

The logo for the Texas Sunset Advisory Commission is a semi-circular emblem. It features a dark, textured interior with the words "Texas", "Sunset", "Advisory", and "Commission" stacked vertically in a bold, white, sans-serif font. The emblem is framed by a white border and sits atop a thick, dark horizontal bar.

**Texas
Sunset
Advisory
Commission**

STAFF EVALUATION

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*Texas Coastal and
Marine Council*

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**A Staff Report
to the
Sunset Advisory Commission**

1984

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SUMMARY

The Texas Coastal and Marine Council was established in 1971. Its statutory responsibilities are to serve the state as an advisory body, hold public meetings, and monitor federal programs, all with respect to coastal and marine related affairs. To carry out these mandates the council performs two basic functions. First, it serves as a forum for discussion of coastal issues. Second, the council provides research and information services on coastal affairs to the legislature and other government bodies. In addition to these, the legislature authorized the council to construct a series of offshore artificial fishing reefs in 1973. The council still devotes a substantial amount of its resources to planning new reefs, enhancing existing reefs, and marking reef sites for ship traffic.

The need for the council's functions was reviewed and this review indicated that there is a continuing need for the state to carry out these functions. Texas has the third longest coast in the continental United States. The state's coastal area contains a large percentage of the state's economic base. The coastal area is also very important from an environmental perspective. Still, Texas appears to have less planning and management of its coastal resources than other coastal states. Texas also has many different agencies which oversee different aspects of coastal activity. The council is the state's only agency that is authorized to coordinate, plan, and provide expert advice on coastal and marine related affairs.

The review did indicate, however, that one alternative structure exists which could carry out one or more agency functions, and that the potential advantages of this alternative outweigh the disadvantages. One issue was identified which involved both a change in state policy and major advantages and disadvantages.

The changes which should be made if the agency is continued and a discussion of alternative structures and policy considerations are set out below.

Approaches for Sunset Commission Consideration

I. MAINTAIN THE AGENCY WITH MODIFICATIONS

A. Policy-making Structure

- 1. Representation on the council should be expanded to include federal, county, and city government; marine navigation, marine fisheries, and environmental concerns.**

The current categories of representation are state government, business and commerce, education, and the general public. These categories do not include some of the major interests served by the council. Cate-

gories of representation should be expanded to make the council membership more reflective of the interests it serves.

2. **The chair and vice-chair should be appointed alternately by the lieutenant governor and the speaker rather than elected by the members.**

The council's members elect their chair and vice chair every two years. A more common method of selection is to leave the choice up to the authority who appoints the members. The council historically elects legislators to serve as chair and vice chair, and the speaker and the lieutenant governor appoint legislative members to the council. In line with the more common approach, the speaker and lieutenant governor should appoint the chair and vice chair for two year terms.

B. Overall Administration

1. **The council should be required to implement a fee system for its publications.**

It is the agency's policy to provide copies of its reports and studies on request, at no charge. Most of the state's advisory bodies which publish these kinds of documents charge fees because they feel that it is the intent of the legislature that the state's costs be recovered for these publications. A fee system would help the council stretch its budget and be more consistent with legislative intent.

C. Evaluation of Programs

1. **The council should develop rules which describe the relationship between it and the Texas Marine Resources Foundation (TMRF). (management improvement/non-statutory)**

The council helped to create the TMRF to serve as a mechanism to finance its artificial fishing reef program. They have not yet developed rules as required by statute and should be directed to do so.

2. **The council's artificial fishing reef program should be transferred to the Parks and Wildlife Department.**

Currently, both agencies administer artificial fishing reef programs but only the Parks and Wildlife Department has clear statutory authority to do so. A transfer of TCMC's reef program to the Parks and Wildlife Department would put the state's two artificial reef efforts together in the agency with express statutory authority to carry them out.

3. The council should be required to report to the legislature and the governor on its activities.

The council, unlike most of the state's advisory agencies, currently has no statutory reporting requirements. A reporting requirement would ensure that the legislature and the governor receive the council's advisory services and would increase the council's accountability.

II. ALTERNATIVES

1. Combine the Coastal and Marine Council with the Texas Advisory Commission on Intergovernmental Relations.

Both TACIR and TCMC give advice on issues that cut across federal, state, and local governments, and both agencies go about their work in much the same way. The main difference between them is that TCMC focuses in on coastal issues. The state could probably save on administrative costs by eliminating the council and putting its statutory responsibilities in TACIR. The state could make sure of an ongoing focus on coastal issues by putting representatives of coastal interests on TACIR and by requiring in statute that the agency look at coastal questions.

III. OTHER POLICY CONSIDERATIONS

1. Should the council be given the responsibility of developing a proposal for a full or partial coastal management plan?

Texas and Georgia are the only two coastal states in the country which do not have comprehensive coastal management plans. Proponents of a plan point out that a well prepared coastal management plan could help coordinate the activities of the state on the coast and give a framework for planning the best uses of this valuable resource. Potential disadvantages of a coastal management plan are costs of developing one and that it probably would not be effective if it did not have the support of the various regulatory agencies who would use it.

