issuance of a provisional license by the board after verification of the applicant's credentials and license status in the state of current licensure. To qualify for a provisional license, an out-of-state practitioner must be in good standing in the state in which the applicant is licensed, must have passed a national or recognized examination, and must be sponsored by a licensed practitioner in Texas. The board is required to issue a permanent license to the provisional license holder if that person passes examinations required by the board and meets education, experience, and other requirements for licensure under the Act. The board must complete processing of a provisional license holder's application for a permanent license within 180 days or at the time notice is received of successful completion of required examinations.

Require board members to participate in training before serving on the board. Based on a recommendation of the Sunset Commission, the legislature required that board members receive training in specific areas before serving on the board. The training must include information regarding laws enforced by the board; programs and budget of the board; and the requirements of state laws regarding open meetings, open records, administrative procedures, and ethics. Unless the training requirements are developed by another state agency or entity, the board is required to develop the training in consultation with the governor's office, the attorney general's office, and the Texas Ethics Commission.

Allow the board to issue a special license for faculty members in optometry schools. The legislature adopted a recommendation of the Sunset Commission that the board be authorized to establish a special license for faculty members that would have less stringent credentialing requirements and fees than those for other licensees. Faculty members of schools of optometry are not required to be licensed by the state. However, in the course of clinical instruction, patients are treated in the same manner as patients in a private practice. Federal medical reimbursement programs and most insurance carriers require services to be provided by licensed professionals as a condition of reimbursement and the school loses reimbursements that would otherwise be received. A limited license will apply only to faculty duties and allow the school to receive third party reimbursements.

Require optometrists to provide patients copies of eyeglass prescriptions. Based on a recommendation of the Sunset Commission the legislature adopted a provision that requires optometrists to provide copies of eyeglass prescriptions to those patients who want to have the prescription filled elsewhere. This requirement will conform state law to federal rules and ensure the public is allowed a choice in where they purchase prescription eyeglasses. During the legislative process a provision was added that clarifies that the practitioner is not required to provide the prescription until payment is received for the examination.

Make filling an expired contact lens prescription a violation of the Act and subject to a \$1,000 for each lens dispensed. The Sunset Commission recommended, and the legislature adopted, a provision specifying that filling an expired contact lens prescription by any person in or outside the state be made a violation of the Act and a misdemeanor offense subject to a \$1,000 fine for each lens so dispensed. Conditions of the eye can change and a contact lens dispensed from an outdated prescription may cause damage to the eye. Increasing the penalty was necessary to discourage this practice, particularly by mail order operations that are difficult to monitor and regulate.

Comparison of Original Sunset Legislation with Final Legislation

A comparison of H.B. 1479 with the original sunset bill as introduced shows that the majority of Sunset Commission across-the-board recommendations proposed by the commission were included in the final bill. Current statutory language for removal of board members was kept because the language recommended by the commission was less stringent. In addition, one other recommendation was modified during the legislative process. The across-the-board recommendation that places limitations on the board's authority to adopt rules to prevent false, misleading, or deceptive advertising practices was modified by adding eleven new areas in which the board cannot set rules.

Most of the Sunset Commission's major recommendations remained in the final bill. However, one recommendation was deleted during the legislative process.

Modify the composition of the board by removing optometric association affiliation requirements. The board consists of six licensee members and three public members. The statute requires that three of the six licensee members be affiliated with one of the two optometric associations and three from the other. The associations differ in that one association generally represents the interests of optometrists who practice in space leased from a retail optical company and do not dispense eyeglasses or contact lenses, and the other represents those who practice independently and dispense eyeglasses and contact lenses. The Sunset Commission recommended removing the association affiliation requirement and allow the governor to appoint board members without regard to association affiliation, as well as optometrists who are not members of either association. The recommendation was deleted during the legislative process and the balance on the board of the two different types of optometric practice was continued.

Fiscal Impact

No fiscal impact. Any additional costs associated with implementing the legislation will be offset by additional fee revenue generated by the board.

**Bill Summary - Enrolled Version
Texas Optometry Board
HB 1479 - Cain**

Bill Reference	Bill Provision
Page 1, Line 14	Technical change to clarify the provision and update terminology to include therapeutic optometrists.
Page 1, Line 21 Page 47, Line 25 Page 48, Line 12	Technical changes. Deletes two provisions that clarify that nothing in the Act shall be construed to prevent selling ready-to-wear spectacles as merchandise at retail nor to prevent simple minor repairs. Adds the provision later in the bill.
Page 2, Line 2 thru Page 3, Line 9	Technical changes.
Page 3, Line 15	Adds definitions for optometrist and therapeutic optometrist.
Page 3, Line 26	Requires appointments to be made without regard to race, color, disability, sex, age, religion, or national origin. (ATB)
Page 4, Line 5	Continues the Texas Optometry Board until 2005.
Page 4 Line 12	Updates language related to board member participation in the management of or being an officer or paid consultant of a business entity in health-care services. (ATB)
Page 5, Line 1	Prohibits registered lobbyists from serving as a member of the board or from being employed as general counsel to the board. (ATB)
Page 5, Line 7	Changes term limitations for board members from 12 years to two full terms.
Page 5, Line 10 thru Page 6, Line 23	Establishes training requirements for members of the board. Requires the board to establish a training program. Requires a new board member to pass an examination given in conjunction with the attorney general before the member can be confirmed by the senate. Specifies the information topics of training and that the program must be developed in consultation with the governor, the attorney general's office, and the Texas Ethics Commission. Provides that, if another program is developed by an authorized agency, the board may use that program.
Page 6, Line 27 thru Page 7, Line 18 Page 10, Line 7 Page 14, Line 3	Deletes obsolete language and moves responsibility for record keeping and financial matters from the board secretary to the executive director to conform to modern practices.

**Bill Summary - Enrolled Version
Texas Optometry Board
HB 1479 - Cain**

Bill Reference	Bill Provision
Page 7, Line 5 and throughout the bill	Changes gender specific language to gender neutral language.
Page 8, Line 4	Requires the executive director or a designee to develop an intra-agency career ladder program and requires intra-agency posting of job openings concurrently with any public posting. (ATB)
Page 8, Line 10	Requires the executive director or a designee to develop an annual job performance evaluation system upon which merit salary increases must be based. (ATB)
Page 8, Line 15 thru Page 9, Line 15	Requires the executive director or a designee to prepare and maintain an equal employment opportunity policy and to report findings to the Human Rights Commission and the governor's office. (ATB)
Page 9, Line 16	Requires the board to develop and implement policies that clearly define the respective responsibilities of the board and the staff. (ATB)
Page 10, Line 21	Removes restriction that board members cannot receive compensation for meals and lodging when on board business and allows full travel reimbursement as provided by the General Appropriations Act.
Page 11, Line 2	Changes the amount of each license renewal fees dedicated to the University of Houston Development Fund from \$10 to 15 percent of the fee.
Page 11, Line 19	Requires the board to file an annual report with the governor and the legislature detailing the agency's financial transactions. (ATB)
Page 12, Line 2	Requires the board to provide information to its members and employees on the qualifications for office or employment and each person's responsibilities under the law. (ATB)
Page 12, Line 14	Requires the board to prepare and distribute information to the public concerning the agency's functions and complaint procedures. (ATB)
Page 12, Line 26	Establish a 1-800 telephone number for complaint information and assistance with complaint filing.

**Bill Summary - Enrolled Version
Texas Optometry Board
HB 1479 - Cain**

Bill Reference	Bill Provision
Page 13, Line 3	Requires the board to provide the public with reasonable opportunity to appear before it regarding issues under its jurisdiction. (ATB)
Page 13, Line 7	Requires the board to develop a plan that describes how non-English speaking persons can be provided reasonable access to the agency's programs. Also requires the board to comply with federal and state laws for program and facility accessibility. (ATB)
Page 14, Line 6	Technical changes to modernize and clarify the provisions.
Page 14, Line 25 thru Page 15, Line 13 Page 23, Line 22	Requires that fees be set by the board as necessary to cover the cost of regulation.
Page 16, Line 2	Exempts from the \$200 professional tax licensees not engaged in practice in the state. Also exempts the tax from calculation for funds dedicated to the University of Houston Development Fund.
Page 16, Line 16	Technical change.
Page 16, Line 22	Requires that all licensing examinations be validated by an independent testing professional.
Page 17, Line 16 thru Page 18, Line 22 Page 13, Line 18	Establishes a procedure for licensing out-of-state practitioners seeking licensure in Texas. Deletes language made obsolete by the new procedure.
Page 18, Line 23 thru Page 19, Line 7	Establishes a special license for faculty in optometry schools.
Page 19, Line 8	Authorizes the board to issue inactive licenses and to adopt necessary rules.
Page 19, Line 22 thru Page 20, Line 17	Establishes a method for license renewal and a time-frame and penalty structure for delinquent renewals. (ATB)
Page 21, Line 12 thru Page 22, Line 26	Changes the required annual continuing education hours to renew a license from 12 to 16, adds that at least six hours of study per year must be in the diagnosis or treatment of ocular disease, and adds provisions for licensees who have not met the continuing education requirements at the time of license renewal.

**Bill Summary - Enrolled Version
Texas Optometry Board
HB 1479 - Cain**

Bill Reference	Bill Provision
Page 24, Line 2 thru Page 27, Line 5	Requires the board to use a full range of penalties, such as reprimand, suspension or revocation, for violations of state laws or board rules. (ATB)
Page 24, Line 4 thru Page 26, Line 19 Page 27, Line 18 thru Page 32, Line 18	Provides authority for an adequate range of enforcement powers. Authorizes the board to assess administrative penalties up to \$2,500 per day of violation. Authorizes continuing education as an enforcement tool. Requires that the schedule of sanctions adopted by the board to be used by the Office of Administrative Hearings. Defines a process whereby the executive director, or a committee of the board consisting of at least one public member, recommends administrative penalties, provides notice and hearing requirements and timelines for the process. Provides for judicial review of appealed orders. Adds authority for the board to stipulate conditions and limitations on continued practice, including counseling or additional education. Also added seven additional grounds for disciplinary action by the board.
Page 27, Line 1	Provides that the privilege to operate a practice by the estate of a deceased licensee should cease one year after the date of death of the optometrist.
Page 32, Line 19	Requires the board to maintain files on complaints that the board has the authority to resolve. (ATB)
Page 32, Line 21 thru Page 35, Line 12 Page 7, Line 19	Requires that standard procedures be established for complaint intake, investigations, informal hearings, and development of disciplinary sanctions. In addition, develop procedures for monitoring, record keeping, and meeting timelines for complaint resolution.
Page 33, Line 3	Requires the board to periodically provide written notice to all parties to a formal complaint of the status of the complaint. (ATB)
Page 36, Line 4 thru Page 37, Line 16 Page 20, Line 23 thru Page 21, Line 2 Page 54, Line 17	Deletes requirement for optometrists to register with the county clerk of each county. Adds that specific information must be submitted to the board and update within 10 days if changed. Current outdated information must be updated by January 1, 1994.

**Bill Summary - Enrolled Version
Texas Optometry Board
HB 1479 - Cain**

Bill Reference	Bill Provision
Page 38, Line 6 Page 49, Line 11	Specifies that filling an expired contact lens prescription is illegal and makes the penalty for dispensing contact lenses without a valid prescription a misdemeanor subject to a \$1,000 fine for each lens so dispensed.
Page 38, Line 19 thru Page 39, Line 1	Modifies existing provisions prohibiting a licensee to practice if the licensee has an infectious or contagious disease by adding the qualification that the disease must be determined by the Texas Department of Health as to be reasonably transmitted in the normal practice of optometry or therapeutic optometry. Requires the board to adopt by rule guidelines based on the TDH guidelines.
Page 39, Line 9	Requires that advertising about the cost of an eye examination include information about prescription services and follow-up care provided and that contact lens ads contain the number of lens included in the price. Requires ads be readily audible or readable by a person of average comprehension or reading speed.
Page 40, Line 5 thru Page 41, Line 16	Adds 10 additional areas to the four standard ATB areas wherein the board cannot adopt rules that restrict advertising and other practices except to prohibit false, misleading or deceptive practices. (ATB)
Page 41, Line 20	Technical correction.
Page 42, Line 2	Modifies definition of terms included in the elements that constitute basic competence for an eye examination.
Page 42, Line 17	Modifies the definition for ophthalmic prescriptions and added prohibition that a prescription cannot contain restrictions limiting parameters to private labels not available to the whole optical industry.
Page 42, Line 24	Adds prohibition against altering a prescription for an ophthalmic lens without the consent of the prescribing doctor.
Page 43, Line 3 thru Page 44, Line 3	Technical correction.
Page 45, Line 26	Technical change.

**Bill Summary - Enrolled Version
Texas Optometry Board
HB 1479 - Cain**

Bill Reference	Bill Provision
Page 47, Line 8	Requires optometrists to provide copies of spectacle prescriptions to patients and adds that the requirement does not require the practitioner to provide the prescription before payment has been made.
Page 48, Line 16	Adds that the Act does not prevent, limit, restrict, or interfere with dispensing opticians from engaging in dispensing spectacle or contact lenses.
Page 49, Line 3	Technical change to clarify that practices prohibited by the Act include engaging in an activity prohibited by the Act.
Page 49, Line 6	Adds Travis County district courts as courts where injured parties may file suit.
Page 49, Line 23	Changes the monetary fine range for the misdemeanor penalty for violations of the Act from \$50 to \$500 to \$100 to \$1,000.
Page 50, Line 4	Adds language that establishes that the optometrist owns all of the optometrist's records, that patients are entitled to their records, and that the practitioner may charge a reasonable fee for processing the records requests.
Page 50, Line 21 thru Page 51, Line 7 Page 52, Line 16 thru Page 54, Line 2	Prohibits discrimination against optometry by governmental entities and managed care plans. Prohibits a program of the state or its political subdivisions from enacting laws, rules, ordinances, or policies that discriminate against health-care practitioners because the practitioners are optometrists, therapeutic optometrists, or physicians specializing in ophthalmology. Defines managed health care plans and ophthalmologists. Prohibits a managed health care plan that provides vision or medical eye care services and procedures within the scope of the license of an optometrist, therapeutic optometrist, or ophthalmologist from discrimination and lists specific areas that constitute discrimination. Clarifies that the article does not require a managed health care plan to provide vision or medical eye care services or procedures.
Page 51, Line 8 thru Page 52, Line 13	Technical change to create a new article, MISCELLANEOUS PROVISIONS, and deletes obsolete language.
Page 54, Line 3	Specifies that the changes related to the qualifications of persons appointed to the board apply only to a member appointed on or after the effective date of the Act.

**Bill Summary - Enrolled Version
Texas Optometry Board
HB 1479 - Cain**

Bill Reference	Bill Provision
Page 54, Line 9	Transfers pending contested cases before the board to the State Office of Administrative Hearings effective on or after January 1, 1994. Allows the board and the chief administrator of the State Office of Administrative Hearings to transfer pending contested cases to the Office before that date if both agree.
Page 54, Line 17	Requires that licensees must provide address and other new information required under Section 5.02 not later than January 1, 1994.
Page 54, Line 23	Requires the board to adopt rules required by the Act not later than December 31, 1993.
Page 54, Line 25 thru Page 55, Line 4	Makes changes to the Insurance Code only apply to managed health care plans delivered, issued for delivery, or renewed on or after January 1, 1994, and that a plan delivered, issued for delivery, or renewed before January 1, 1994, is under the law in effect before the effective date of this Act.
Page 55, Line 5	Establishes the effective date of the Act as September 1, 1993.
Page 55, Line 6	Emergency clause.

Texas State Board of Pharmacy

Final Action: *The Texas State Board of Pharmacy was continued for a 12-year period.*

SB 621 by Carriker

Analysis of Major Provisions in the Final Bill

Senate Bill 621, as introduced, contained the Sunset Commission's recommendations for the State Board of Pharmacy. Most of these recommendations remained in the final version of the bill. The major provisions in the bill are discussed below.

Require one-third public membership on the board. The legislature adopted the recommendation of the Sunset Commission that requires at least one-third of the board's members to be representatives of the general public. Currently the nine-member board has seven licensees and two public members. This was changed to six licensees and three public members. Adding one public member will help ensure that the board's policies and actions reflect the interests of the general public and not just those of the profession.