AGENCY EVALUATION

The review of the current operations of an agency is based on several criteria contained in the Sunset Act. The analysis made under these criteria is intended to give answers to the following basic questions:

1. Does the policy-making structure of the agency fairly reflect the interests served by the agency?
 2. Does the agency operate efficiently?
 3. Has the agency been effective in meeting its statutory requirements?
 4. Do the agency's programs overlap or duplicate programs of other agencies to a degree that presents serious problems?
 5. Is the agency carrying out only those programs authorized by the legislature?
 6. If the agency is abolished, could the state reasonably expect federal intervention or a substantial loss of federal funds?
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BACKGROUND

Organization and Objectives

The Texas Coastal and Marine Council (TCMC) was created in 1971 based on the recommendations of a house interim study committee on oceanography. The 16 members of the council must be Texas residents with a knowledge of, and interest in marine-related affairs. Appointments to the council are made by the governor, the lieutenant governor, and the speaker. Each appointing authority selects members which represent state government, education, business and commerce, and the general public. Members serve six year terms.

The council has four and one half employees. In fiscal year 1984 the council operated on a budget of \$198, 659 from general revenue (98 percent) and a \$5,000 (2 percent) grant from the Texas A&M Sea Grant program. The agency's organization chart is shown in Table 1.

The committee that recommended the creation of TCMC was formed to determine if there was a need in the state for an institute of oceanography. This committee did not find a need for an oceanographic institute, but did believe that the state needed a mechanism to focus attention on coastal and marine affairs.

To accomplish this they recommended the creation of a Texas Council on Marine-Related Affairs to provide the legislature, the governor, and the state in general with a source of experienced judgment and expert advice on coastal matters. The council was to serve as a forum where law makers could join experts in marine affairs to plan for the proper management of the state's coastal resources.

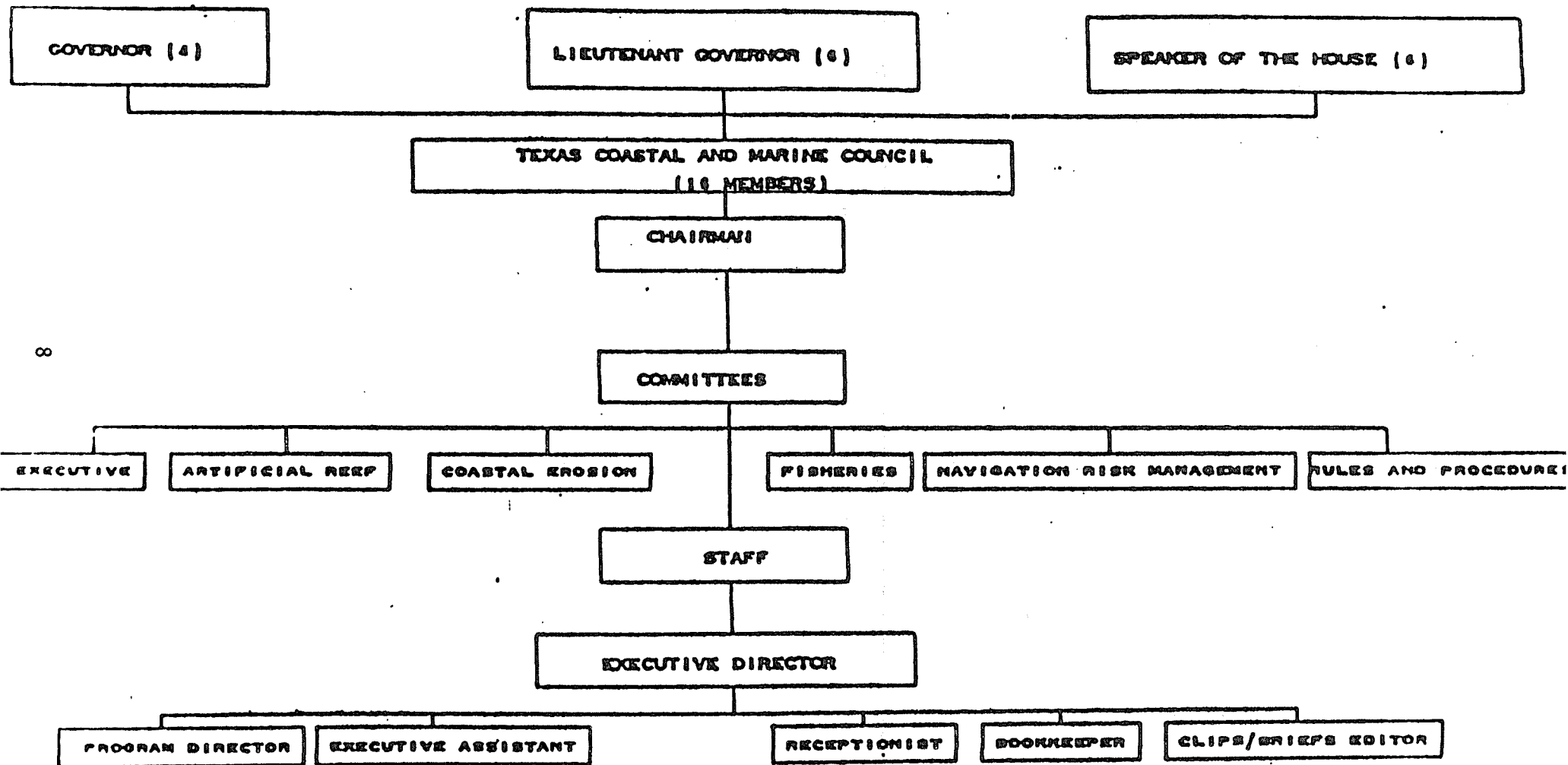
In response to the recommendations of this committee, the 62nd Legislature created the Texas Council on Marine-Related Affairs. This council consisted of twelve members appointed by the governor, lieutenant governor, and the speaker from categories of state government, education, the general public, and business.

In 1973, the council's name was changed to the Texas Coastal and Marine Council and its membership was increased to sixteen by adding four more legislators. The organizational structure and major activities of the council have remained essentially the same since that time.

The basic purpose of the council is to cooperate and assist in the assessment and planning of the state's coastal resources. To accomplish this

Table 1

TEXAS COASTAL AND MARINE COUNCIL
ORGANIZATIONAL CHART



purpose the council is directed by statute to serve as an advisory body to aid the legislature and other government entities with respect to coastal affairs. The council is also directed to maintain a liaison relationship with the federal government and hold public meetings on a quarterly basis.

A review of the ways in which other coastal states manage their coastal areas revealed a wide range of organizational arrangements. Several states have natural resources agencies with broad responsibility for the management of the coast as well as the rest of their natural resources. Others place this responsibility in some sort of economic development agency. In some states the governor has primary responsibility for coastal management. Still other states use two or more agencies to oversee their coastal affairs.

The unique nature of a coastal area makes it difficult for one agency to manage. In Texas, for example, the General Land Office has regulatory authority over all beaches, state-owned coastal land, and state-owned submerged land. The state Department of Highways and Public Transportation has oversight responsibility for channels, waterways, ferries, tunnels, and causeways on the coast. The Department of Water Resources is responsible for the quality of the state's water, including coastal waters. The Parks and Wildlife Department manages the state's marine fisheries. The governor's office has the responsibility of handling coastal emergencies, such as hurricanes and oil spills. Coastal city and county governments also have authority to make decisions on certain issues affecting the coast. In addition, there are federal agencies with authority over coastal areas, such as the Coast Guard, the U.S. Army Corps of Engineers, and the EPA.

This decentralized approach to the state's management of its coastal affairs was the main reason for creating an agency such as TCMC. The council was designed to help coordinate and plan the activities of a large number of government entities which oversee an area of great environmental and economic significance.

The council has conducted a broad range of activities to accomplish its objective. For purposes of the review three major functions were identified and analyzed: 1) serving as a forum for discussion of coastal issues; 2) research and information services; and 3) the offshore artificial fishing reef program. A number of areas were identified where modifications would increase the efficiency and effectiveness of these functions. Results of the evaluation follow.

REVIEW OF OPERATIONS

The evaluation of the operations of the commission is divided into general areas which deal with: 1) a review and analysis of the policy-making body to determine if it is structured so that it fairly reflects the interests served by the agency; and 2) a review and analysis of the activities of the agency to determine if there are areas where the efficiency and effectiveness can be improved both in terms of the overall administration of the agency and in the operations of specific agency programs.

Policy-making Structure

The evaluation of the policy-making structure was designed to determine if the current statutory structure contains provisions that ensure adequate executive and legislative control over the organization of the body; competency of members to perform required duties; proper balance of interests within the composition; and effective means of selection and removal of members.

The Coastal and Marine Council is composed of sixteen members, each of whom must be a Texas resident who is interested in and knowledgeable of coastal and marine-related affairs. Members represent the fields of education, commerce and industry, state government and the general public.

The review of the agency's policy-making structure indicated that putting additional categories of representation on the council would bring about a better balance of interests. The method of picking the council's chair and vice chair could also be improved. Recommended improvements to the current structure are discussed in the material that follows.

Representation on the council should be expanded to include federal, county, and city government; marine navigation, marine fisheries, and environmental concerns.

Currently, the governor, the lieutenant governor, and the speaker of the house each appoint members from four categories of representation. These categories are state government, education, business and commerce, and the general public.

As a general rule, council membership should reflect the interests served by the council. An examination of the council's activities was made to see whether the current categories of representation are appropriate. This was done by

reviewing the topics discussed at council meetings since 1980, the subjects of studies conducted by the council since its inception in 1971, the results of a coastal issues survey carried out by the council in 1983, and the committee structure used by the council.