Authorize the board to temporarily suspend a license without notice or formal hearing in situations that seriously endanger the public. The legislature adopted a recommendation of the Sunset Commission that the board be authorized to temporarily suspend a license without notice or hearing. This authority can be used in cases where a licensee's condition or activities constitute a serious and immediate threat to the public welfare and the time required to initiate formal disciplinary proceedings would cause excessive risk to the public. The decision to issue a temporary suspension would be made by a majority of the board. At the time the temporary suspension is ordered, a hearing on whether disciplinary proceedings should be initiated against the licensee must be scheduled within 14 days. A second hearing on the suspended license must be held not later than 60 days after the temporary suspension is ordered. Otherwise, the license is automatically reinstated.

Give the board power to deny an applicant a license for conduct which would be the basis for disciplinary action against someone already licensed. The legislature adopted a recommendation of the Sunset Commission that would allow the board to take disciplinary action against an applicant for violations of the Act which could result in disciplinary action if the applicant were already a licensee. Violations include violating the Controlled Substances Act or Dangerous Drug Act, a drug or alcohol dependency, or the revocation of a license to practice pharmacy in another state. Action by the board against applicants may include refusal to issue a license, probation of license upon receipt, or immediate suspension of license.

Authorize the board, to release the license status of pharmacists who are the subject of a confidential order. The legislature modified a recommendation of the Sunset

Commission authorizing the board to release the license status of a pharmacist who is the subject of a confidential order of the board. The Pharmacy Act specifies that orders against pharmacists who are impaired by chemical abuse or mental or physical illness are confidential and not subject to the Open Records Act. The legislature added that the board could not disclose the nature of the impairment or any additional information such as the reason for license restriction or information that resulted in the board's action.

Authorize the board to develop rules to regulate the operation of out-of-state pharmacies.

The legislature adopted a recommendation of the Sunset Commission that increases the board's authority to regulate out-of-state pharmacies. To protect the health and welfare of the citizens of the state, the board will be able to make its' rules apply to pharmacies licensed by the board but located in other states.

Require that prescriber information, such as name, address, and phone number, be stamped or printed on prescriptions.

The legislature adopted a recommendation of the Sunset Commission that requires a prescriber's name, address, telephone number, and identification number be stamped or printed on each drug prescription. This will provide the pharmacist with additional information should questions concerning the prescription arise.

Strengthen and standardize the complaint investigation and enforcement provisions.

The legislature adopted a standard approach to complaint investigation and enforcement recommended by the Sunset Commission for all the health care licensing boards. The approach strengthens statutory requirements for handling complaints by requiring the board to provide a toll-free phone number for complainants, adopt complaint forms, provide assistance to people filing complaints, and maintain specific information in complaint files. Complaints must be investigated in a timely manner and may not be dismissed without appropriate consideration. Complainants must be notified of estimated time for the resolution of the complaint. The board is also required to adopt procedures for the informal disposition of a complaint and both the complainant and the licensee must be given an opportunity to be heard. Finally, the board is required to develop a procedure for monitoring licensees placed on probation. Use of this standard complaint process will help ensure consistent, thorough investigation and resolution of complaints.

Set up a procedure to work in conjunction with the board's current reciprocity process that allows practitioners licensed in other states to come to Texas and, after meeting certain requirements, get a license to practice.

The legislature adopted the Sunset Commission recommendation creating a standardized process for licensing out-of-state practitioners. The process provides for issuance of a provisional license by the board after verification of the applicant's credentials and license status in the state of current licensure. To qualify for a provisional license, an out-of-state practitioner must be in good standing in the state in which the applicant is licensed, must have passed a national or recognized examination, and must be sponsored by a licensed practitioner in Texas. The board is required to issue a permanent license to the provisional license holder if that person passes the state jurisprudence examination and meets education, experience, and other requirements for licensure under the Act. The board must complete processing of a provisional license

holder's application for a permanent license within 180 days or at the time licenses are issued following successful completion of an examination.

Set standards for mandatory continuing education as a condition of license renewal. The legislature adopted the recommendation of the Sunset Commission requiring licensees to meet standardized mandatory continuing education requirements established by the board. The board is required to identify the key factors that lead to the competent performance of professional duties, develop a process to assess a licensee's participation and performance in continuing education courses, evaluate the overall effectiveness of the program, assess the continuing education needs of licensees, and require licensees to attend specific continuing education courses.

Comparison of Original Sunset Commission Legislation with Final Legislation

A comparison of S.B. 621 with the original sunset bill as introduced shows that the majority of Sunset Commission across-the-board recommendations proposed by the commission were included in the final bill. One across-the-board provision related to the staggered renewal of licenses was removed from the final bill because existing statutory language was almost identical to the across-the-board provision.

Most of the Sunset Commission's specific recommendations remained in the final bill. However, two significant recommendations were deleted during the legislative process.

Require pharmacies to maintain prescription records for four years instead of two. The Sunset Commission recommended that prescription records be retained by pharmacies for four years instead of two years as required by current law. The legislature deleted this provision because of the storage problems it would create for pharmacies and because pharmacies are already required by the federal government to keep prescription records related to Medicare and Medicaid for three years.

Prohibit fees from being set below the level of fees on September 1, 1993. The Sunset Commission recommended that the board be allowed to set fees to cover the cost of regulation and that fees could not be set below fee levels on September 1, 1993. The legislature adopted the provision allowing the board to set fees to cover costs. However, the provision prohibiting fees from being set below September 1, 1993 levels was not adopted because of concerns relating to the ability to lower fees if costs decreased.

Fiscal Impact

No fiscal impact. Any additional costs associated with implementing this legislation will be offset by additional fee revenue generated by the board.

**Bill Summary - Enrolled Version
Texas State Board of Pharmacy
SB 621 - Carriker**

Bill Reference	Bill Provision
Page 1, Line 10	Continues the Board of Pharmacy until 2005.
Page 1, Line 14	Requires that the Board of Pharmacy be composed of one-third public members.
Page 1, Line 18 thru Page 2, Line 2	Prohibits registered lobbyists from serving as a member of the board or from being employed as general counsel to the board. (ATB)
Page 2, Line 21 thru Page 3, Line 13	Requires public members on the board and prohibits appointment as a public member if the person or the person's spouse is a licensee, conducts business with the agency, or otherwise has financial ties to the regulated industry. (ATB)
Page 3, Line 17 thru Page 4, Line 9	Defines grounds for removing a board member and requires the executive director to notify the board chair if knowledge that a potential ground for removal exists. Affirms that an action of the board is valid even if it is taken when a ground for removal exists. (ATB)
Page 4, Line 15	Requires that appointments to the board be made without regard to race, color, disability, sex, religion, age, or national origin. (ATB)
Page 5, Line 3	Requires the board to develop and implement policies that clearly define the respective responsibilities of the board and the staff. (ATB)
Page 5, Line 6	Requires the director or a designee to develop an intra-agency career ladder program and requires intra-agency posting of job openings concurrently with any public posting. (ATB)
Page 5, Line 12	Requires the director or a designee to develop an annual job performance evaluation system upon which merit salary increases must be based. (ATB)
Page 5, Line 19	Establishes training requirements for members of the board.
Page 5, Line 25 thru Page 6, Line 10	Prohibits board members or their spouses and employees compensated at or above Group 17 in the appropriations act or their spouses from being an officer or employee of a related trade association. Also defines trade association. (ATB)

**Bill Summary - Enrolled Version
Texas State Board of Pharmacy
SB 621 - Carriker**

Bill Reference	Bill Provision
Page 6, Line 24 thru Page 7, Line 3	Requires the board to provide information to its members and employees on the qualifications for office or employment and each person's responsibilities under the law. (ATB)
Page 7, Line 7 thru Page 8, Line 10	Requires the director or a designee to prepare and maintain an equal employment opportunity policy and to report findings to the Human Rights Commission and the governor's office. (ATB)
Page 8, Line 14 Page 29, Line 23	Authorizes the board to adopt rules to regulate the operation of pharmacies in other states.
Page 8, Line 22 thru Page 9, Line 6	Prevents the board from adopting rules that restrict competitive bidding or advertising except to prohibit false, misleading or deceptive practices. (ATB)
Page 9, Line 11	Requires the board to file an annual report with the governor and the legislature detailing the agency's financial transactions. (ATB)
Page 10, Line 8	Requires the agency to prepare and distribute information to the public concerning the agency's functions and complaint procedures. (ATB)
Page 10, Line 8 thru Page 14, Line 17	Standardizes the enforcement process of the health care licensing boards. Requires that standard procedures be established for complaint intake, investigations, informal hearings, and development of disciplinary sanctions. In addition, develops procedures for monitoring, record keeping, and meeting timelines for complaint resolution.
Page 11, Line 1	Establishes a 1-800 telephone number for complaint information as follows: provides for referral of complaints to appropriate agencies as well as assistance with complaint filing; requires that administration of the number be physically assigned somewhere; and requires that the number be listed in the telephone listing of each board.
Page 11, Line 5	Requires the board to provide the public with reasonable opportunity to appear before it regarding issues under its jurisdiction. (ATB)

**Bill Summary - Enrolled Version
Texas State Board of Pharmacy
SB 621 - Carriker**

Bill Reference	Bill Provision
Page 11, Line 9	Requires the agency to develop a plan that describes how non-English speaking persons can be provided reasonable access to the agency's programs. Also requires the board to comply with federal and state laws for program and facility accessibility. (ATB)
Page 11, Line 14	Requires the agency to maintain files on complaints that the agency has the authority to resolve. (ATB)
Page 12, Line 1	Requires the agency to periodically provide written notice to all parties to a formal complaint of the status of the complaint. (ATB)
Page 15, Line 1	Sets specific guidelines for the number of times that the examination may be retaken and requires that additional education requirements be satisfied if the applicant fails the examination three times.
Page 15, Line 6	Requires the board, upon request of an applicant who failed a licensing examination, to provide an analysis of the applicant's exam performance. (ATB)
Page 15, Line 17	Requires that all written licensing examinations be validated.
Page 15, Line 23 thru Page 17, Line 10	Establishes a procedure for licensing out-of-state practitioners seeking licensure in Texas through the issuance of a provisional license. The provisional license addresses out-of-state practitioners not covered by reciprocal agreements.
Page 18, Line 7 thru Page 19, Line 14	Establishes a method for license renewal and a time-frame and penalty structure for delinquent renewals. (ATB)
Page 20, Line 15 thru Page 22, Line 17	Requires mandatory continuing education.
Page 23, Line 1 Page 23, Line 7	Authorizes a full range of licensing options which include a temporary license and the authority to place licenses on inactive status. Authorizes the board to restrict the length of time a person may remain on inactive status.
Page 23, Line 11 thru Page 26, Line 12 Page 28, Line 5	Authorizes the board to deny licensure to an applicant for certain conduct that the statute currently allows the board to discipline a pharmacist license.

**Bill Summary - Enrolled Version
Texas State Board of Pharmacy
SB 621 - Carriker**

Bill Reference	Bill Provision
Page 28, Line 22 Page 31, Line 15 Page 32, Line 9 Page 33, Line 8 thru Page 38, Line 23	Provides authority for an adequate range of enforcement powers which include increasing administrative penalty authority to \$5,000 per day for violations involving the diversion of drugs and to \$2,500 per day for other violations. Authorizes civil penalty authority of \$1,000 per violation per day.
Page 30, Line 19 thru page 31, Line 1	Authorizes the board to release the license status of impaired pharmacists. Prohibits the board from releasing information about the impairment or the board's decision.
Page 31, Line 22 thru Page 32, Line 4	Requires the board to use a full range of penalties, such as reprimand, suspension or revocation, for violations of state laws or agency rules.
Page 32, Line 15 thru Page 33, Line 4	Authorizes the board, when the public is in danger, to temporarily suspend the license of a pharmacist or pharmacy without a hearing. Requires that the board have a hearing within 14 days to determine cause for permanent action. A second hearing is required within 60 days, or else the suspension is lifted.
Page 39, Line 2 Page 40, Line 19 Page 41, Line 14 Page 42, Line 8	Requires that prescriber information be typed, printed or stamped on each prescription.
Page 39, Line 10	Requires that fees be set by the boards as necessary to cover the cost of regulation.
Page 42, Line 12	Reenacts the dedication of the State Board of Pharmacy fund and establishes the fund as a special account within the state treasury.
Page 42, Line 16 thru Page 43, Line 1	Specifies that changes made by the bill relating to administrative or civil penalties apply only to violations committed after the effective date of the Act.
Page 43, Line 2	Specifies that the governor shall appoint new members to the board to achieve the membership plan prescribed in this Act as the terms of the current members expire.
Page 43, Line 6	Specifies that appointments shall be made so that the terms of one public member and two pharmacist members expire on the same date.

**Bill Summary - Enrolled Version
Texas State Board of Pharmacy
SB 621 - Carriker**

Bill Reference	Bill Provision
Page 43, Line 11	Specifies that this Act does not affect the qualifications for current members of the board.
Page 43, Line 17	Specifies that Section 17(v) relating to information about the agency and filing complaints is repealed.
Page 43, Line 19	Specifies that this Act takes effect September 1, 1993.
Page 43, Line 20	Emergency clause.

Texas State Board of Podiatry Examiners

Final Action: *The Texas State Board of Podiatry Examiners was continued for a 12-year period with changes.*

SB 1080 by I. Harris

Analysis of Major Provisions in the Final Bill

Senate Bill 1080, as introduced, contained the Sunset Commission's recommendations for the Texas State Board of Podiatry Examiners. All of the recommendations remained in the final version of the bill, along with a number of new provisions added by the legislature. The major provisions in the final bill are discussed below.

Strengthen and standardize the complaint investigation and enforcement provisions. The legislature adopted a standard approach to complaint investigation and enforcement recommended by the Sunset Commission for all the health care licensing boards. The approach strengthens statutory requirements for handling complaints by requiring the board to use a toll-free phone number for complaints, adopt standardized complaint forms, provide assistance to people filing complaints, and maintain specific information in complaint files. Complaints must be investigated in a timely manner and may not be dismissed without appropriate consideration. Complainants must be notified of investigation timelines and unexpected changes in the timelines. The board is also required to adopt procedures for the informal disposition of a complaint and both the complainant and the licensee must be given an opportunity to be heard. Finally, the board is required to develop a schedule of disciplinary sanctions to encourage the consistent use of sanction authority and to develop a procedure for monitoring licensees placed on probation. Use of this standard complaint process will help ensure consistent, thorough investigation and resolution of complaints.

Authorize the board to assess administrative penalties for violations of law or board rules. The legislature adopted the recommendation of the Sunset Commission to authorize the board to assess administrative penalties of up to \$2,500 per day of violation against licensees who commit serious violations of law or board rules. An administrative penalty may be assessed in addition to other sanctions ordered by the board. Authorizing the board to assess administrative penalties provides the board with another enforcement tool to allow it to deal appropriately with the different levels of violations and the circumstances that surround them.

Authorize the courts to assess civil penalties of up to \$1,000 per violation per day. The legislature adopted the recommendation of the Sunset Commission that civil penalty authority of \$1,000 per day of violation be added to the enforcement powers provided in the Act. A civil penalty is a monetary penalty imposed by a court for a violation that is not criminal in nature. Civil penalties are often used against persons who are practicing without

a license. The board may request the attorney general to bring an action to assess a civil penalty.

Require board members to participate in training before serving on the board. Based on a recommendation of the Sunset Commission, the legislature required that board members receive training in specific areas before serving on the board. The training must include information regarding laws enforced by the board; programs and budget of the board; and the requirements of state laws regarding open meetings, open records, administrative procedures, and ethics. Unless the training requirements are developed by another state agency or entity, the board is required to develop the training in consultation with the governor's office, the attorney general's office, and the Texas Ethics Commission.

Require mandatory continuing education as a condition of license renewal. The legislature adopted the recommendation of the Sunset Commission requiring licensees to meet standardized mandatory continuing education requirements established by the board. The board is required to establish a minimum number of hours of continuing education required for license renewal, identify the key factors that lead to the competent performance of professional duties, develop a process to assess a licensee's participation and performance in continuing education courses, evaluate the overall effectiveness of the program, assess the continuing education needs of licensees, and require licensees to attend specific continuing education courses.

Set up a procedure to allow practitioners licensed in other states to come to Texas and, after meeting certain requirements, get a license to practice. The legislature adopted the Sunset Commission recommendation creating a standardized process for licensing out-of-state practitioners. The process provides for issuance of a provisional license by the board after verification of the applicant's credentials and license status in the state of current licensure. To qualify for a provisional license, an out-of-state practitioner must be in good standing in the state in which the applicant is licensed, must have passed a national or recognized examination, and must be sponsored by a licensed practitioner in Texas. The board is required to issue a permanent license to the provisional license holder if that person passes the state jurisprudence examination and meets education, experience, and other requirements for licensure under the Act. The board must complete processing of a provisional license holder's application for a permanent license within 180 days or at the time licenses are issued following successful completion of an examination.