This review showed that most of the council's efforts fit into six general categories: 1) port improvements and marine safety; 2) marine fisheries, 3) coastal development; 4) environmental issues; 5) disaster preparedness; and 6) education. This analysis indicates that the current categories of representation are appropriate but should be expanded to include additional interests.

Since port and navigation issues, and marine fisheries are two of the council's primary concerns and will likely be concerns in the future, these interests should be represented on the council. The interests of coastal development which are represented on the council, could be balanced by adding a representative of environmental concerns since these concerns have been a focus of the council.

The statute directs the council to cooperate with and assist the legislature, state and federal agencies, and political subdivisions. To best carry out this mandate, the council should have representation of these interests. This could be done by adding representatives of federal, county, and city governments to the existing representation of state government.

To accommodate broader representation on the council, the current appointment system should be revised. This can be accomplished without altering the size of the council or the number of appointments made by each appointing authority. The three appointing authorities could appoint representatives of different interests instead of all three appointing representatives of the same four categories. The governor's four appointments would represent: state, county, and city government, and the head of a federal program residing in Texas. The lieutenant governor and speaker would each continue to appoint three members from their respective houses. This is necessary because, ultimately, much of the council's effectiveness depends on its ability to get recommendations implemented through statute.

The six remaining positions could represent marine navigation, marine fisheries, education, environmental concerns, industry and the general public. For example, the lieutenant governor's appointments could represent education, marine navigation, and marine fisheries and the speaker could appoint representatives of the remaining three categories. Table 2 summarizes the recommended changes.

Table 2

Current	Proposed
Governor	
1 representing government	1 representing the federal government
1 representing education	1 representing the state government
1 representing the general public	1 representing a county government
1 representing business and commerce	1 representing a city government
Lieutenant Governor	
1 representing education	1 representing education
1 representing the general public	1 representing marine navigation
1 representing business and commerce	1 representing marine fisheries
3 senators	3 senators
Speaker	
1 representing education	1 representing environmental concerns
1 representing the general public	1 representing the general public
1 representing business and commerce	1 representing industry
3 representatives	3 representatives

The chair and vice-chair should be appointed alternately by the speaker and the lieutenant governor instead of elected by the membership.

The chair and vice-chair of the council are currently elected by the membership for two-year terms.

A more common method of selection is to have these positions designated by the authority that appoints the members of the policy-making body.

The appointing authority is able to exercise a greater degree of control over the policies and activities of the agency when he is able to appoint the officers. Historically the chair and vice-chair have been members of the legislature. This is appropriate since, as previously mentioned, access to the decision making process is necessary for the council to be effective.

Since two appointing authorities select legislative members, a balanced approach would provide for them to alternate appointing the chair and vice-chair. These appointments should continue to be for terms of two years to coincide with possible changes in appointing authorities. Since the chairmanship has just changed

from the house to the senate, the lieutenant governor should initially appoint the chair and the speaker should appoint the vice-chair.

Overall Administration

The evaluation of the overall agency administration was designed to determine whether the management policies and procedures, the monitoring of management practices and the reporting requirements of the agency were consistent with the general practices used for internal management of time, personnel, and funds. The review indicated that elements of the agency's operation related to administration could be improved, as indicated below.

The council should be required to implement a fee system for its publications.

The council has produced five publications since 1981. Copying costs for these publications have averaged about \$6 per copy, with a total cost of approximately \$15,000. The council distributes copies of these documents on request at no charge.

As a general rule, state agencies should attempt to recover costs incurred in the publishing of documents. A statement of legislative intent is set out in the appropriations bill. Unless a publication is necessary to accomplish the basic purpose of the agency, or is required by law to be available to the public free of charge, costs should be recovered.

Some of the council's publications may be considered necessary to accomplish its basic purposes. In these cases it is appropriate that certain parties, such as legislators and state libraries, get copies at no charge. However, many of these same publications are also used by private individuals and organizations for their own purposes. In these instances the state's costs should be reimbursed.

In addition, a review of the publications policies of other state advisory agencies indicated that those which publish reports or studies generally do attempt to recover the cost of these publications. Interviews with staff members of these agencies determined that they charged fees in an effort to comply with the spirit of the appropriation bill rider.

Since the council has gone through a number of funding problems in recent years, all opportunities for cost savings should be pursued. A fee system for its publications would help the council to stretch its budget and would be more in line with legislative intent. For these reasons the council's statute should be amended to specify that a fee system for its publications be implemented.

Evaluation of Programs

As previously mentioned, the agency does three things: it serves as a forum for discussion of coastal issues; it manages an artificial fishing reef program; and it provides research and information services. A description of the activities within each of these functional areas as well as any significant problems identified during the review are covered in the material that follows.

Forum for Discussion

The council performs this function in several ways. The primary one is through the open meetings held by the council every other month. Speakers are invited, the public gets the chance to address the council, and public notice of the meetings is given. Various cities along the Texas coast host these meetings.