Require fees be set by the health care licensing boards to cover the cost of regulation. Based on a recommendation of the Sunset Commission, the legislature removed current statutory fee levels and authorized the board to set fees as necessary to cover the costs of regulation. This allows the board by rule to establish and adjust fees to meet the expenses of administering the board's enabling Act. The board may not set a fee at an amount less than the fee's level as of September 1, 1993.

Set up a process to check, if needed, the services of a podiatrist by a group of peers to see if the care provided is adequate. The legislature authorized podiatric medical societies or association in the state to establish podiatric peer review committees. A review committee evaluates the quality of service rendered by a podiatrist and the competence of the podiatrist

based on the laws governing podiatry. Peer review action may be initiated based on a disagreement or complaint brought before a peer review committee. The records and proceedings of the committee may be disclosed to the Texas State Board of Podiatry Examiners, appropriate federal and state governments, and national accreditation bodies. The records and determinations of the peer review committee are confidential and not subject to subpoena or admissible as evidence in civil or administrative proceedings unless a waiver of the privilege is secured. The peer review is a way for the board to ensure that practitioners are providing quality services.

Comparison of Sunset Commission Legislation with Final Legislation

A comparison of S.B. 1080 with the original recommendations of the Sunset Commission related to the Texas State Board of Podiatry Examiners shows that all recommended Sunset Commission across-the-board recommendations were included in the final bill.

All of the Sunset Commission's specific program recommendations remained in the final bill.

Fiscal Impact

No fiscal impact. Any additional costs associated with implementing this legislation will be offset by additional fee revenue generated by the board.

Bill Summary - Enrolled Version
Texas State Board of Podiatry Examiners
SB 1080 - I. Harris

Bill Reference	Bill Provision
Page 1, Line 8	Changes references from "chiropractors" or "chiropractic" to "podiatrist" and "podiatry". Adds definitions of the board and the executive director.
Page 2, Line 3 thru Page 7, Line 6	Provides authority for an adequate range of enforcement powers.
Page 7, Line 19 Page 30, Line 7	Requires that appointments to the board be made without regard to race, color, disability, sex, religion, age, or national origin. (ATB)
Page 7, Line 23 thru Page 8, Line 16 Page 30, Line 7	Requires public members on the board and prohibits appointment as a public member if the person or the person's spouse is a licensee, conducts business with the agency, or otherwise has financial ties to the regulated industry. (ATB)
Page 8, Line 17 thru Page 9, Line 17 Page 30, Line 7	Prohibits board members or their spouses and employees compensated at or above Group 17 in the appropriations act or their spouses from being an officer or employee of a related trade association. Also defines trade association. (ATB)
Page 9, Line 18 Page 30, Line 7	Prohibits registered lobbyists from serving as a member of the board or from being employed as general counsel to the board. (ATB)
Page 10, Line 1 thru Page 11, Line 3 Page 28, Line 4	Defines grounds for removing a board member and requires the executive director to notify the board chair if knowledge that a potential ground for removal exists. Affirms that an action of the board is valid even if it is taken when a ground for removal exists. (ATB)
Page 11, Line 4	Requires the board to file an annual report with the governor and the legislature detailing the agency's financial transactions. (ATB)
Page 11, Line 10	Requires the executive director or a designee to develop an intra-agency career ladder program and requires intra-agency posting of job openings concurrently with any public posting. (ATB)
Page 11, Line 14	Requires the executive director or a designee to develop an annual job performance evaluation system upon which merit salary increases must be based. (ATB)
Page 11, Line 18	Requires the board to develop and implement policies that clearly define the respective responsibilities of the board and the staff. (ATB)

**Bill Summary - Enrolled Version
Texas State Board of Podiatry Examiners
SB 1080 - I. Harris**

Bill Reference	Bill Provision
Page 11, Line 21	Requires the agency to develop a plan that describes how non-English speaking persons can be provided reasonable access to the agency's programs. Also requires the board to comply with federal and state laws for program and facility accessibility. (ATB)
Page 12, Line 1	Requires the board to provide the public with reasonable opportunity to appear before it regarding issues under its jurisdiction. (ATB)
Page 12, Line 10	Continues the Texas State Board of Podiatry Examiners until 2005.
Page 12, Line 13 thru Page 13, Line 16	Requires the executive director or a designee to prepare and maintain an equal employment opportunity policy and to report findings to the Human Rights Commission and the governor's office. (ATB)
Page 12, Line 22	Requires the board to provide information to its members and employees on the qualifications for office or employment and each person's responsibilities under the law. (ATB)
Page 13, Line 19 thru Page 14, Line 2	Establishes training requirements for members of the board.
Page 14, Line 11	Requires that all licensing examinations be validated.
Page 14, Line 13 thru Page 15, Line 3	Requires the agency to notify license applicants of licensing examination results within a reasonable time of the examination date. (ATB)
Page 15, Line 5	Requires the board, upon request of an applicant who failed a licensing examination, to provide an analysis of the applicant's exam performance. (ATB)
Page 15, Line 11 thru Page 16, Line 13 Page 16, Line 14 Page 16, Line 19 Page 16, Line 25	Requires mandatory continuing education.
Page 16, Line 24 thru Page 17, Line 17	Establishes a method for license renewal and a time-frame and penalty structure for delinquent renewals. (ATB)
Page 17, Line 20 thru Page 19, Line 8	Authorizes a full range of licensing options and requires the boards to set a limit for temporary licenses.

**Bill Summary - Enrolled Version
Texas State Board of Podiatry Examiners
SB 1080 - I. Harris**

Bill Reference	Bill Provision
Page 18, Line 21	Requires the agency to maintain files on complaints that the agency has the authority to resolve. (ATB)
Page 18, Line 22 thru Page 20, Line 2	Requires the agency to periodically provide written notice to all parties to a formal complaint of the status of the complaint. (ATB)
Page 19, Line 11	Establishes a procedure for licensing out-of-state practitioners seeking licensure in Texas.
Page 20, Line 3	Requires the board to use a full range of penalties, such as reprimand, suspension or revocation, for violations of state laws or agency rules. (ATB)
Page 20, Line 19 thru Page 23, Line 17	Standardizes the enforcement process of the podiatry board. Require that standard procedures be established for complaint intake, investigations, informal hearings, and development of disciplinary sanctions. In addition, develop procedures for monitoring, record keeping, and meeting timelines for complaint resolution.
Page 23, Line 20 thru Page 28, Line 5	Establishes podiatric peer review committees to evaluate the quality of services rendered by a podiatrist and the competence of the podiatrist.
Page 27, Line 16	Establishes a 1-800 telephone number for complaint information.
Page 28, Line 8	Requires that fees be set by the board as necessary to cover the cost of regulation.
Page 28, Line 23 thru Page 29, Line 24	Requires the agency to prepare and distribute information to the public concerning the agency's functions and complaint procedures. (ATB)
Page 30, Line 2	Specifies that a pending case before the podiatry board is transferred to the State Office of Administrative Hearings on the effective date of the Act.
Page 30, Line 7	Specifies that the changes made related to the requirements for membership for the podiatry board apply only to a member appointed on or after September 1, 1993.
Page 30, Line 14	Establishes the effective date of the Act as September 1, 1993.
Page 30, Line 15	Emergency clause.

Texas State Board of Veterinary Medical Examiners

Final Action: *The Texas State Board of Veterinary Medical Examiners was continued for a 12-year period with changes.*
SB 623 by Carriker

Analysis of Major Provisions in the Final Bill

Senate Bill 623, as introduced, contained the Sunset Commission's original recommendations for the Texas State Board of Veterinary Medical Examiners. Most of these recommendations remained in the final version of the bill, along with a number of new provisions added by the legislature. The major provisions in the final bill are discussed below.

Strengthen and standardize the complaint investigation and enforcement provisions. The legislature adopted a standard approach to complaint investigation and enforcement recommended by the Sunset Commission for all the health care licensing boards. The approach strengthens statutory requirements for handling complaints by requiring the board to use a toll-free phone number for complaints, adopt standardized complaint forms, provide assistance to people filing complaints, and maintain specific information in complaint files. Complaints must be investigated in a timely manner and may not be dismissed without appropriate consideration. Complainants must be notified of investigation timelines and unexpected changes in the timelines. The board is also required to adopt procedures for the informal disposition of a complaint and both the complainant and the licensee must be given an opportunity to be heard. Finally, the board is required to develop a schedule of disciplinary sanctions to encourage the consistent use of sanction authority and to develop a procedure for monitoring licensees placed on probation. Use of this standard complaint process will help ensure consistent, thorough investigation and resolution of complaints.

Authorize the board to assess administrative penalties for violations of law or board rules. The legislature adopted the recommendation of the Sunset Commission to authorize the board to assess administrative penalties of up to \$2,500 per day of violation against licensees who commit serious violations of law or board rules and up to \$5,000 per day for violations related to controlled substances. An administrative penalty may be assessed in addition to other sanctions ordered by the board. Authorizing the board to assess administrative penalties provides the board with another enforcement tool to allow it to deal appropriately with the different levels of violations and the circumstances that surround them.

Authorize the courts to assess civil penalties of up to \$1,000 per violation per day. The legislature adopted the recommendation of the Sunset Commission that civil penalty authority of \$1,000 per day of violation be added to the enforcement powers provided in the Act. A civil penalty is a monetary penalty imposed by a court for a violation that is not criminal in nature. Civil penalties are often used against persons who are practicing without

a license. The board may request the attorney general to bring an action to assess a civil penalty.

Authorize the board to temporarily suspend a license without notice or formal hearing in situations that seriously endanger the public. The legislature adopted the recommendation of the Sunset Commission that the board be authorized to temporarily suspend a license without notice or hearing. This authority can be used in cases where a licensee's condition or activities constitute a serious and immediate threat to the public welfare and the time required to initiate formal disciplinary proceedings would cause excessive risk to the public. The decision to issue a temporary suspension would be made by an executive committee of the board consisting of the chair and two other members appointed by the chair. At the time the temporary suspension is ordered, a hearing on whether disciplinary proceedings should be initiated against the licensee must be scheduled within 14 days. A second hearing on the suspended license must be held not later than 60 days after the temporary suspension is ordered. Otherwise, the license is automatically reinstated.

Set up a procedure to allow practitioners licensed in other states to come to Texas and, after meeting certain requirements, get a license to practice. The legislature adopted the Sunset Commission recommendation creating a standardized process for licensing out-of-state practitioners. The process provides for issuance of a provisional license by the board after verification of the applicant's credentials and license status in the state of current licensure. To qualify for a provisional license, an out-of-state practitioner must be in good standing in the state in which the applicant is licensed, must have passed a national or recognized examination, and must be sponsored by a licensed practitioner in Texas. The board is required to issue a permanent license to the provisional license holder if that person passes examinations required by the board and meets education, experience, and other requirements for licensure under the Act. The board must complete processing of a provisional license holder's application for a permanent license within 180 days or at the time licenses are issued following successful completion of required examinations.

Require mandatory continuing education as a condition of license renewal. The legislature modified a recommendation of the Sunset Commission requiring licensees to meet standardized mandatory continuing education requirements established by the board. The commission had recommended that, in addition to establishing a minimum number of hours of continuing education required for license renewal, the board identify the key factors that lead to the competent performance of professional duties, develop a process to assess a licensee's participation and performance in continuing education courses, evaluate the overall effectiveness of the program, assess the continuing education needs of licensees, and require licensees to attend specific continuing education courses. During the legislative process the recommendation was changed to only require the board to establish a minimum number of hours and to establish general categories of continuing education. The board may, however, require licensees to successfully complete continuing education courses.

Require board members to participate in training before serving on the board. Based on a recommendation of the Sunset Commission, the legislature required that board members receive training in specific areas before serving on the board. The training must include information regarding laws enforced by the board; programs and budget of the board; and

the requirements of state laws regarding open meetings, open records, administrative procedures, and ethics. Unless the training requirements are developed by another state agency or entity, the board is required to develop the training in consultation with the governor's office, the attorney general's office, and the Texas Ethics Commission.

Require the board to adopt rules for alternative therapies. The legislature added language requiring the board to adopt rules to protect the public by ensuring that alternative therapies such as acupuncture, magnetic field therapy, holistic medicine, and chiropractic treatment are only performed by or under the supervision of a licensee. This provision will ensure that these therapies, which are relatively new to the treatment of animals, will be performed in a manner that will minimize unnecessary or potentially harmful treatments of animals and will be performed by qualified practitioners.

Authorize the board to adopt rules specifying how veterinarians may use the services of registered veterinary technicians. The legislature added provisions to require the board to adopt rules specifying how veterinarians may use the services of registered veterinary technicians and defined registered veterinary technician as a person who works under the supervision of a licensed veterinarian and who fulfills the requirements of an organization approved by the board. These provisions will allow the board to establish guidelines to allow veterinarians to delegate responsibilities to these employees beyond those allowed to be delegated to other employees. The board must approve a credentialing body that sets academic and other requirements for certification of registered veterinary technicians.

Prohibit any person not licensed under the Act from owning or having any control or influence over a veterinarian's practice. The legislature added several provisions that prohibit certain business relationships involving veterinarians and their practices. The provisions prohibit any person not licensed by the Act from intervening between the veterinarian and the veterinarian's clients in a manner that controls or exploits the professional services of a veterinarian and prohibit a veterinarian from allowing or being party to such interference or intervention by any non-licensee. In addition, language was added prohibiting ownership of sole proprietorships, partnerships, and corporations engaged in veterinary medicine unless the owners, partners, or shareholders are all licensees. Related provisions also prohibit the formation of a partnership between a veterinarian and a person not licensed under the Act if part of the partnership employment consists of the practice of veterinary medicine. These provisions place veterinary practices under the direct control of licensees.

Place restrictions on the business practices and physical arrangements of veterinary practices in leased facilities. The legislature added language that places restrictions on the business practices and physical arrangements of veterinary practices in leased mercantile establishments by requiring that the leased space be separated from other occupants by floor-to-ceiling walls, requiring that entrances be independent from those of any other occupants, and by specifying that all patient and business records are the sole property and under the sole control of the veterinarian. The provisions also prohibit a practice from being a department or concession within a mercantile establishment or from having signs or advertising that indicate the practice is other than an independent practice under control of the licensee. These provisions will ensure that veterinary practices remain independent

businesses of licensees and that practices are removed from appearances that may cause confusion to the public over who is responsible for the professional services offered.

Comparison of Original Sunset Legislation with Final Legislation

A comparison of S.B. 623 with the original sunset bill as introduced shows that the majority of Sunset Commission across-the-board recommendations proposed by the commission were included in the final bill. One across-the-board provision related to authorizing the board to require licensees to provide specific information to clients on signs or bills for services for purposes of directing complaints to the board was removed from the final bill.

None of the Sunset Commission's major recommendations were deleted from the final bill. However, one recommendation was modified during the legislative process. This recommendation related to continuing education requirements and is discussed under the previous analysis section.

Fiscal Impact

No fiscal impact. Any additional costs associated with implementing the legislation will be offset by additional fee revenue generated by the board.

Bill Summary - Enrolled Version
Texas Board of Veterinary Medical Examiners
SB 623 - Carriker

Bill Reference	Bill Provision
Page 1, Line 9 thru Page 3, Line 1	Changes the definition of the practice of veterinary medicine and adds new definitions for compensation, direct supervision, general supervision, registered veterinary technician, and veterinary medicine.
Page 3, Line 10	Clarifies the definition of the veterinarian-client-patient relationship, adds that the veterinarian must have recently seen or is personally acquainted with the care of the animals, and adds that the veterinarian is readily available for follow-up care.
Page 3, Line 21 thru Page 4, Line 13	Prohibits the professional services of a veterinarian from being under the control or be exploited by any person not licensed under the Act. Requires that a veterinarian not allow any person not licensed under the Act to interfere in the veterinarian practice and to avoid such relationships.
Page 4, Line 17 thru Page 6, Line 13	Modifies the practices and activities that are exempt from the Act and adds that the Act does not apply to consultations with a licensee by a veterinarian residing in another state.
Page 6, Line 22	Makes practicing without a license a Class A misdemeanor.
Page 7, Line 3	Requires that appointments to the board be made without regard to race, color, disability, sex, religion, age, or national origin. (ATB)
Page 7, Line 7	Changes current law that prohibits a board member from being on the faculty of a veterinary college or having a financial interest in a veterinary college to allow not more than one faculty member to serve on the board.
Page 7, Line 14 thru Page 8, Line 11	Requires public members on the board and prohibits appointment as a public member if the person or the person's spouse is a licensee, conducts business with the agency, or otherwise has financial ties to the regulated industry. (ATB)
Page 8, Line 14	Changes requirements for a quorum of the nine-member board from six to five.
Page 8, Line 19	Continues the Texas State Board of Veterinary Medical Examiners until 2005.