Another way the council acts as a forum is through its membership. Each member represents certain interests. Legislators, for example, represent everyone in their district. Council members and the agency staff attend conferences, monitor federal activity which may affect the coast, and keep up with what other state agencies are doing in coastal areas, in order to bring relevant material for discussion into the meetings. The council has also solicited public opinion through a coastal issues survey, where coastal residents were polled to determine what the major problems on the coast were.

Artificial Fishing Reefs

The second major activity of the council is its artificial fishing reef program. The council has constructed five offshore artificial fishing reefs from obsolete navy vessels which were given to the state. These reefs are thought to provide places where certain types of marine life grow and prosper. The primary users of the council's fishing reefs are sportfishermen and scuba divers.

The Texas Coastal and Marine Council is currently seeking to expand this program by encouraging oil companies to donate offshore oil platforms no longer in use for reef materials. Three of the council's five reefs have no ongoing costs associated with them. The other two have permit requirements to maintain buoys that mark the sites for ships in the area. The cost of maintaining these buoys over the last four years has averaged \$37,250 annually. The council hopes to eventually construct a "fully-developed reef system" where reefs will be located on all of the best suited sites off the coast of Texas.

Currently, the council is working on ways to eliminate or reduce the costs to the state of maintaining buoys. The agency hopes to do this by getting oil companies to donate money to support the costs of the buoys. The agency has

helped set up a private, non-profit corporation to work with oil companies and receive donations.

The council should develop rules which describe the relationship between it and the Texas Marine Resources Foundation (TMRF).

The Coastal and Marine Council was instrumental in the creation of the Texas Marine Resources Foundation (TMRF), a private, non-profit corporation in 1981. The purpose of the TMRF is to receive donations which are used to finance marine related projects. The foundation plans to accept off-shore oil and gas structures which are no longer in use. The structures will be used as a part of the artificial fishing reefs which have been constructed by the Coastal and Marine Council. In addition to getting the use of the structures, the foundation will also receive as a cash donation part of the cost that would have been incurred by the company if it had to bring the structures to shore and dispose of them. The donations will then be used to help cover the cost of maintaining navigational aids on the reef sites.

Generally, dealings between a state agency and a private organization designed to further the purposes of the agency are spelled out in a formal agreement between the two entities. Also, agencies are required by statute to adopt rules governing relationships between the two bodies.

The council and the foundation have written up a contract which describes their relationship, but the agency has not adopted the necessary rules as required by statute. As long as the possibility exists that the council will receive funds from the foundation they should adopt the necessary rules as outlined in Senate Bill No. 772, 68th Legislature. However, as seen in the following recommendation, there is a serious question as to whether the council should manage an operating program such as this.

The artificial reef program operated by the Coastal and Marine Council should be transferred to the Parks and Wildlife Department.

In 1974 the council obtained 12 surplus Liberty Ships from the federal government to construct artificial fishing reefs in the Gulf of Mexico. Work on the reefs started in 1975 and was completed in 1977. The council constructed five reefs which are located at various points from nine to 30 miles offshore. While these reefs were constructed at no cost to the state (in fact, the council was able

to realize a profit of over \$400,000 from ship salvages) a continuing liability to maintain markers at the reef sites was incurred. The council is currently seeking to expand this program by encouraging oil companies to donate obsolete offshore drilling platforms for materials to enhance the existing reefs and construct new reefs.

There is a serious question as to whether this function is consistent with the council's role as an advisory body. An alternative would be to transfer this reef program to the Parks and Wildlife Department. Currently, the Coastal and Marine Council operates a gulf artificial reef program and the Parks and Wildlife Department administers an artificial fishing reef program in the bays. However, only the Parks and Wildlife Department has express statutory authority to operate a reef program, either in the bays or the gulf.

By acting as the agent for Texas in accepting the Liberty Ships, the Coastal and Marine Council also accepted the responsibility for the construction and maintenance of the reefs. This involved contracting with private companies for the salvage of the ships and subsequent placement of the hulls on the reef sites. In order to construct the reefs, permits from the Corps of Engineers and the Coast Guard were required. One of the permit conditions was that the council maintain buoys at two of the sites as navigational aids. The cost of maintaining these buoys has averaged \$37,250 annually over the last four years.

While the council was authorized by resolution from the legislature to accept reef materials, this was done before the Parks and Wildlife Department was given express statutory authority, and no mention was made of the costs of maintaining the buoys. In addition, no detailed analyses have been made to determine whether the economic benefits of the reefs justify the cost of administering them.

A transfer of the council's reef program to the Parks and Wildlife Department would put the state's artificial reef enhancement efforts into the agency that has the statutory authority to administer this kind of program. This transfer would return the focus of the council to an advisory body. Once the transfer was completed, the Parks and Wildlife Department could make a determination as to whether the reefs are consistent with the overall reef program and whether the cost of maintaining them is justified.

Research and Information Services

The council's purpose as an advisory body requires that it conduct studies and provide information. The legislature has by resolution directed the council to undertake specific projects on 15 occasions since it was set up. Topics that the

council has done studies on range from estuarine inflows to hurricane evacuation to dredged material disposal.