**Bill Summary - Enrolled Version
Texas Board of Veterinary Medical Examiners
SB 623 - Carriker**

Bill Reference	Bill Provision
Page 8, Line 20 thru Page 9, Line 21	Prohibits board members or their spouses and employees compensated at or above Group 17 in the appropriations act or their spouses from being an officer or employee of a related trade association. Also defines trade association. (ATB)
Page 9, Line 22 thru Page 10, Line 2	Prohibits registered lobbyists from serving as a member of the board or from being employed as general counsel to the board. (ATB)
Page 10 Line 3 thru Page 11, Line 2	Defines grounds for removing a board member and requires the executive director to notify the board chair if knowledge that a potential ground for removal exists. Affirms that an action of the board is valid even if it is taken when a ground for removal exists. (ATB)
Page 11, Line 6 Page 11, Line 24 thru Page 13, Line 14	Establishes training requirements for members of the board. Requires the board to establish a training program. Requires a new board member to pass an examination given in conjunction with the attorney general before the member can be confirmed by the senate. Specifies the information topics of training and that the program must be developed in consultation with the governor, the attorney general's office, and the Texas Ethics Commission. Provides that, if another program is developed by an authorized agency, the board may use that program.
Page 11, Line 10	Requires the board to provide information to its members and employees on the qualifications for office or employment and each person's responsibilities under the law. (ATB)
Page 11, Line 18	Requires the board to develop and implement policies that clearly define the respective responsibilities of the board and the staff. (ATB)
Page 13, Line 19	Requires the executive director or a designee to develop an intra-agency career ladder program and requires intra-agency posting of job openings concurrently with any public posting. (ATB)
Page 14, Line 2 thru Page 15, Line 4	Requires the executive director or a designee to prepare and maintain an equal employment opportunity policy and to report findings to the Human Rights Commission and the governor's office. (ATB)

Bill Summary - Enrolled Version
Texas Board of Veterinary Medical Examiners
SB 623 - Carriker

Bill Reference	Bill Provision
Page 15, Line 8	Requires the board to provide the public with reasonable opportunity to appear before it regarding issues under its jurisdiction. (ATB)
Page 15, Line 12	Requires the agency to develop a plan that describes how non-English speaking persons can be provided reasonable access to the agency's programs. Also requires the board to comply with federal and state laws for program and facility accessibility. (ATB)
Page 15, Line 20	Requires the board to adopt rules to protect the public by ensuring that alternative therapies such as magnetic field therapy, holistic medicine, and chiropractic treatment are only performed by or under the supervision of a licensee.
Page 16, Line 1	Allows the board to adopt rules for veterinarians who employ registered veterinary technicians in their practice.
Page 16, Line 17	Makes files and records of groundless complaints confidential.
Page 16, Line 23 thru Page 18, Line 10	Establishes a procedure for licensing out-of-state practitioners seeking licensure in Texas.
Page 18, Line 14	Authorizes the board to issue temporary and inactive licenses and require the board to set a limit for inactive licenses.
Page 18, Line 25 thru Page 19, Line 2	Requires that all licensing examinations be validated.
Page 19, Line 3	Requires the agency to notify license applicants of licensing examination results within a reasonable time of the examination date. (ATB)
Page 19, Line 16	Requires the board, upon request of an applicant who failed a licensing examination, to provide an analysis of the applicant's exam performance. (ATB)
Page 19, Line 23 thru Page 21, Line 3	Establishes a method for license renewal and a time-frame and penalty structure for delinquent renewals. (ATB)
Page 21 Line 10	Requires mandatory continuing education and requires the board to establish general categories of continuing education and may require licensees to complete continuing education courses.

Bill Summary - Enrolled Version
Texas Board of Veterinary Medical Examiners
SB 623 - Carriker

Bill Reference	Bill Provision
Page 22, Line 1	Requires the board to use a full range of penalties, such as reprimand, suspension or revocation, for violations of state laws or agency rules. (ATB)
Page 24, Line 3 thru Page 30, Line 21 Page 32, Line 3 Page 34, Line 10 Page 34, Line 25 thru Page 35, Line 4 Page 43, Line 10	Provides authority for an adequate range of enforcement powers. Sets maximum civil penalty authority at \$1,000 per violation per day of violation, and changes the maximum administrative penalty authority from \$2,500 per violation per day of violation to \$5,000. Authorizes continuing education as an enforcement tool. Requires that the schedule of sanctions adopted by the board to be used by the Office of Administrative Hearings. Defines a process whereby a committee of the board consisting of at least one public member recommends administrative penalties, provides notice and hearing requirements, and timelines for the process. Provides for judicial review of appealed orders.
Page 26, Line 16	Makes a violation of the Act a Class A misdemeanor.
Page 30, Line 25 thru Page 31, Line 21	Authorizes the board to temporarily suspend a license without notice or hearing in cases where a licensee's condition or activities constitute a serious and immediate threat to the public welfare. Places responsibility for the decision to issue a temporary suspension with an executive committee of the board consisting of the chair and two other members appointed by the chair. Requires that, at the time the temporary suspension is ordered, a hearing be scheduled within 14 days on whether disciplinary proceedings should be initiated against the licensee. Requires that a second hearing on the suspended license must be held not later than 60 days after the temporary suspension is ordered or the license is automatically reinstated.
Page 32, Line 10	Allows the board to conduct its deliberations on disciplinary actions in executive session and requires the vote and announcement of its decision to be in open session.
Page 32, Line 17	Technical correction.
Page 33, Line 16	Requires the agency to prepare and distribute information to the public concerning the agency's functions and complaint procedures. (ATB)

**Bill Summary - Enrolled Version
Texas Board of Veterinary Medical Examiners
SB 623 - Carriker**

Bill Reference	Bill Provision
Page 33, Line 20	Establishes a 1-800 telephone number for complaint information as follows: provides for referral of complaints to appropriate agencies as well as assistance with complaint filing; requires that administration of the number be physically assigned somewhere; and requires that the number be listed in the telephone listing of each board.
Page 33, Line 23 thru Page 34, Line 18	Requires the agency to maintain files on complaints that the agency has the authority to resolve. Deletes outdated language. (ATB)
Page 34, Line 19	Requires the agency to periodically provide written notice to all parties to a formal complaint of the status of the complaint. (ATB)
Page 34, Line 25 thru Page 36, Line 14 Page 37, Line 15 thru Page 38, Line 13 Page 42, Line 4	Standardizes the enforcement process of the board. Requires that standard procedures be established for complaint intake, investigations, informal hearings, and development of disciplinary sanctions. In addition, the board shall develop procedures for monitoring, record keeping, and meeting timelines for complaint resolution.
Page 36, Line 18 thru Page 37, Line 11	Prohibits a veterinarian from violating the confidential relationship between the veterinarian and a client and specifies what information may be released and conditions of the release.
Page 38, Line 16 Page 39, Line 22 thru Page 40, Line 7	Requires that fees be set by the board as necessary to cover the cost of regulation.
Page 39, Line 4	Requires the board to file an annual report with the governor and the legislature detailing the agency's financial transactions. (ATB)
Page 39, Line 16	Prohibits any sole proprietorship, partnership, or corporation from engaging in the practice of veterinary medicine unless the owners, partners, or shareholders are all licensees.

**Bill Summary - Enrolled Version
Texas Board of Veterinary Medical Examiners
SB 623 - Carriker**

Bill Reference	Bill Provision
Page 40, Line 11 thru Page 42, Line 16	Establishes restrictions for a veterinarian and a leaser if the veterinarian's practice is in space leased in a mercantile establishment. Places restrictions on signs, advertising, physical arrangements, entry, and the business relationship if a practice is located within the same physical structure as other mercantile activities. Exempts delivery of temporary limited-service veterinary activities under certain conditions. Specifies that all patient and business records of the veterinarian are the sole property and free from control of any person not a licensee. Allows use of management companies for certain business activities. Exempts practitioners operating before January 1, 1993 from physical entrance provisions.
Page 42, Line 17	Makes the ownership of a deceased veterinary's practice and records the property of the licensee's heirs and requires disposal within two years.
Page 42, Line 23 thru Page 43, Line 3	Exempts dangerous drugs prescribed or dispensed by a veterinarian for administration to food production animals in a agricultural operation from the labeling provisions of the Health and Safety Code.
Page 44, Line 1	Makes the effective date of the Act September 1, 1993.
Page 44, Line 2	Emergency clause.

Health Professions Council

***Final Action: The Health Professions Council was created by the legislature. The council will be reviewed in 12 years.
SB 674 by Moncrief***

Analysis of Major Provisions in the Final Bill

Senate Bill 674, as introduced, contained the Sunset Commission's recommendations for the creation of the Health Professions Council as well as recommendations on the Midwifery Board, the Texas State Board of Examiners of Dietitians, and the Texas Board of Licensure of Nursing Home Administrators. During the legislative process, the recommendations for midwifery and dietitians were placed into other bills and the final version of Senate Bill 674 contained only legislative action related to the Texas Board of Licensure for Nursing Home Administrators and the Health Professions Council. The Health Professions Council was created to coordinate the administrative and regulatory efforts of the health care licensing boards. The major provisions in the final version of Senate Bill 674 that relate to the council are discussed below. A bill summary of S.B. 674 is provided with the material related to the Texas Board of Licensure for Nursing Home Administrators.

Establish a 1-800 telephone number for persons to call with complaints about health care licensees and provide assistance to those persons needing help filing a complaint.

The legislature adopted the recommendation of the Sunset Commission for the council to create a 1-800 number for persons to report and refer complaints to the health licensing boards. The legislature also required the toll-free number to be listed with the health licensing agency's regular telephone number.

Require board members to participate in training before serving on the board.

Based on a recommendation of the Sunset Commission, the legislature required the council to establish a training program for board members of the health care licensing boards. The training must include information regarding laws enforced by the board; programs and budget of the board; and the requirements of state laws regarding open meetings, open records, administrative procedures, and ethics.

Restrict unlawful, false, misleading, or deceptive practices in advertising by licensees of the health licensing boards.

The legislature added language listing various unlawful advertising practices subject to action by the appropriate health licensing agency and the consumer protection division of the Office of the Attorney General. The provisions also authorize health licensing boards to revoke the license or deny the renewal of a health care license for violation of the advertising laws.

Authorize the courts to assess civil penalties of up to \$1,000 per violation per day. The legislature adopted provisions specifying that civil penalty authority of \$1,000 per day of

violation for certain violations. The penalty can be imposed for violations of the unlawful advertising provisions, the requirement that certain information be included on all bills for services, and the prohibited practice of overcharging or overtreating a patient. A civil penalty is a monetary penalty imposed by a court for a violation that is not criminal in nature. This civil penalty may be used against persons who violate the provisions of the act creating the Health Professions Council. The attorney general may institute an action to assess a civil penalty.

Authorize the attorney general to bring injunctive relief for actual or threatened violations of the article. The legislature authorized the attorney general or the appropriate health licensing board to use injunctive action to stop a violation or threatened violation of the Health Profession Council article. Injunctive relief can be used for violations of the unlawful advertising provisions, the requirement that certain information be included on all bills for services, and the prohibited practice of overcharging or overtreating a patient. The health licensing board or the attorney general may recover reasonable expenses incurred in getting injunctive relief.

Require the council to conduct various studies on the consolidation, collocation, and coordination of the regulatory functions of the health care licensing boards. Based on a recommendation of the Sunset Commission, the legislature required the council to prepare an annual statistical report to the governor showing the enforcement actions of the health licensing boards and outlining recommendations for statutory change. The council, in coordination with the Legislative Budget Board, governor's office and the Department of Health, are to study the consolidation of all the boards' operations related to complaint intake, referrals, investigations, agency administration and budget preparation. At any time before the submission of the report, the boards may adopt a memorandum of understanding to share services and personnel. The council is also required to conduct a number of studies including the feasibility of collocation of health care licensing boards. The council is also required to study the feasibility of prohibiting individuals who are not physicians from intervening in medical practice decisions.

Comparison of Sunset Commission Legislation with Final Legislation

All of the Sunset Commission's specific program recommendations remained in the final bill.

Fiscal Impact

No fiscal impact. All costs associated with implementing this legislation will be offset by additional fee revenue generated by the agencies that are members of the council. The budget of the council will be supported by the member agencies on a pro rata basis.

Texas Board of Physical Therapy Examiners Texas Board of Occupational Therapy Examiners

Final Action: *The Texas Board of Physical Therapy Examiners and the Texas Board of Occupational Therapy Examiners (formerly the Texas Advisory Board of Occupational Therapy) were continued for a 12-year period with changes. The boards were placed under the oversight of a newly created Executive Council of Physical Therapy and Occupational Therapy Examiners.*

SB 690 by Carriker

Analysis of Major Provisions in the Final Bill

Senate Bill 690, as introduced, contained the Sunset Commission's original recommendations for the Texas Board of Physical Therapy Examiners and the Texas Board of Occupational Therapy Examiners. The introduced legislation would have merged the two boards. The legislature decided to maintain the two boards but created the Executive Council of Physical Therapy and Occupational Therapy Examiners to carry out administrative functions and oversee the activities of the two boards. Most of the Sunset Commission's recommendations remained in the final version of the bill, along with a number of new provisions added by the legislature. The major provisions in the final bill are discussed below.

Require board members to participate in training before serving on the board. Based on a recommendation of the Sunset Commission, the legislature required that board members receive training in specific areas before serving on the board. The training must include information regarding laws enforced by the board; programs and budget of the board; and the requirements of state laws regarding open meetings, open records, administrative procedures, and ethics. Unless the training requirements are developed by another state agency or entity, the board is required to develop the training in consultation with the governor's office, the attorney general's office, and the Texas Ethics Commission.

Strengthen and standardize the complaint investigation and enforcement provisions. The legislature adopted a standard approach to complaint investigation and enforcement recommended by the Sunset Commission for all the health care licensing boards. The approach strengthens statutory requirements for handling complaints by requiring the board to use a toll-free phone number for complaints, adopt standardized complaint forms, provide assistance to people filing complaints, and maintain specific information in complaint files. Complaints must be investigated in a timely manner and may not be dismissed without appropriate consideration. Complainants must be notified of investigation timelines and unexpected changes in the timelines. The board is also required to adopt procedures for the

informal disposition of a complaint and both the complainant and the licensee must be given an opportunity to be heard. Finally, the board is required to develop a schedule of disciplinary sanctions to encourage the consistent use of sanction authority and to develop a procedure for monitoring licensees placed on probation. Use of this standard complaint process will help ensure consistent, thorough investigation and resolution of complaints.

Require mandatory continuing education as a condition of license renewal. The legislature adopted the recommendation of the Sunset Commission requiring licensees to meet standardized mandatory continuing education requirements established by the board. The board is required to establish a minimum number of hours of continuing education required for license renewal, identify the key factors that lead to the competent performance of professional duties, develop a process to assess a licensee's participation and performance in continuing education courses, evaluate the overall effectiveness of the program, assess the continuing education needs of licensees, and require licensees to attend specific continuing education courses.

Set up a procedure to allow practitioners licensed in other states to come to Texas and, after meeting certain requirements, get a license to practice. The legislature adopted the Sunset Commission recommendation creating a standardized process for licensing out-of-state practitioners. The process provides for issuance of a provisional license by the board after verification of the applicant's credentials and license status in the state of current licensure. To qualify for a provisional license, an out-of-state practitioner must be in good standing in the state in which the applicant is licensed, must have passed a national or recognized examination, and must be sponsored by a licensed practitioner in Texas. The board is required to issue a permanent license to the provisional license holder if that person passes the state jurisprudence examination and meets education, experience, and other requirements for licensure under the Act. The board must complete processing of a provisional license holder's application for a permanent license within 180 days or at the time licenses are issued following successful completion of an examination.

Require fees be set by the executive council to cover the cost of regulation. Based on a recommendation of the Sunset Commission, the legislature removed current statutory fee levels and authorized the executive council to set fees as necessary to cover the costs of regulating the two professions. This allows the council by rule to establish and adjust fees to meet the expenses of administering the two boards' enabling acts. The executive council may not set a fee at an amount less than the fee levels being used by the two boards as of September 1, 1993.

Prohibit other health care professionals from representing themselves as providers of physical therapy services. The legislature adopted the recommendation of the Sunset Commission that prohibits practitioners licensed by other health care regulatory agencies from practicing or in any way representing themselves as providers of physical therapy. The provision clarifies that it is not meant to prevent practitioners from using modalities and certain procedures in their services as long as they are properly trained and licensed to practice the procedures under their licensing laws. This provision enhances the protection

of the general public by ensuring that only duly licensed physical therapy professionals can represent themselves as providers of physical therapy services.

Provide clear authority to license foreign-trained applicants for physical therapy licensure.

Based on the Sunset Commission's recommendation, the legislature provided the Texas Board of Physical Therapy Examiners with the authority to license applicants who have been trained in foreign countries. The provision also specifies that applicants should meet all the licensure requirements and that their educational and training background should meet the standards of the Commission on Accreditation of Physical Therapy Education, the national accreditation entity for physical therapy educational programs outside of the United States.

Require the two boards to register, respectively, physical therapy and occupational therapy facilities.

Based on the Sunset Commission's recommendation that the board register physical therapy facilities, the legislature adopted provisions that require both the physical therapy board and the occupational therapy board to register their respective facilities. Facilities that are licensed under Subtitle B, Title 4 of the Health and Safety Code, such as hospitals, are exempted from the registration requirements. This requirement enables the two boards to regulate facilities where services are provided to ensure that these facilities meet necessary standards of operation.

Allow a person who is qualified as a physical therapist to be eligible for licensure as a physical therapy assistant.

The legislature adopted the recommendation by the Sunset Commission that allows the board to license a person who has been trained in a physical therapy program as a physical therapist assistant. The provision also specifies that the applicant should meet all the licensure requirements for physical therapist assistant set by the board and that they must not have had any disciplinary actions in other states or countries.

Require all persons holding temporary physical therapy licenses to practice under supervision.

The legislature adopted the recommendation by the Sunset Commission that requires all persons holding temporary licenses for physical therapy practice physical therapy under the supervision of duly licensed physical therapists. This requirement provides further protection of the public by ensuring that physical therapy services be provided only by licensees or under the supervision of licensees.

Clarify that it is unlawful to act, practice or represent oneself as a provider of occupational therapy services unless one is licensed by the occupational therapy board.

The legislature adopted a provision that prevents persons not licensed by the Texas Board of Occupational Therapy Examiners from acting as occupational therapists and from practicing occupational therapy. This change expands the prohibited acts specified in the existing occupational therapy act stating that non-licensees of the board may not represent themselves as providers of occupational therapy services.

Comparison of Sunset Commission Legislation with Final Legislation

A comparison of S.B. 690 with the original sunset bill as introduced shows that most of the standard Sunset Commission across-the-board recommendations proposed by the commission were included in the final bill. However, two across-the-board recommendations were inadvertently excluded during the redrafting of the legislation. These two across-the-board recommendations would require the agency to develop an annual job evaluation system and the boards to provide information to their members and employees on the qualifications for office or employment and each person's responsibilities under the law.

Most of the Sunset Commission's specific program recommendations remained in the final bill. The single major revision of the Sunset Commission's recommendation by the legislature concerns the consolidation of the two boards that regulate the practice of physical therapy and occupational therapy in the state.

Merge the policy boards that regulate physical therapists and occupational therapists into a single board to regulate both professions. The Sunset Commission had recommended consolidating the two boards that regulate the practice of physical therapy and occupational therapy into a single policy board, and creating two subcommittees to propose rules for the regulation of physical therapy and occupational therapy. The recommendation for this consolidation was based on findings that the two professions are very similar in education, training, and practice, and on the belief that similar professions should be regulated with more consistent policies and measures. The legislature revised the sunset recommendation by keeping the two boards separate but created an executive council to carry out the administrative functions and to oversee and coordinate the operations of the boards to ensure the consistency of policy in the regulation of the two professions.

Fiscal Impact

No fiscal impact. Any additional costs associated with implementing this legislation will be offset by additional fee revenue generated by the boards.

**Bill Summary - Enrolled Version
 Texas Board of Physical Therapy Examiners and the
 Texas Board of Occupational Therapy Examiners
 SB 690 Carriker**

Bill Reference	Bill Provision
Page 1, Line 11 thru Page 14, Line 14 Page 18, Line 8 thru Page 21, Line 8 Page 24, Line 13 Page 24, Line 21 thru Page 25, Line 5 Page 29, Line 24 thru Page 30, Line 6 Page 53, Line 19 Page 54, Line 18 Page 55, Line 12 thru Page 58, Line 11 Page 63, Line 6 Page 63, Line 19 thru Page 66, Line 4 Page 83, Line 16	Maintains the two separate boards regulating the practice of physical therapy and occupational therapy and creates an executive council to carry out the administrative functions and to oversee and coordinate the operations of the two boards. Major provisions specify: <ul style="list-style-type: none"> - that the functions and responsibilities of the executive council are to hire an executive director and staff to administer and enforce the physical therapy act and the occupational therapy act, to carry out administrative duties related to license issuance and renewal, budget preparation, fee setting, reviewing the operations of the two boards and filing a report of its activities to the legislature, the governor, and the LBB, to review rules proposed by each board, and to authorize necessary disbursements to carry out the provisions of the law; - the purposes of the physical therapy board; - the method for staggering the terms of members the physical therapy board; - board member compensation, reimbursement for travel, and other expenses related to the activities of the council and the boards; - that the name of the "Texas Advisory Board of Occupational Therapy" be changed into "State Board of Occupational Therapy Examiners" and makes technical changes related to this change; and - that the executive council, the physical therapy board, and the occupational therapy board are subject to open meetings law and the APTRA procedure. Also makes technical changes due to the creation of the executive council and the two boards. (Senate committee substitute)
Page 2, Line 19 Page 19, Line 12 Page 55, Line 21	Requires that appointments to executive council and the boards be made without regard to race, color, disability, sex, religion, age, or national origin. Inadvertently fails to update the provision in the physical therapy act.

Bill Summary - Enrolled Version
Texas Board of Physical Therapy Examiners and the
Texas Board of Occupational Therapy Examiners
SB 690 Carriker

<p>Page 3, Line 17 thru Page 4, Line 13 Page 25, Line 6 Page 58, Line 12 thru Page 59, Line 3</p>	<p>Requires public members on the board and the executive council, and prohibits appointment as a public member if the person or the person's spouse is a licensee, conducts business with the agencies, or otherwise has financial ties to the regulated industries.</p>
<p>Page 4, Line 14 thru Page 5, Line 8 Page 20, Line 10 Page 25, Line 23 thru Page 26, Line 9 Page 59, Line 4</p>	<p>Prohibits board and executive council members or their spouses and the board employees compensated at or above Group 17 in the appropriations act or their spouses from being an officer or employee of a related trade association. Also defines trade association.</p>
<p>Page 5, Line 9 Page 20, Line 16 Page 26, Line 10 Page 59, Line 16</p>	<p>Prohibits registered lobbyists from serving as a member of the board and the executive council, or from being employed as general counsel to the board and the executive council.</p>
<p>Page 5, Line 17 thru Page 6, Line 14 Page 20, Line 19 thru Page 21, Line 8 Page 26, Line 15 thru Page 27, Line 12 Page 59, Line 22 thru Page 60, Line 19</p>	<p>Defines grounds for removing a board member or an executive council member; requires the executive director to notify the board chair or the executive council chair of knowledge that a potential ground for removal exists. Affirms that an action of the board or the executive council is valid even if it is taken when a ground for removal exists.</p>
<p>Page 6, Line 19 Page 27, Line 16 Page 60, Line 23</p>	<p>Requires the two boards and the executive council to develop and implement policies that clearly define the respective responsibilities of the boards and the staff of the executive council.</p>
<p>Page 10, Line 9</p>	<p>Requires the executive council to file an annual report with the governor and the legislature detailing the financial transactions of the two boards.</p>
<p>Page 10, Line 16 Page 19, Line 20 Page 65, Line 6</p>	<p>Requires the executive director of the executive council or a designee to develop an intra-agency career ladder program and requires intra-agency posting of job openings concurrently with any public posting.</p>

**Bill Summary - Enrolled Version
 Texas Board of Physical Therapy Examiners and the
 Texas Board of Occupational Therapy Examiners
 SB 690 Carriker**

<p>Page 10, Line 24 thru Page 12, Line 1</p>	<p>Requires the executive director of the executive council or a designee to prepare and maintain an equal employment opportunity policy and to report findings to the Human Rights Commission and the governor's office.</p>
<p>Page 12, Line 2 thru Page 13, Line 3 Page 23, Line 12 Page 27, Line 22 thru Page 28, Line 1 Page 61, Line 4 Page 65, Line 17</p>	<p>Requires the boards and the executive council to prepare and distribute information to the public concerning the agencies' and the executive council's functions and complaint procedures.</p>
<p>Page 12, Line 25 thru Page 13, Line 3</p>	<p>Establish a 1-800 telephone number for complaint information as follows: provide for referral of complaints to appropriate agencies as well as assistance with complaint filing; require that administration of the number be physically assigned somewhere; and require that the number be listed in the telephone listing of the executive council.</p>
<p>Page 13, Line 4 Page 28, Line 2 Page 61, Line 9</p>	<p>Requires the two boards and the executive council to provide the public with reasonable opportunity to appear before them regarding issues under their jurisdiction.</p>
<p>Page 13, Line 9 Page 28, Line 6 Page 61, Line 13</p>	<p>Requires the executive council and the two boards to develop a plan that describes how non-English speaking persons can be provided reasonable access to the council's and the boards' programs. Also requires the council and the boards to comply with federal and state laws for program and facility accessibility.</p>
<p>Page 13, Line 15 Page 28, Line 11 thru Page 29, Line 23 Page 61, Line 18 thru Page 63, Line 5</p>	<p>Establishes training requirements for members of the boards and the executive council.</p>
<p>Page 14, Line 3 Page 20, Line 6 Page 30, Line 7 Page 57, Line 18 Page 63, Line 14</p>	<p>Continues the regulation of physical therapists and occupational therapists for a 12-year period. The change authorizes the executive council to exist for 12 years and sets the sunset review date for the executive council as 2005.</p>

**Bill Summary - Enrolled Version
 Texas Board of Physical Therapy Examiners and the
 Texas Board of Occupational Therapy Examiners
 SB 690 Carriker**

Page 14, Line 16 thru Page 18, Line 7	Defines and updates the terms "physical therapy", "physical therapist", "physical therapist assistant", "physical therapy aid or technician", "practice of physical therapy", "physical therapy facility," etc.
Page 18, Line 12	States the purpose of the physical therapy board.
Page 19, Line 23 thru Page 20, Line 2 Page 65, Line 10	Inadvertently removed. Also deletes old provisions.
Page 21, Line 9 thru Page 22, Line 2	Defines and updates the subjects that a licensure examination for physical therapy should cover.
Page 22, Line 3 Page 71, Line 1	Requires the boards to notify license applicants of licensing examination results within a reasonable time of the examination date.
Page 22, Line 20	Authorizes the physical therapy board to set the limit on the number of and the conditions for examination retakes.
Page 22, Line 24 Page 70, Line 14	Requires that all licensing examinations be validated.
Page 23, Line 1 Page 70, Line 23	Requires the boards, upon request of an applicant who failed a licensing examination, to provide an analysis of the applicant's exam performance.
Page 23, Line 5 Page 50, Line 16 Page 64, Line 13 Page 66, Line 19	Requires the two boards to maintain files on complaints filed with the executive council and referred to the boards. Also deletes old provisions.
Page 23, Line 5 Page 51, Line 3 Page 64, Line 15 Page 67, Line 5	Requires the two boards to periodically provide written notice to all parties to a formal complaint of the status of the complaint. Also deletes old provisions.
Page 24, Line 6 Page 43, Line 2 Page 64, Line 23 thru Page 65, Line 1 Page 66, Line 5	Requires mandatory continuing education.

Bill Summary - Enrolled Version
Texas Board of Physical Therapy Examiners and the
Texas Board of Occupational Therapy Examiners
SB 690 Carriker

<p>Page 27, Line 13 Page 27, Line 19 Page 30, Line 12 thru Page 31, Line 7 Page 57, Line 6 Page 60, Line 20 thru Page 61, Line 3</p>	<p>Specifies functions and the relationship of the two boards to the executive council by allowing the boards to request the council to assign administrative and clerical employees as necessary; specifying that the boards administer and enforce, respectively, the physical therapy practice act and the occupational therapy practice act; requires the physical therapy program and the occupational therapy program coordinator to transmit the respective list of licensees to the executive council in addition to the secretary of state.</p>
<p>Page 31, Line 8 thru Page 34, Line 7</p>	<p>Prohibits other health care professionals from representing themselves as providers of physical therapy services, including the use of certain titles and terms, unless they are also licensed by the physical therapy board. Also clarifies that the Act does not prohibit a practitioner not licensed by the physical therapy board from performing health care services within the scope of the practitioner's licensing act.</p>
<p>Page 34, Line 8 thru Page 35, Line 8</p>	<p>Defines the meaning of an equivalent program to be one certified by the Commission on Accreditation of Physical Therapy Education.</p>
<p>Page 35, Line 9 thru Page 36, Line 5</p>	<p>Allows a person who is qualified as a physical therapist to be eligible for licensure as a physical therapist assistant. The change specifies that the applicant must meet all of the board's licensure requirements for physical therapy and must not have had any disciplinary action in other states or countries.</p>
<p>Page 36, Line 6 thru Page 38, Line 5 Page 71, Line 12 thru Page 73, Line 12</p>	<p>Establishes a procedure for licensing out-of-state practitioners seeking licensure in Texas. The change specifies that the applicant must pass any jurisprudence examination and allows the board to extend the time limit for a provisional license if pending exam results.</p>
<p>Page 38, Line 6</p>	<p>Provides clear authority to license foreign-trained applicants.</p>
<p>Page 38, Line 16 thru Page 39, Line 21 Page 73, Line 24 thru Page 74, Line 23 Page 76, Line 22 thru Page 77, Line 16</p>	<p>Authorizes a full range of licensing options and requires the boards to set a time limit for temporary licenses.</p>

Bill Summary - Enrolled Version
Texas Board of Physical Therapy Examiners and the
Texas Board of Occupational Therapy Examiners
SB 690 Carriker

Page 38, Line 16	Requires all persons holding temporary physical therapy licenses to practice under supervision.
Page 39, Line 22 thru Page 40, Line 12	Changes existing provision to prohibit licensed physical therapist from using any affix such as "Dr." and "Doctor".
Page 40, Line 13	Authorizes two-year license renewal.
Page 40, Line 19 thru Page 42, Line 13 Page 75, Line 14 thru Page 76, Line 21	Establishes a method for license renewal and a time-frame and penalty structure for delinquent renewals. The change requires the executive council, instead of the boards, to collect fees related to license renewal.
Page 42, Line 14 thru Page 43, Line 1 Page 74, Line 24 thru Page 75, Line 13	Authorizes the boards to adopt a staggered license renewal system.
Page 43, Line 18 thru Page 45, Line 5 Page 64, Line 1 Page 83, Line 9	Requires the individual boards to recommend to the executive council fees as necessary to cover the cost of regulating the two professions.
Page 45, Line 6 thru Page 49, Line 8	Updates and clarifies that practicing physical therapy without the referral from an authorized referring practitioner is a ground for denial of a licensure or discipline of a licensee. Expands the meaning of "referring practitioners" from those licensed by specific Texas licensing boards to those licensed by specific boards of any state. Makes technical changes.
Page 49, Line 9 Page 79, Line 13	Entitles licensees to a board hearing before any sanction may be taken against their license.
Page 49, Line 16 thru Page 50, Line 11 Page 64, Line 10 Page 79, Line 23 thru Page 82, Line 2	Requires the board to use a full range of penalties, such as reprimand, suspension or revocation, for violations of state laws or agency rules.

Bill Summary - Enrolled Version
Texas Board of Physical Therapy Examiners and the
Texas Board of Occupational Therapy Examiners
SB 690 Carriker

Page 50, Line 12 thru Page 53, Line 18 Page 66, Line 19 thru Page 69, Line 20	Standardizes the enforcement process of the health care licensing boards. Require that standard procedures be established for complaint intake, investigations, informal hearings, and development of disciplinary sanctions. In addition, develop procedures for monitoring, record keeping, and meeting timelines for complaint resolution.
Page 53, Line 24 thru Page 54, Line 11 Page 82, Line 20 thru Page 83, Line 8	Requires the two boards to register, respectively, physical therapy and occupational therapy facilities. (Senate committee substitute) Exempts facilities licensed under Subtitle B, Title 4 of Health and Safety Code from this provision.
Page 54, Line 13	Changes the title of the "Occupational Therapy Title Act" into "Occupational Therapy Practice Act."
Page 54, Line 18 thru Page 55, Line 11	Provides definitions for occupational therapy board, occupational therapy aide or orderly, executive council, and coordinator of occupational therapy programs.
Page 73, Line 13	Technical correction.
Page 77, Line 17 thru Page 78, Line 5	Specifies that only a person licensed by the occupational therapy board can use certain titles, affixes, and terms.
Page 78, Line 6 thru Page 79, Line 12	Adds that it is prohibited for one to act or practice as a provider of occupational therapy services unless one is licensed by the occupational therapy board.
Page 82, Line 3	Prevents the occupational therapy board from adopting rules that restrict competitive bidding or advertising except to prohibit false, misleading or deceptive practices.
Page 84, Line 25	Effective date is September 1, 1993.
Page 85, Line 1	Emergency clause.