The council also analyzes issues of its own choosing. Some of these projects are handled internally by agency staff, and some are done by outside parties under contract. The most recent emphasis has been on economic development. The council is planning to study this subject to see whether any economic opportunities exist that are not being explored.

Services of an informational nature performed by the council include channeling people to the right place to get questions answered. Since so many government entities are involved in coastal affairs and only one agency in the state focuses exclusively on coastal issues, part of the council's work involves telling people where to take certain types of problems. The council also gives other state agencies information on coastal problems. The council also publishes a clipping service called "Clips/Briefs" which contains press articles on coastal affairs. Finally, the council puts out a compilation of legislation every two years that deals with coastal affairs. The review of the research and information services developed one concern which is addressed below.

The council should be required to report to the legislature and the governor on its activities.

Currently, the council's statute provides a very general mandate with few specific duties. There are certain administrative requirements dealing with who can be members and officers of the council and the number of meetings which must be held by the council. There are only two requirements, however, of a more substantive nature. These direct the council to 1) serve as an advisory body to cooperate and assist the legislature, state and federal agencies, and political subdivisions in coastal and marine affairs; and 2) develop a liaison relationship with the federal government.

Most other advisory bodies have specific reporting requirements to ensure that the legislature and the governor are informed of the issues, aware of possible solutions to the issues, and can evaluate the performance of the agency. The council's statute is so broad that it provides very little guidance as to what is expected of it. There are no mechanisms in place designed to inform the legislature and the governor as to what the coastal issues are, what remedies are available, and the current status of ongoing projects.

This lack of communication has caused a number of problems in the past. The legislature has directed the council to undertake projects without providing necessary funds to complete them. Some legislative resolutions have not been acted on in a timely manner. These resolutions have not always been clear as to who must actually develop the final report. By specifying that the council report on the current status of its projects, many of these problems could be eliminated.

In addition, the focus of the council's activities has tended to shift periodically. This has been due in part to funding arrangements. For example, when the council was funded out of Fish, Game, and Water Safety Fund 009, its activities were limited to these three areas. Certain projects are pursued until a problem is encountered which essentially places the project "on hold". For example, a navigational risk management project was carried on for some time until sources of funding were no longer available, and it was postponed indefinitely. By reporting on its activities, the council would at least be able to explain problems it may be encountering.

There is also no method of communicating all of the council's resolutions and recommendations in a systematic way. This makes it very difficult to determine how effective the council has been in getting its recommendations adopted.

Finally, the council has undertaken certain projects where it was questionable whether these projects were appropriate for an agency of its kind. A reporting requirement may help the legislature to indicate its support or lack of it as to the direction the council is taking. The review indicated that the other advisory bodies in the state have much more formalized reporting requirements. These are necessary so that the advisory services of the agency reach the decision making process.

The need for a report to the legislature on coastal affairs is greater since the Texas Energy and Natural Resources Advisory Council (TENRAC) has been abolished. This is because they (and the Natural Resources Council before them) were required to report to the legislature on coastal issues by the Coastal Coordination Act of 1977. While that report may not be appropriate for the Coastal and Marine Council, it does provide some insight as to the kind of information that is needed. This report was required to contain: 1) a short description of coastal issues; 2) a statement of the state's principal coastal problems; 3) a statement of steps recommended to resolve identified problems; 4) a review of the effectiveness of current programs; 5) a report on the success of actions taken by TENRAC; and 6) recommended research priorities.

By specifying this type of a reporting procedure for the Coastal and Marine Council, two things would be accomplished. The legislature would receive the kind of information it has expressed an interest in, and the council would have an effective way to communicate with the legislature and the governor.

It is therefore recommended that the council's statute be amended to require a biennial report to the governor and the legislature on its activities. The statute should specify that this report contain: 1) a summary of coastal issues; 2) current status of the council's projects; 3) a list of all the council's recommendations and resolutions; and 4) a statement of areas most in need of the state's attention.

EVALUATION OF OTHER SUNSET CRITERIA

The review of the agency's efforts to comply with overall state policies concerning the manner in which the public is able to participate in the decisions of the agency and whether the agency is fair and impartial in dealing with its employees and the general public is based on criteria contained in the Sunset Act.

The analysis made under these criteria is intended to give answers to the following questions:

1. Does the agency have and use reasonable procedures to inform the public of its activities?
 2. Has the agency complied with applicable requirements of both state and federal law concerning equal employment and the rights and privacy of individuals?
 3. Has the agency and its officers complied with the regulations regarding conflict of interest?
 4. Has the agency complied with the provisions of the Open Meetings and Open Records Act?
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EVALUATION OF OTHER SUNSET CRITERIA

This section covers the evaluation of the agency's efforts in applying those general practices that have been developed to comply with the general state policies which ensure: 1) the awareness and understanding necessary to have effective participation by all persons affected by the activities of the agency; and 2) that agency personnel are fair and impartial in their dealings with persons affected by the agency and that the agency deals with its employees in a fair and impartial manner.