Texas Board of Licensure of Nursing Home Administrators

Final Action: The Texas Board of Licensure of Nursing Home Administrators was abolished and its functions were transferred to the Texas Department of Health

SB 674 by Moncrief

Analysis of Major Provisions in the Final Bill

Senate Bill 674, as introduced, contained the Sunset Commission's original recommendations for the Midwifery Board, the Texas Board of Examiners of Dietitians, the Texas Board of Licensure of Nursing Home Administrators, and the creation of the Health Professions Council. During the legislative process, the recommendations for midwifery and dietitians were split out into separate bills and the final version of Senate Bill 674 contained only legislative action related to the Texas Board of Licensure of Nursing Home Administrators and the Health Professions Council. The Texas Board of Licensure of Nursing Home Administrators was abolished and its functions were transferred to the Texas Department of Health under a newly created board charged with regulation of nursing facility administrators. While an entirely new licensing and regulatory act was created for nursing facility (home) administrators, the basic licensing and regulatory scheme remained unchanged. The Sunset Commission recommendations applied to all other health licensing boards were included. Most of these recommendations remained in the final version of the bill. The major provisions in the final version of Senate Bill 674 that related to nursing facility administrators are discussed below. The provisions that relate to the creation of the Health Professions Council are discussed elsewhere.

Strengthen and standardize the complaint investigation and enforcement provisions. The legislature adopted a standard approach to complaint investigation and enforcement recommended by the Sunset Commission for all the health care licensing boards. The approach strengthens statutory requirements for handling complaints by requiring the board to adopt standardized complaint forms, provide assistance to people filing complaints, and maintain specific information in complaint files. Complaints must be investigated in a timely manner and may not be dismissed without appropriate consideration. Complainants must be notified of investigation timelines and unexpected changes in the timelines. The board is also required to adopt procedures for the informal disposition of a complaint and both the complainant and the licensee must be given an opportunity to be heard. Finally, the board is required to develop a schedule of disciplinary sanctions to encourage the consistent use of sanction authority and to develop a procedure for monitoring licensees placed on probation. Use of this standard complaint process will help ensure consistent, thorough investigation and resolution of complaints.

Authorize the board to assess administrative penalties for violations of law or board rules.

The legislature adopted the recommendation of the Sunset Commission to authorize the board to assess administrative penalties. The Sunset Commission recommended \$2,500 per day of violation as the maximum administrative penalty the board could be assessed. However, during the legislative process this amount was reduced to \$1,000. An administrative penalty may be assessed in addition to other sanctions ordered by the board. Authorizing the board to assess administrative penalties provides the board with another enforcement tool to allow it to deal appropriately with the different levels of violations and the circumstances that surround them.

Authorize the courts to assess civil penalties of up to \$1,000 per violation per day. The legislature adopted the recommendation of the Sunset Commission that civil penalty authority of \$1,000 per day of violation be added to the enforcement powers provided in the Act. A civil penalty is a monetary penalty imposed by a court for a violation that is not criminal in nature. Civil penalties are often used against persons who are practicing without a license. The board may request the attorney general to bring an action to assess a civil penalty.

Set up a procedure to allow practitioners licensed in other states to come to Texas and, after meeting certain requirements, get a license to practice. The legislature adopted the Sunset Commission recommendation creating a standardized process for licensing out-of-state practitioners. The process provides for issuance of a provisional license by the board after verification of the applicant's credentials and license status in the state of current licensure. To qualify for a provisional license, an out-of-state practitioner must be in good standing in the state in which the applicant is licensed, must have passed a national or recognized examination, and must be sponsored by a licensed practitioner in Texas. The board is required to issue a permanent license to the provisional license holder if that person passes examinations required by the board and meets education, experience, and other requirements for licensure under the Act. The board must complete processing of a provisional license holder's application for a permanent license within 180 days or at the time licenses are issued following successful completion of required examinations.

Require fees be set by the board to cover the cost of regulation. Based on a recommendation of the Sunset Commission, the legislature removed current statutory fee levels and authorized the board to set fees as necessary to cover the costs of regulation. This allows the board by rule to establish and adjust fees to meet the expenses of administering the board's enabling Act.

Comparison of Sunset Commission Legislation with Final Legislation

A comparison of S.B. 674 with the original sunset bill as introduced shows that the majority of Sunset Commission across-the-board recommendations proposed by the commission were included in the final bill.

None of the Sunset Commission's major recommendations were deleted from the final bill.

Fiscal Impact

Fiscal Year	Savings to the Nursing Home Administrators Account No. 137 in the General Revenue Fund
1994	\$104,061
1995	\$105,353
1996	\$105,353
1997	\$105,353
1998	\$105,353

The bill's provisions produce a net savings to the board's fund. The abolition of the independent agency and restructuring the licensing and regulatory function in the Texas Department of Health results in three less staff and lower operating costs.

**Bill Summary - Enrolled Version
Creation of the Health Professions Council
Texas Board of Licensure for Nursing Home Administrators
SB 674 - Moncrief**

Bill Reference	Bill Provision
HEALTH PROFESSIONS COUNCIL	
Page 1, Line 10 thru Page 2, Line 26	Creates a Health Professions Council and specifies its composition and officers. Prohibits a member of the council from receiving compensation or a per diem for service on the council. Authorizes the council to employ staff or designate staff from the member boards to carry out the council's responsibilities. Requires the council to adopt an annual budget funded by a prorated assessment paid by the member boards.
Page 2, Line 27 thru Page 3, Line 8	Establishes a 1-800 telephone number for complaint information. Requires the health licensing agencies that regulate the health care professions to list the number with their regular telephone number.
Page 3, Line 9 thru Page 4, Line 16	Requires the council to establish a training program for new members of the health licensing boards and specifies the program's topics.
Page 4, Line 17 thru Page 6, Line 6	Prohibits advertising that is false, misleading, deceptive, or not readily subject to verification. Authorizes the appropriate health licensing agency to revoke or deny the license. Specifies that a violation of this section does not create a private cause of action.
Page 6, Line 7	Requires a health care professional, upon written request from the patient, to provide a written explanation of the charges billed.
Page 6, Line 17 thru Page 7, Line 3	Authorizes the council to assess a civil penalty for violation of the article up to \$1,000 per day of violation. Requires penalties collected to be deposited to the general revenue fund.
Page 7, Line 7	Authorizes the attorney general or appropriate health licensing board to bring an injunctive action to stop a violation of the article. Authorizes the recovery of reasonable expenses.
Page 7, Line 15 thru Page 8, Line 3	Requires the council to prepare an annual report to the governor showing the statistical compilation of enforcement actions taken by the health licensing agencies, recommendations for statutory changes, and other relevant information.

**Bill Summary - Enrolled Version
Creation of the Health Professions Council
Texas Board of Licensure for Nursing Home Administrators
SB 674 - Moncrief**

<p>Page 8, Line 4 thru Page 10, Line 5</p>	<p>Requires the council to adopt a memorandum of understanding with the General Services Commission to develop and implement a plan to collocate the staffs of the boards listed by Section 1(b) of this article, except that the memorandum shall provide for a study of the feasibility of relocating the health licensing division of the Department of Public Health with the collocated boards. Requires the council to conduct studies in conjunction with the Legislative Budget Board and the Texas Department of Health for methods to coordinate and centralize the administrative and regulatory functions of the health licensing boards. Authorizes the council to appoint working groups of the executive directors of the boards who report to the council. Requires the council to report the results of the studies to the governor, lieutenant governor and the speaker of the house by January 1, 1995.</p>
<p>Page 10, Line 6</p>	<p>Specifies that the provisions of the article are in addition to any other penalty provided by another statute, law, or rule.</p>
<p>NURSING HOME ADMINISTRATORS</p>	
<p>Page 10, Line 10 thru Page 11, Line 6 Page 33, Line 18</p>	<p>Continues regulation of nursing facility administration. Adds a new article to create the Texas Board of Nursing Facility Administrators with administrative responsibilities in the Texas Department of Health. Creates a short title for the Act and defines terms. Establishes September 1, 2005 as the sunset date for the newly created board.</p>
<p>Page 11, Line 7 thru Page 12, Line 19</p>	<p>Creates the Texas Board of Nursing Facility Administrators consisting of nine members, six licensees and three public members. Provides for staggered six-year terms expiring February 1 of each odd-numbered year. In addition, the state long-term care ombudsman of the Texas Department of Aging and the Commissioner of Human Services, or his designee, serve as non-voting ex officio members. Defines membership requirements for board members.</p>
<p>Page 11, Line 10 Page 13, Line 2</p>	<p>Requires public members on the board and prohibits appointment as a public member if the person or the person's spouse is a licensee, conducts business with the agency, or otherwise has financial ties to the regulated industry. (ATB)</p>

Bill Summary - Enrolled Version
Creation of the Health Professions Council
Texas Board of Licensure for Nursing Home Administrators
SB 674 - Moncrief

Page 11, Line 12	Requires that appointments to the board be made without regard to race, color, disability, sex, religion, age, or national origin. (ATB)
Page 12, Line 10	Prohibits registered lobbyists from serving as a member of the board or from being employed as general counsel to the board. (ATB)
Page 12, Line 20 thru Page 13, Line 1	Prohibits board members or their spouses and employees or their spouses from being an officer or employee of a related trade association. (ATB)
Page 13, Line 14 thru Page 14, Line 5	Defines grounds for removing a board member and requires the executive director to notify the board chair if knowledge that a potential ground for removal exists. Affirms that an action of the board is valid even if it is taken when a ground for removal exists. (ATB)
Page 14, Line 6	Specifies that the board's officers shall be a presiding officer and an assistant presiding officer elected by the board, that the board shall hold at least two meeting annually, and that board members are allowed travel expense compensation as provided by the General Appropriations Act.
Page 14, Line 16	Specifies that the board is subject to the Open Meetings Act and the Administrative Procedure and Texas Register Act.
Page 14, Line 23 thru Page 15, Line 11	Defines the powers and duties of the board as adopting and publishing a code of ethics, establishing qualifications for licensure and license renewal, spending funds for the effective administration of board functions, establishing reasonable and necessary fees, and establishing the minimum number of continuing education hours and the needs of an effective continuing education program.
Page 15, Line 12 thru Page 16, Line 1	Provides that the Texas Department of Health shall administer this article. The commissioner of health shall provide necessary staff and designate an employee to be the executive secretary of the board, who shall administer the licensing and other functions of the board.
Page 16, Line 2	Requires the agency to prepare and distribute information to the public concerning the agency's functions and complaint procedures. (ATB)

Bill Summary - Enrolled Version
Creation of the Health Professions Council
Texas Board of Licensure for Nursing Home Administrators
SB 674 - Moncrief

Page 16, Line 8	Requires the board to establish methods by which consumers and service recipients are notified of the information necessary to file complaints to the board. (ATB)
Page 16, Line 12	Requires the board to set by rule reasonable and necessary fees in amounts to cover the costs of administering the article and establishes a fund for the board in the general revenue fund.
Page 16, Line 22 thru Page 17, Line 3	Requires the board to file an annual report with the governor and the legislature detailing the agency's financial transactions. (ATB)
Page 17, Line 4	Authorizes the board to receive and disburse federal funds.
Page 17, Line 7	Prohibits practicing nursing facility administration without a license under the Act.
Page 17, Line 11	Defines license application process, qualifications for licensure, and examination requirements.
Page 18, Line 16	Requires that all licensing examinations be validated.
Page 18, Line 19 thru Page 19, Line 3	Requires the agency to notify applicants of licensing examination results within a reasonable time of the examination date. (ATB)
Page 19, Line 4	Requires the board, upon request of an applicant who failed a licensing examination, to provide an analysis of the applicant's exam performance. (ATB)
Page 19, Line 7	Authorizes the board to set by rule additional educational requirements for applicants who fail the exam three times.
Page 19, Line 10	Establishes the licensing process and licensee requirements and responsibilities.
Page 19, Line 16	Establishes a two-year licensing period and authorizes the board to establish a method for staggered renewal of licenses and proration of license renewal fees. (ATB)
Page 19, Line 25 thru Page 20, Line 4	Authorizes the board to issue temporary and inactive licenses and requires the board to set a limit for temporary licenses.
Page 20, Line 5 thru Page 21, Line 13	Establishes a procedure for licensing out-of-state practitioners seeking licensure in Texas.

**Bill Summary - Enrolled Version
Creation of the Health Professions Council
Texas Board of Licensure for Nursing Home Administrators
SB 674 - Moncrief**

Page 21, Line 14 thru Page 22, Line 12	Establishes a method for license renewal and a time-frame and penalty structure for delinquent renewals. (ATB)
Page 22, Line 13	Requires mandatory continuing education and authorizes the board to assess the continuing education needs of licensees and may require licensees to attend specified courses. Also authorizes the board to identify key factors of competent performance and assess attendees participation in courses.
Page 22, Line 23	Requires the board to maintain files on complaints that the board has the authority to resolve. Deleted outdated language. (ATB)
Page 22, Line 25 thru Page 24, Line 25 Page 32, Line 8 thru Page 33, Line 3	Standardizes the enforcement process of the board. Requires that standard procedures be established for complaint intake, investigations, informal hearings, and development of disciplinary sanctions. In addition, requires the board to develop procedures for monitoring, record keeping, and meeting timelines for complaint resolution.
Page 23, Line 9	Requires the board to periodically provide written notice to all parties to a formal complaint of the status of the complaint. (ATB)
Page 25, Line 1 thru Page 33, Line 3	Provides authority for an adequate range of enforcement powers. Sets maximum administrative penalty authority at \$1,000 per violation per day of violation. Authorizes written reprimands and continuing education as an enforcement tool. Requires that the schedule of sanctions adopted by the board be used by the hearings examiner assigned by the board. Defines a process whereby the executive secretary of the board recommends administrative penalties, provides notice and hearing requirements, and timelines for the process. Provides for judicial review of appealed orders. Requires the board by rule to develop a system for monitoring a licensee's compliance to requirements of the Act and board orders.
Page 33, Line 4	Sets maximum civil penalty authority at \$1,000 per violation per day of violation.
Page 33, Line 9	Requires the attorney general to provide necessary legal assistance to enforce the Act.

Bill Summary - Enrolled Version
Creation of the Health Professions Council
Texas Board of Licensure for Nursing Home Administrators
SB 674 - Moncrief

Page 33, Line 14	Make a person who knowingly violates the Act guilty of a Class B misdemeanor.
Page 33, Line 24	Makes the effective date of the Act September 1, 1993.
Page 33, Line 25 thru Page 34, Line 15	Abolishes the Texas Board of Licensure of Nursing Home Administrators, provides for the staggered appointment of new board members.
Page 34, Line 16 thru Page 35, Line 11	Transfers the duties, responsibilities, assets, and outstanding complaints and contested cases to the Texas Board of Nursing Facility Administrators administratively attached to the Texas Department of Health. Continues licenses issued by the abolished board to be in effect as a license of the new board and makes the rules of the Texas Board of Licensure of Nursing Home Administrators in effect until changed by the new board.
Page 35, Line 12	Makes changes in law relating to a penalty apply only to violations that occur after the effective date of the act and continues current law in effect for those violations that occur before the effective date.
Page 35, Line 20	Emergency clause.

Public Utility Commission and Office of Public Utility Counsel

Final Action: *The Public Utility Commission and the Office of Public Utility Counsel were continued for two years with no changes.*

SB 498 by Parker

Analysis of Major Provisions in the Final Bill

Senate Bill 498, as introduced, contained the Sunset Commission's recommendations for the Public Utility Commission and the Office of Public Utility Counsel. All of these recommendations were deleted from the final version of the bill. Instead, the bill continued the agencies for two years and provided for them to be reviewed again under the Sunset Act in the 1994-95 biennium. This change was the only provision contained in S.B. 498, as finally passed.

Comparison of Sunset Commission Legislation with Final Legislation

A comparison of S.B. 498 with the original sunset bill as introduced shows that all recommendations, including the standard sunset across-the-board recommendations proposed by the commission, were deleted from the final bill. The major Sunset Commission recommendations deleted from the final legislation are discussed below.

Transfer the responsibility for utility hearings from the PUC to the State Office of Administrative Hearings (SOAH). The Sunset Commission recommended this transfer because the current structure of the hearings division allows for the possibility of direct or indirect pressure by the commissioners on the hearings staff as a result of the employer-employee relationship. Transferring this duty to the SOAH would provide increased independence and objectivity for these hearings. Due to the complexity of utility hearings, a group of administrative law judges (ALJs) at the SOAH would have been required to specialize in utility cases and the current experience requirements for ALJs would have been maintained. The legislature dropped this provision at the end of the session, along with all other provisions of the bill, when it was decided to continue to study the agencies for another two years.

Eliminate the role of the PUC general counsel as a party to cases before the commission. The Sunset Commission recommended this change to ensure that the administrative law judges who hear utility cases, and ultimately the commissioners, would be responsible for determining what is in the public interest based on testimony from the utilities, consumers and any other interested parties. Currently, the general counsel is employed by the commissioners to present a case that balances the needs of the utilities with those of

consumers in the public interest. This change would have moved the structure closer to a more traditional judicial model. This change was a key area of difference between the house and senate versions of the bill and was dropped when the legislature decided to continue to study the agencies for another two years.

Transfer resources made available from eliminating the general counsel's case to OPUC and require OPUC to participate in all cases before the PUC affecting residential consumers. The Sunset Commission recommended transferring resources from the PUC to OPUC to enable the office to participate in more cases. Since 1983, OPUC's funding has allowed it to participate in only about six percent of all rate cases before the PUC. This change would have ensured that the consumer perspective was represented in all cases affecting residential and small business consumers. This change was linked to the previous issue to eliminate the general counsel and was also dropped when the legislature decided to continue to study the agencies for another two years.

Require the PUC to combine and improve its energy planning programs. The Sunset Commission recommended requiring the PUC to develop an integrated resource planning process to ensure that utilities select the lowest-cost, reliable energy resources to minimize any increases to individual consumers' utility bills. Currently, the PUC's statutory framework for energy planning is incomplete and fragmented and does not allow for timely consideration of alternatives, such as conservation, to reduce the need for additional power plants. The legislature dropped these provisions, along with all other provisions of the bill, when the decision was made to continue to study the agencies for another two years.

Allow electric and telephone cooperatives to vote to opt out of PUC regulation, with certain safeguards. The Sunset Commission recommended these changes because, while cooperatives are monopolies, they are consumer-owned and not in business to make a profit. Safeguards were included to allow members to petition for a PUC rate case review if problems arose and to allow the PUC to review a cooperative's rates upon complaint. Authorizing deregulation of these cooperatives would have reduced costs to both the PUC and the cooperatives. The legislature dropped these provisions, along with all other provisions of the bill, when the decision was made to continue to study the agencies for another two years.

Fiscal Impact

None

Bill Summary - Enrolled Version
PUBLIC UTILITY COMMISSION AND
OFFICE OF PUBLIC UTILITY COUNSEL
S.B. 498 - Parker

Bill Reference	Bill Provision
Page 1, Line 10	Changes the sunset abolishment date for the commission and the office to September 1, 1995. (Legislature)
Page 1, Line 13	Sets September 1, 1993 as the effective date of the Act.
Page 1, Line 14	Emergency clause.

Teacher Retirement System of Texas

Final Action: *The legislature placed the Teacher Retirement System of Texas under sunset review again in the next biennium and made other changes to improve the TRS operations and increase benefits to retirees.*

HB 2711 by Johnson

Analysis of Major Provisions in the Final Bill

Senate Bill 1150, as introduced, contained the Sunset Commission's recommendations for the Teacher Retirement System. Senate Bill 1150 did not pass; however, the provisions of S.B. 1150 were added to House Bill 2711 by Johnson in the Senate Finance Committee. Therefore, H.B. 2711 became the vehicle which contained the sunset recommendations on the TRS. All of the sunset recommendations on the TRS remained in the final version of the bill, along with new provisions added by the legislature. The major provisions of the final version of H.B. 2711 are discussed below.

Require the TRS to undergo sunset review in the 1994-95 biennium. The legislature adopted a provision requiring the Sunset Commission to review the TRS again over the next two years and make recommendations to the 74th Legislature in 1995. As was the case in the 1992-93 review, the TRS would be subject to sunset review but would not be subject to automatic abolition under the Sunset Act. The changes also provide that the TRS would no longer be subject to periodic sunset reviews after 1995.

Require the TRS to establish an ethics policy. The legislature adopted provisions requiring the TRS board to establish and enforce an ethics policy for trustees, employees, consultants and advisors of the system. These provisions prohibit the system's trustees, employees, consultants, advisors, or their relatives, from personally benefitting from any transaction made on behalf of the system. The changes require certain employees to file financial disclosure statements. They also prohibit employees with potential conflicts of interest from advising the board or making decisions on matters affected by the potential conflict.

Require the TRS to follow certain procedures for dealing with real estate. The legislature adopted provisions requiring the TRS, within 90 days of acquisition, to have any real estate holdings independently appraised, to acquire a foreclosure endorsement to the mortgagee's title insurance policy, and to hire an independent and credentialed person or company to manage the property if the property contains improvements.

Authorize an increase in death and retirement benefits. The legislature adopted a provision increasing death and retirement benefit payments for those persons, or their survivors, who retired or died before September 1, 1991. The amount of the monthly increases range from five to 15 percent depending on what year the person retired or died,

and are designed to offset the impact of inflation on these retirement benefits. The increases will take effect beginning in January 1994.

Require the TRS to study the degree of interest in a statewide health insurance program for public school employees. The legislature modified a sunset recommendation that would have required the TRS to offer a health insurance plan to school districts in Texas. Instead, the legislature adopted a provision to require the TRS to study the degree of interest in such a program and to make recommendations to the Legislative Budget Board and the governor by June 1994. School district employees will be required to pay a \$10 annual fee to TRS to provide up to \$100,000 for the study, with the remainder being used as start-up funds if such a program is created, or being refunded if no program is created. The TRS is also required to examine possible inclusion of its current health insurance program for retired public school employees in the new program. The current requirement for the Employees Retirement System (ERS) to provide a statewide school district health insurance plan was removed from law in separate sunset legislation on the ERS.

Comparison of Sunset Commission Legislation with Final Legislation

A comparison of H.B. 2711 with the original sunset bill (S.B.1150 by Barrientos) shows that all the standard Sunset Commission across-the-board recommendations were included in the final version of H.B. 2711. All of the Sunset Commission's specific program recommendations are contained in H.B. 2711, with modifications to the health insurance program as noted above. One other sunset recommendation regarding the transfer of retirement service credit between the TRS and the ERS passed in separate sunset legislation on the ERS.

Fiscal Impact

Fiscal Year	Gain to the TRS Public School Employees Health Insurance Fund
1994	\$4,000,000
1995	\$4,000,000
1996	\$4,000,000
1997	\$4,000,000
1998	\$4,000,000

All of the revenue gain resulting from this bill is due to the provision authorizing the TRS to collect a \$10 annual fee from active school district employees in the state. Since there are approximately 400,000 school district employees in the state, the \$10 fee would yield a revenue gain to the TRS Public School Employees Health Insurance Fund of approximately \$4,000,000 for each year the fee remains in effect. These funds would be used to study the degree of interest in a statewide health insurance program for public school employees, with the remainder being held in trust to provide a contingency reserve if such a program is created, or being refunded if a program is not created.

**Bill Summary - Enrolled Version
Teacher Retirement System of Texas
HB 2711 - Johnson**

Bill Reference	Bill Provision
Page 1, Line 10	Establishes a definition for "alternate payee" in Sec. 821.001, Government Code.
Page 1, Line 12	Establishes a definition for "beneficiary" in Sec. 821.001.
Page 1, Line 20	Reduces the number of years necessary to vest in the TRS from 10 to five years.
Page 1, Line 23 thru Page 2, Line 5	Limits the amount of out-of-state service credit a member may purchase to the lesser of either the number of years the member has in the system or 10 years. Also prevents members who purchase out-of-state credit from qualifying for insurance coverage until they have at least 10 years of actual service credit in the system.
Page 2, Line 12	Changes the formula for purchasing credit for developmental leave by determining the rate of member contributions based on the "year of leave" rather than the year prior to the leave.
Page 2, Line 25 thru Page 3, Line 4	Removes constraints on re-establishing service credit after membership termination, and allows a person to become eligible to reinstate service credit once membership service is resumed.
Page 3, Line 10	Moves the date, past which a beneficiary for an optional retirement annuity cannot be changed, back from the date of the member's retirement, to the date on which the first payment is made or due, whichever is later.
Page 3, Line 26 thru Page 4, Line 1	Requires a letter be filed with the board of trustees notifying them of an election to receive an optional retirement annuity no later than the effective date of retirement.
Page 4, Line 4	Authorizes a retiree to change the retiree's choice of a service retirement annuity payment plan after the effective date of retirement, providing that the retiree files written notice of the change with the board of trustees prior to the date the first payment is due or made, whichever is later.
Page 4, Line 21	Repeals Section 824.304(c), Government Code. This section of the Government Code allows persons who receive a disability retirement annuity until or after age 60 to receive the annuity for life.

**Bill Summary - Enrolled Version
Teacher Retirement System of Texas
HB 2711 - Johnson**

Bill Reference	Bill Provision
Page 5, Line 3	Requires a person who wishes to retire through disability retirement to notify the board of trustees in writing of an election to receive an optional disability retirement annuity no later than the effective date of retirement.
Page 5, Line 9	Authorizes a retiree to change the retiree's choice of a disability retirement annuity payment plan after the effective date of retirement, providing that the retiree files written notice of the change with the board of trustees prior to the date the first payment is due or made, whichever is later.
Page 6, Line 1 Page 38, Line 8	Increases the minimum amount of monthly benefits due survivors of members, if those survivors are entitled to a death benefit other than the accumulated contributions of the member. The increase in benefits applies only to benefits paid after September 1, 1993.
Page 6, Line 23	Requires that appointments to the board be made without regard to race, color, disability, sex, religion, age, or national origin. (ATB)
Page 6, Line 27 thru Page 7, Line 13	Prohibits appointment to the board of people who conduct business with the system, or otherwise have financial ties to the system. (ATB)
Page 7, Line 14 thru Page 8, Line 6	Prohibits board members or their spouses and employees compensated at or above Group 17 in the appropriations act or their spouses from being an officer or employee of a related trade association. Also defines trade association. (ATB)
Page 8, Line 7	Prohibits registered lobbyists from serving as a member of the board or from being employed as general counsel to the board. (ATB)
Page 8, Line 18	Requires the Sunset Commission to review the system during the period in which state agencies abolished in 1995 are reviewed but deletes any further sunset review of the TRS beyond 1995.
Page 8, Line 22 thru Page 9, Line 13	Defines grounds for removing a board member and requires the executive director to notify the board chair if the director has knowledge that a potential ground for removal exists. Affirms that an action of the board is valid even if it is taken when a ground for removal exists. (ATB)
Page 9, Line 16	Requires the board to provide information to its members and employees on the qualifications for office or employment and each person's responsibilities under the law. (ATB)

**Bill Summary - Enrolled Version
Teacher Retirement System of Texas
HB 2711 - Johnson**

Bill Reference	Bill Provision
Page 9, Line 21	Requires the board to develop and implement policies that clearly define the respective responsibilities of the board and the staff. (ATB)
Page 9, Line 24 thru Page 10 Line 5	Requires the system to prepare and distribute information to its members concerning the agency's functions and complaint procedures. (ATB)
Page 10, Line 6	Requires the board to provide the public with reasonable opportunity to appear before it regarding issues under its jurisdiction. (ATB)
Page 10, Line 10	Requires the agency to develop a plan that describes how non-English speaking persons can be provided reasonable access to the agency's programs. Also requires the board to comply with federal and state laws for program and facility accessibility. (ATB)
Page 10, Line 15 thru Page 11, Line 5	Authorizes the TRS board to establish advisory committees at will. The members of these committees will serve at the pleasure of the board and receive compensation or expense reimbursement as determined by the board.
Page 11, Line 8 Page 12, Lines 7 and 11 Page 19, Line 25 thru Page 20, Line 7 Page 21, Line 11 Page 22, Line 4	Renames the executive secretary of the TRS the executive director.
Page 11, Line 24 thru Page 12, Line 1	Requires the TRS to annually evaluate its actuary and, after advertising for proposals, redesignate its actuary at least once every three years.
Page 12, Line 20 thru Page 15, Line 24	Establishes provisions prohibiting the system's trustees, employees, consultants, advisors or their relatives from personally benefitting from any transaction made on behalf of the system. Requires the board to establish and enforce an ethics policy for employees, consultants and advisors of the system. Requires certain employees to file financial disclosure statements. Prohibits employees with potential conflicts of interest from advising the board or making decisions on matters affected by the conflict.

**Bill Summary - Enrolled Version
Teacher Retirement System of Texas
HB 2711 - Johnson**

Bill Reference	Bill Provision
Page 15, Line 25 thru Page 16, Line 2	Requires the executive director or a designee to develop an intra-agency career ladder program and requires intra-agency posting of job openings concurrently with any public posting. (ATB)
Page 16, Line 3	Requires the executive director or a designee to develop an annual job performance evaluation system upon which merit salary increases must be based. (ATB)
Page 16, Line 7 thru Page 17, Line 6	Requires the executive director or a designee to prepare and maintain an equal employment opportunity policy and to report findings to the Human Rights Commission and the governor's office. (ATB)
Page 17, Line 7	Requires a person employed to perform a financial audit of the TRS to be selected by and report to the board.
Page 17, Line 12	Establishes provisions dealing with the handling of foreclosed real estate investments.
Page 18, Line 10	Strengthens requirements of indemnification agreements between the TRS and banks authorized to lend the system's securities and changes collateral requirements of securities brokers who borrow the systems securities from one of the systems custodians.
Page 19, Line 4	Requires the TRS to accumulate net capital gains and losses in the interest account from the recognition of changes in the carrying values of investments; and to accumulate net income or losses from other investments in the interest account.
Page 19, Line 17	Requires the TRS to deposit money received for service performed by the TRS for the Texas Public School Retired Employees Group Insurance Program in the expense account.
Page 20, Line 12 thru Page 21, Line 7	Establishes the beginning of the special service credit installment payment process as the first business day of the month in which the first installment payment is due. Also adds Section 805.002, dealing with the transfer of credit between systems, to the list of special service credit eligible to be paid for in lump sum or equal monthly installments.
Page 21, Line 20 thru Page 23, Line 10	Provides that alternate payees have the same right to confidentiality of records as do members, retirees, annuitants and beneficiaries. Also, limits the TRS to making no more than two mailings per year on behalf of non-profit organizations of active or retired school employees. The non-profit association must pay the mailing expense.

**Bill Summary - Enrolled Version
Teacher Retirement System of Texas
HB 2711 - Johnson**

Bill Reference	Bill Provision
Page 23, Line 14	Renumbers Section 825.507, Government Code, as added by Acts 1991, 72nd Leg., 1st C.S., Ch. 13 Sec. 29 as Section 825.508, Government Code.
Page 24 Line 2 thru Page 25, Line 18	Authorizes the TRS to perform a direct rollover of an eligible member's TRS retirement funds into certain eligible retirement plans upon request by the distributee.
Page 25, Line 19 thru Page 26, Line 4	Requires the system to file a report with the Legislative Budget Board (LBB) detailing the investments of the system and comparing those investments with nationally recognized indexes. Specifies that the report required by this section is the only periodic report on investments the system is required to make, except for reports to members or those required by the state auditor. Also, requires the system to file a copy of the proposed annual budget with the LBB.
Page 26, Line 5	Requires the agency to maintain files on complaints that the agency has the authority to resolve. (ATB)
Page 26, Line 8	Requires the agency to periodically provide written notice to all parties to a formal complaint of the status of the complaint. (ATB)
Page 26, Line 24 thru Page 27, Line 16	Requires school districts to include major medical treatment in their group health insurance plans. Defines "major medical treatment". Changes requirement for certifying compliance from the ERS to the TRS.
Page 27, Line 22	Changes the definition of "retiree" in Section 2(10), Article 3.50-4, Insurance Code to a person who has retired under the TRS with "at least" 10 years of service credit, rather than 10 or more years; and specifies that the service credit be for "actual service in Texas public schools."
Page 28, Line 7	Allows the TRS to contract directly with health care providers for providing health care benefits for the TRS-Care. Lists which activities can be covered by the contracts.
Page 28, Line 15 thru Page 31, Line 1 Page 38, Line 12	Allows the TRS to establish a coordinated care network for providing health care benefits for the TRS-Care program. Specifies certain requirements if such a network is established. Provides for this section of the bill to take effect immediately upon passage.