Open Meetings/Open Records

Meetings and activities of the council have generally been undertaken in compliance with requirements of the Open Meetings Act and the Open Records Act. Timely notices of council meetings are filed with the Secretary of State's office and no improper use of executive sessions was identified. A review of the agency's overall compliance with the Open Records Act indicates that the agency has never had a formal request for information and appropriately considers information it maintains as open and available to the public.

EEOC/Privacy

A review was made to determine the extent of compliance with applicable provisions of both state and federal statutes concerning affirmative action and the rights and privacy of individual employees. The agency operates under an affirmative action plan last updated in 1981, which includes formal grievance procedures. Currently the staff is composed of two anglo males and three anglo females. Although the agency has no formal procedures developed concerning the rights and privacy of its employees, no problems in this area were encountered during the review.

Public Participation

The review of public participation consists of an evaluation of the extent to which persons served by the program and the general public have been kept informed of program activities, and the extent to which the program is responsive to changing demands and needs. The review indicated that among other things, the agency has six council meetings per year, and conducts these meetings at various locations along the Texas coast. These meetings, in which the public is encouraged to participate, have resulted in suggestions which were generally considered useful by both the agency and persons in attendance. Public awareness is also encouraged

through the agency's weekly publication of "Clips/Briefs", a clipping service covering coastal news. In addition, studies made by the council are made available to the public upon request.

Conflict of Interest

A review of council members' compliance with statutory standards of conduct and conflict of interest provisions showed overall compliance with these requirements. Those members and the executive director required by statute to file full financial disclosures with the Secretary of State have done so. However, new employees have not been provided copies of the statutory provisions relating to conflict-of-interest and required to sign a statement that they have received this information. This requirement was discussed with the agency during the review and the agency indicated that copies of conflict-of-interest statutes would be required reading for employees of the agency.

ALTERNATIVES

The analysis of whether there are practical alternatives to either the functions or the organizational structure are based on criteria contained in the Sunset Act.

The analysis of alternatives is directed toward the answers to the following questions:

1. Are there other suitable ways to perform the functions which are less restrictive or which can deliver the same type of service?
 2. Are there other practical organizational approaches available through consolidation or reorganization?
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ALTERNATIVES

As part of the review of this agency, the functions performed by the agency were evaluated to determine if alternatives to current practices were available. State agencies with functions similar to those performed by this agency and the practices of other states were reviewed to determine if they had developed alternative practices which offered substantial benefits and which could be implemented in a practical fashion. It was concluded that a practical alternative to the current structure does exist, and it is discussed below.

Combine the Coastal and Marine Council with the Texas Advisory Commission on Intergovernmental Relations.

The Coastal and Marine Council is directed by statute to "serve as an advisory body to cooperate and assist the legislature, state and federal agencies, and political subdivisions with respect to coastal resources management and other marine-related affairs" (Art. 4413 (38), V.A.C.S.). The council has typically carried out this mandate by evaluating coastal issues and making policy recommendations as to how these issues should be addressed.

The review indicated that an alternative to the current structure would be to combine the Coastal and Marine Council with the Texas Advisory Commission on Intergovernmental Relations (TACIR).

As a general rule, the state has sought to combine similar functions performed by two or more agencies into a single agency where possible, to reduce overlap and duplication.

The council's statutory mandate suggests that the majority of coastal problems involve a number of local, state, and federal government entities. An examination of the issues the council has addressed and the recommendations which have resulted confirm that this is correct.

TACIR was created to do research and policy evaluation on the relationships between government bodies for the state as a whole. In terms of process, the two agencies perform similar functions. Both agencies serve as advisory bodies that evaluate issues which involve a number of government activities. The two agencies employ similar methods of identifying issues which need attention. These methods include input from the general public, suggestions from policy body and staff members, and requests from outside entities. Once issues have been identified,

both agencies usually address them in a similar manner. They are discussed in public meetings, assigned to an appropriate subcommittee, researched by agency staff or an outside body under contract, and recommendations are made as to how the issue can be resolved. These recommendations typically outline policies that could be pursued by the legislature or other state agencies to resolve the problem.

The major difference between the two agencies is that the Coastal and Marine Council focuses on issues affecting the coast, while TACIR maintains a statewide perspective.

By combining the two agencies, it is anticipated that a savings in administrative overhead could be achieved. A combination of the two agencies would also contribute to a more uniform and centralized approach to policy analysis and intergovernmental coordination in Texas. In addition, by amending TACIR's statute to require representation of coastal issues on its commission, and by requiring that it specifically address coastal issues, the state's existing focus on this important resource could be maintained.

OTHER POLICY CONSIDERATIONS

During the review of an agency under sunset, various issues were identified that involve significant changes in state policy relating to current methods of regulation or service delivery. Most of these issues have been the subject of continuing debate with no clear resolution on either side.

Arguments for and against these issues, as presented by various parties contacted during the review, are briefly summarized. For the purposes of the sunset report, these issues are identified so they can be addressed as a part of the sunset review if the Sunset Commission chooses to do so.