**Bill Summary - Enrolled Version
Teacher Retirement System of Texas
HB 2711 - Johnson**

Bill Reference	Bill Provision
Page 31, Line 4	Applies Article 21.24-1 of the Insurance Code, dealing with the assignment of health care benefits payments, to the TRS-Care program.
Page 31, Line 7 thru Page 32, Line 25	Increases the monthly payments of a death or retirement benefit annuity for those who died or retired prior to September 1, 1991; beginning with the payment due at the end of January 1994.
Page 32, Line 26 thru Page 33, Line 1	Repeals 824.304(c) of the Government Code which provided a disability retirement annuity for life for members with less than 10 years of service credit who received a disability retirement provided the retirement began after or continued until age 60.
Page 33, Line 2	Establishes the minimum standard service retirement annuity payable after September 1, 1993 to persons who retired prior to September 1, 1991, as \$6.50 a month for each year of service credit. For members who were at least 65 years old at retirement, establishes the minimum as the greater of \$6.50 for each month of service credit or \$150 per month.
Page 33, Line 12	Allows persons whose survivor benefits were terminated due to remarriage, prior to action by the 66th Legislature, to apply for and receive restoration of those survivor benefits. Prohibits retroactive payments.
Page 33, Line 22 thru Page 34, Line 18	Allows surviving retirees who are subject to loss of monthly benefits under Section 824.601, Government Code, and who failed to apply for an exemption as described by Section 824.602(a)(3), Government Code, dealing with retirees holding more than one position in a Texas public school, to apply for an exemption no later than March 1, 1994. Applies only to benefits payable between September 1, 1985 and August 31, 1991.
Page 34, Line 19	Authorizes the supplemental service retirement annuity established by Chapter 14, Acts of the 60th Legislature, Regular Session, 1969 to be paid to the beneficiary of a retiree if the retiree is alive on the effective date of this Act and if retirement benefits will be payable to the beneficiary when the retiree dies.

**Bill Summary - Enrolled Version
Teacher Retirement System of Texas
HB 2711 - Johnson**

Bill Reference	Bill Provision
Page 34, Line 25 thru Page 36, Line 17 Page 38, Line 12	Allows the commissioner or policy bodies of the Central Education Agency (CEA), the Texas Higher Education Coordinating Board, the Texas Youth Commission, The Texas Department of Criminal Justice, The Texas School for the Blind and Visually Impaired, the Texas School for the Deaf and other agencies in which the majority of members are under the ERS, to elect to transfer their TRS members to the ERS for retirement purposes on September 1, 1994; except for the CEA employees who would transfer effective September 1, 1993. Provides for this section of the bill to take effect immediately upon passage.
Page 36, Line 18 thru Page 38, Line 7	Requires the TRS to conduct a study of coverage under and participation in the TRS-Care program and potential coverage under and participation in a statewide health insurance program for school district employees. Authorizes the TRS to collect an annual \$10 fee from school district employees to fund the study and to provide start-up funds if a statewide health insurance program is created for these employees.
Page 38, Line 12	Establishes the effective date of the Act as September 1, 1993, except for two sections which take effect immediately upon passage.
Page 38, Line 14	Emergency clause.

Texas State Board of Dental Examiners

Final Action: The Texas State Board of Dental Examiners was not continued and will be abolished September 1, 1994.

Analysis of Major Provisions in the Final Bill

Senate Bill 673 by Moncrief, as introduced, contained the Sunset Commission's recommendations for the State Board of Dental Examiners. The legislature did not pass S.B. 673 and did not continue the State Board of Dental Examiners. Because no legislation passed, the automatic abolition provision in the Sunset Act takes effect. The agency has a one-year period to wind down its operations. It will cease to exist on September 1, 1994. Senate Bill 673 passed both houses of the legislature in different forms. The bill went to conference committee and a conference committee report was prepared but the House refused to adopt the report because of disagreements related to the composition and appointment of the Dental Hygiene Committee and the composition of the Dental Board. The last version of the proposed conference committee report on S.B. 673 contained all of the Sunset Commission's recommendations and additional provisions added by the legislature. These recommendations and provisions are discussed below.

Sunset Commission Recommendations Included in the Conference Committee Report

Require one-third public membership on the board. The Sunset Commission recommended that at least one-third of the board's members be representatives of the general public. Currently the 15-member board is composed of ten dentists, two dental hygienists, and three public members. This was proposed to be changed to eight dentist, two dental hygienists and five public members. Replacing two dentists with public members would help ensure that the board's policies and actions reflect the interests of the general public and not just those of the regulated profession.

Authorize the board to temporarily suspend a license without notice or formal hearing in situations that seriously endanger the public. The Sunset Commission recommended that the board be authorized to temporarily suspend a license without notice or hearing. This authority could be used in cases where a licensee's condition or activities constitute a serious and immediate threat to the public welfare and the time required to initiate formal disciplinary proceedings would cause excessive risk to the public. The decision to issue a temporary suspension would be made by the board or an executive subcommittee of the board. At the time the temporary suspension is ordered, a hearing on whether disciplinary proceedings should be initiated against the licensee would be scheduled within 14 days. A second hearing on the suspended license would be held not later than 60 days after the temporary suspension is ordered. Otherwise, the license would be automatically reinstated.

Strengthen and standardize the complaint investigation and enforcement provisions.

The Sunset Commission recommended a standard approach to complaint investigation and enforcement for all the health care licensing boards. The approach would strengthen statutory requirements for handling complaints by requiring the board to use a toll-free phone number for complaints, adopt standardized complaint forms, provide assistance to people filing complaints, and maintain specific information in complaint files. Use of a standardized complaint process would help ensure the consistent and thorough investigation and resolution of complaints.

Set up a procedure to allow practitioners licensed in other states to come to Texas and, after meeting certain requirements, get a license to practice.

The Sunset Commission recommended that out-of-state practitioners be licensed in the state if they meet certain requirements. To be licensed in Texas, an out-of-state practitioner would have to be licensed in good standing in another state, not be the subject of final or pending disciplinary action, have graduated from an accredited school, passed any required examinations, completed the board's jurisprudence examination, submitted current CPR certification, and practiced dentistry for five years or met other practice requirements. The board would be required to complete the processing of the application within 180 days after all documentation is presented or issue the applicant a license.

Require mandatory continuing education as a condition of license renewal.

The Sunset Commission recommended that licensees be required to meet standardized mandatory continuing education requirements established by the board. The board would be required to establish a minimum number of hours of continuing education required for license renewal, identify the key factors that lead to the competent performance of professional duties, develop a process to assess a licensee's participation and performance in continuing education courses, evaluate the overall effectiveness of the program, assess the continuing education needs of licensees, and require licensees to attend specific continuing education courses.

Remove the provision that prevents board decisions from becoming effective pending appeal.

The Sunset Commission recommended deleting the provision that prevents board orders from becoming effective until all appeals have been exhausted. Removing this provision would prevent licensees found guilty of violating the statute or rules from continuing to practice while their case is on appeal.

Provisions Added by the Legislature

Authorize the governor to appoint one dentist member of the board as chair.

The conference committee report contained a provision included in most health licensing agencies that would authorize the governor to select the chair of the board from the dentist members. Currently the chair is elected by the members of the board. Authorizing the governor to appoint the chair of the board would give the governor more control over the board and would reflect the general state policy adopted as a part of the Sunset process.

Require the board to contract with an independent testing service for the clinical examination.

The conference committee report included a provision that would require

the board to contract with a testing service to administer the clinical examination. Currently the board administers the clinical examination. Requiring a testing service to administer the examination would reduce any bias that may exist in administering the examination and provide the board with a standardized examination. The testing service that is currently being studied by the board is used in seven western states.

Allow district courts to review penalties ordered by the board. The conference committee report included a provision that would allow district courts to review penalties ordered by the board to determine if the penalties are consistent with penalties for similar violations and modify penalties if they are found to be inconsistent. Currently district courts are not allowed to modify penalties ordered by the board.

Authorize non-profit health facilities approved by the board to employ dentists. The conference committee report included a provision that would allow non-profit health facilities to hire dentists if approved by the board to do so. Currently dentists may only be employed by other dentists. Allowing non-profit health facilities to employ dentists would allow these facilities to provide a greater range of medical services to underserved and low income citizens.

Create a Dental Hygiene Advisory Council composed of three dental hygienists appointed by the governor and three dental hygienists appointed by the board. The conference committee report included a provision that changed the Dental Hygiene Advisory Committee from an eight-member committee appointed by the board to a six-member council with half of the members appointed by the governor and half appointed by the board. The council would be responsible for reviewing and commenting on proposed rules related to the practice of dental hygiene. Allowing the governor to appoint three members of the council would give the governor more control over the council.

Fiscal Impact

Fiscal Year	Gain (loss) to the General Revenue Fund	Gain (loss) to the Dental Registration Fund No. 86
1994	0	0
1995	\$872,691	0
1996	\$872,691	0
1997	\$872,691	0
1998	\$872,691	0

The gain to the General Revenue Fund of \$872, 691 in fiscal years 1995 thru 1998 results from the elimination of the board. The 73rd Legislature appropriated \$872,691 to the board in fiscal year 1995. This appropriation was used to reflect the amount of money saved during fiscal year 1995 and subsequent years. Because S.B. 673 abolished the board and not the Dental Practice

Act, fees would still be collected by some regulatory agency if authorized by the legislature in 1995. The actual amount of fee revenue in future years cannot be estimated at this time; however, the fee revenue is assumed to be consistent through fiscal year 1998. There is no gain or loss in FY 1994 because the board will continue to operate during FY 1994 and be abolished on September 1, 1994. Gains from eliminating the board and its expenses begin in FY 1995.

SUNSET STAFF ASSIGNED TO AGENCY REVIEWS

SUNSET STAFF ASSIGNED TO AGENCY REVIEWS

Texas Alcoholic Beverage Commission

Ken Levine, David Holland, Rachele Hill, Dawn Volcik

Texas Department of Commerce

Cyndie Schmitt, Ann Blevins, Ying Tang, John Hubbard, Barbara Hunley

Employees Retirement System

Ken Levine, Ginny McKay, John Hubbard, Karl Spock, Barbara Hunley

Teacher Retirement System

Ken Levine, Ginny McKay, John Hubbard, Karl Spock, Barbara Hunley

General Services Commission

Ann Blevins, Karl Spock, Bill Wells, Barbara Hunley

Texas Department of Insurance/Office of Public Insurance Counsel

Joe Walraven, Merrell Foote, Roland Leal, Susan Kinney

Department of Public Safety

Joey Longley, Ron Allen, Charla Ann Baker, Barbara Hunley

Public Utility Commission/Office of Public Utility Counsel

Ginny McKay, Joe Walraven, Merrell Foote, Roland Leal, Susan Kinney

Texas Board of Licensure for Nursing Home Administrators

Ron Allen, Joey Longley, Dawn Volcik

Midwifery Board

Rachele Hill, Charla Ann Baker, Joey Longley, Dawn Volcik

Texas State Board of Examiners of Dietitians

Rachele Hill, Charla Ann Baker, Joey Longley, Dawn Volcik

Texas State Board of Examiners of Psychologists

Charla Ann Baker, Joey Longley, Susan Gennusa, Dawn Volcik

Texas State Board of Examiners of Marriage and Family Therapists

Cyndie Schmitt, Joey Longley, Dawn Volcik

Texas State Board of Social Worker Examiners

Cyndie Schmitt, Joey Longley, Dawn Volcik

Texas State Board of Examiners of Professional Counselors

Cyndie Schmitt, Joey Longley, Dawn Volcik

SUNSET STAFF ASSIGNED TO AGENCY REVIEWS
(cont.)

**Executive Council of Physical Therapy
and Occupational Therapy Examiners**
Ying Tang, Joey Longley, Ron Allen, Susan Gennusa, Dawn Volcik

Board of Vocational Nurse Examiners
Cyndie Schmitt, Rachele Hill, Joey Longley, Dawn Volcik

Board of Nurse Examiners
Cyndie Schmitt, Joey Longley, Dawn Volcik

**Texas State Board of Examiners in the
Fitting and Dispensing of Hearing Aids**
David Holland, Joey Longley, Dawn Volcik

**Texas State Committee of Examiners for
Speech-Language Pathology and Audiology**
David Holland, Joey Longley, Dawn Volcik

Texas Board of Chiropractic Examiners
Ying Tang, Ron Allen, Joey Longley, Dawn Volcik

Texas State Board of Dental Examiners
David Holland, Joey Longley, Susan Gennusa, Dawn Volcik

Texas State Board of Medical Examiners
Charla Ann Baker, Joey Longley, Susan Gennusa, Dawn Volcik

Texas Optometry Board
Ron Allen, Joey Longley, Dawn Volcik

Texas State Board of Pharmacy
David Holland, Ron Allen, Joey Longley, Dawn Volcik

Texas State Board of Podiatry Examiners
Rachele Hill, Joey Longley, Dawn Volcik

Texas State Board of Veterinary Medical Examiners
Ron Allen, Joey Longley, Dawn Volcik

Health Professions Council
Rachele Hill, Joey Longley, Dawn Volcik

SUNSET ADVISORY COMMISSION MEMBERSHIP

72nd Legislature - 1991

Senator Gonzalo Barrientos, Chair	Representative Lena Guerrero, Vice Chair
Senator Don Henderson	Representative Bruce Gibson*
Senator Gene Green	Representative David Cain
Senator Steve Carriker	Representative Ashley Smith
Dr. Nancy C. Speck, Public Member	Ms. Lynn Eggers, Public Member

* Representative Gibson was appointed to fill the unexpired term of Representative Bill Hammond.

71st Legislature - 1989

Senator Bob McFarland, Vice Chair	Representative Jack Vowell, Chair
Senator Gene Green*	Representative Al Granoff
Senator Gonzalo Barrientos	Representative Lena Guerrero
Senator Don Henderson	Representative Bill Hammond
Jane Hickie, Public Member	Charles Edmonds, Public Member

* Senator Green was appointed to fill the unexpired term of Senator John Montford.

70th Legislature - 1987

Senator Chet Edwards, Chair	Representative Patricia Hill, Vice Chair
Senator Ray Farabee*	Representative Bruce Gibson
Senator John Montford	Representative Al Granoff
Senator Bob McFarland	Representative Jack Vowell
Pete Snelson, Public Member	Charles Edmonds, Public Member
	Representative Charles Evans**

* Senator Farabee was appointed to fill the unexpired term of Senator John Sharp.

** Representative Charles Evans - Ex officio member.

69th Legislature - 1985

Senator Kent Caperton, Vice Chair	Representative Charles Evans*, Chair
Senator Bill Sarpalius	Representative Gary Thompson
Senator Chet Edwards	Representative Bruce Gibson
Senator John Sharp	Representative Patricia Hill
Jess M. Erwin, Jr., Public Member	Harry J. Stone, Jr., Public Member

* Representative Charles Evans was appointed to fill the unexpired term of Representative Elton Bomer

68th Legislature - 1983

Senator Ed Howard, Chair	Representative Charles Evans, Vice Chair
Senator O.H. (Ike) Harris	Representative Elton Bomer
Senator Bill Sarpalius	Representative Ernestine Glossbrenner*
Senator Kent Caperton	Representative Gary Thompson
Vernon McGee, Public Member	Carol Barger, Public Member

* Representative Ernestine Glossbrenner was appointed to fill the unexpired term of Representative Al Brown.

67th Legislature - 1981

Senator Ed Howard, Vice Chair	Representative Bennie Bock, Chair
Senator O.H. (Ike) Harris	Representative Charles Evans
Senator A.R. (Babe) Schwartz	Representative Bill Ceverha
Senator Lloyd Doggett	Representative Al Brown, Jr.*

* Representative Al Brown, Jr. was appointed to fill the unexpired term of Representative Mike Ezzell.

66th Legislature - 1979

Senator Bill Meier, Chair	Representative Bennie Bock, Vice Chair
Senator Lloyd Doggett	Representative Bill Ceverha
Senator A.R. (Babe) Schwartz	Representative Lee F. Jackson
Senator W.E. Snelson	Representative Lance Laylor

The Sunset Advisory Commission was created September 1, 1977.