OTHER POLICY CONSIDERATIONS

This section covers that part of the evaluation which identifies major policy issues surrounding the agency under review. For the purpose of this report, major policy issues are given the working definition of being issues, the resolution of which, could involve substantial change in current state policy. Further, a major policy issue is one which has had strong arguments developed, both pro and con, concerning the proposed change. The material in this section structures the major question of state policy raised by the issue and identifies the major elements of the arguments for and against the proposal.

Should the Coastal and Marine Council be given the responsibility of developing a proposal for a full or partial coastal management plan?

Currently, Texas manages the different aspects of coastal affairs through a number of state and local agencies. There is no formal method to coordinate the various policies and procedures into a comprehensive management plan. The review of other state's actions in this area showed that Georgia and Texas are the only two coastal states in the country without comprehensive coastal management plans. Most of the states with comprehensive plans developed them in order to receive funds under the federal Coastal Zone Management Program. Texas developed a proposal for participation in this program in 1979 but it was not submitted by the governor. The main problem Texas had with the federal program was that it required that participating states have the authority to control development of privately owned wetlands. Texas does not have this authority and strong opposition was expressed when it was proposed.

The decision to participate in the federal program rests largely with the governor. It seems reasonable, however, to consider the advantages and disadvantages of a coastal management plan whether or not it follows federal guidelines.

A coastal management plan could serve as a broad policy statement to guide and coordinate the various aspects of the state's involvement in coastal affairs. The plan could provide a framework for balancing different interests on important issues, such as development versus preservation and freshwater inflows to the bays and estuaries. A coastal management plan could also formalize interrelationships between state agencies and identify areas where legislation may be needed.

A plan of this nature could also be used as a means to argue against certain activities which affect the Texas coast. For example, if incineration of hazardous wastes in the Gulf of Mexico is inconsistent with the plan, it could be opposed by the state. In addition, the existence of a plan could help the state evaluate and participate in federal programs in the future.

The disadvantages of developing a coastal management plan would be that it could be expensive to put together, and that the plan may not be effective if the regulatory agencies involved do not give it their support.

The Coastal and Marine Council would be an appropriate body to examine in detail the merits of a coastal management plan. The council could be directed to study this issue and develop a proposal if it is warranted.

ACROSS-THE-BOARD RECOMMENDATIONS

From its inception, the Sunset Commission identified common agency problems. These problems have been addressed through standard statutory provisions incorporated into the legislation developed for agencies undergoing sunset review. Since these provisions are routinely applied to all agencies under review, the specific language is not repeated throughout the reports. The application to particular agencies are denoted in abbreviated chart form.

TEXAS COASTAL AND MARINE COUNCIL

Applied	Modified	Not Applied	Across-the-Board Recommendations
A. GENERAL			
X		X	1. Require public membership on boards and commission
			2. Require specific provisions relating to conflicts of interest.
X			3. 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 board.
X			4. Require that appointment to the board shall be made without regard to race, color, handicap, sex, religion, age, or national origin of the appointee.
X			5. Specify grounds for removal of a board member.
X			6. Require the board to make annual written reports to the governor, the auditor, and the legislature accounting for all receipts and disbursements made under statute.
		X	7. Require the board to establish skill-oriented career ladders.
		X	8. Require a system of merit pay based on documented employee performance.
X			9. Provide that the state auditor shall audit the financial transactions of the board at least once during each biennium.
X			10. Provide for notification and information to the public concerning board activities.
*			11. Place agency funds in the Treasury to ensure legislative review of agency expenditures through the appropriation process.
		X	12. Require files to be maintained on complaints.
		X	13. Require that all parties to formal complaints be periodically informed in writing as to the status of the complaint.
X			14. (a) Authorize agencies to set fees. (b) Authorize agencies to set fees up to a certain limit.
X			15. Require development of an E.E.O. policy.
X			16. Require the agency to provide information on standards of conduct to board members and employees.
X			17. Provide for public testimony at agency meetings.
X			18. Require that the policy body of an agency develop and implement policies which clearly separate board and staff functions.

ready in statute or required.

Texas Coastal and Marine Council
(Continued)

I lied	Modified	Not Applied	Across-the-Board Recommendations
			B. LICENSING
		X	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
		X	2. Provide for notice to a person taking an examination of the results of the exam within a reasonable time of the testing date.
		X	3. Provide an analysis, on request, to individuals failing the examination.
		X	4. Require licensing disqualifications to be: 1) easily determined, and 2) currently existing conditions.
		X	5. (a) Provide for licensing by endorsement rather than reciprocity. (b) Provide for licensing by reciprocity rather than endorsement.
		X	6. Authorize the staggered renewal of licenses.
		X	7. Authorize agencies to use a full range of penalties.
		X	8. Specify board hearing requirements.
		X	9. Revise restrictive rules or statutes to allow advertising and competitive bidding practices which are not deceptive or misleading.
		X	10. Authorize the board to adopt a system of voluntary continuing education.