

**Texas
Sunset
Advisory
Commission**

STAFF EVALUATION

Advisory Council on Technical-Vocational Education
Office of State-Federal Relations
Texas Advisory Commission on Intergovernmental Relations
State Securities Board
Texas Commission on the Arts

A Staff Report
to the
Sunset Advisory Commission



1982

SUNSET ADVISORY COMMISSION

STAFF REPORT

on the

**TEXAS ADVISORY COMMISSION ON
INTERGOVERNMENTAL RELATIONS**

1982

FOREWORD

Over the past several years, there has been a sustained interest among the states in a new concept in legislative review popularly described as sunset. Since 1976, more than half the states have enacted legislation which embodies the primary element of sunset, the automatic termination of an agency unless continued by specific action of the legislature.

The acceptance of this concept has been aided by a general agreement that the normal pressures of the legislative process tend to prevent a systematic review of the efficiency and effectiveness with which governmental programs are carried out. The sunset process is, then, an attempt to institutionalize change and to provide a process by which a review and redefinition of state policy can be accomplished on a regular systematic basis.

The Texas Sunset Act (Article 5429K, V.A.C.S., as amended) was enacted by the 65th Legislature in 1977. Under the provisions of the Act, agencies are automatically terminated according to a specified timetable, unless specifically continued by the legislature.

To assist the legislature in making the determination of whether an agency should be continued and, if continued, whether modifications should be made to its operations and organizational structure, the Act establishes a ten-member Sunset Advisory Commission composed of eight legislative members and two public members. The commission is required to evaluate the performance of the agency in accordance with specific criteria set out in the Act and to recommend necessary changes resulting from the findings of the evaluation.

The process by which the commission arrives at its recommendations moves through three distinct phases beginning with a self-evaluation report made by the agency to the commission. The second phase involves the preparation of a report to the commission by its staff, evaluating the activities of the agency, and proposing suggested changes for commission consideration. The final phase involves public hearings on the need to continue or modify an agency and the development of commission recommendations and legislation, based on the agency self-evaluation, staff report, and public testimony.

The Sunset Commission's findings, recommendations, and proposed legislation are then required to be transmitted to the legislature when it convenes in regular session.

INTRODUCTION AND ORGANIZATION OF AGENCY REVIEWS

The Texas Sunset Act abolishes several agencies on September 1, 1983 unless each is re-established by the 68th Legislature.

The staff reviewed the activities of these agencies according to the criteria set out in the Sunset Act and has based its conclusions on the findings developed under these criteria.

Taken as a whole, these criteria direct the review of an agency to answer four primary questions:

1. Does the state need to perform the function or functions under review?
2. Could the public still be adequately served or protected if the functions were modified?
3. Is the current organizational structure the only practical way for the state to perform the function?
4. If the agency is continued and continues to perform the same functions, can changes be made which will improve the operations of the agency?

The report is structured to present the performance evaluation of each agency separately. The application of the across-the-board recommendations developed by the commission to deal with common problems are presented in a chart at the end of each report and are not dealt with in the text except in one instance. When the review develops a position which opposes the application of a particular recommendation, the rationale for the position is set forth in the text.

SUMMARY OF STAFF FINDINGS AND CONCLUSIONS

SUMMARY

Organization and Objectives

The Texas Advisory Commission on Intergovernmental Relations (TACIR) was established in 1971 and is currently active. The commission is composed of 24 appointed members who serve staggered six-year terms, and two ex officio members as follows: four county officials, four city officials, two public school officials, two representatives of other political subdivisions, two federal officials residing in Texas and responsible for federal programs operating in the state, and four private citizens all appointed by the governor; three state senators appointed by the lieutenant governor; three state representatives appointed by the speaker of the house; and the lieutenant governor (ex officio) and speaker of the house of representatives (ex officio). The agency has a staff of 17 employees and total appropriations of \$482,762, for fiscal 1982 and \$515,437 for fiscal 1983, with one-half of its funding appropriated from general revenue and the other half obtained through grants and contracts.

The TACIR was established to help solve problems concerning relationships between governmental levels in Texas. It has become increasingly important for public officials to understand and cooperate with each other across federal-state-local lines as the fiscal and administrative links between the levels of government have become tighter and more elaborate. To answer questions such as: what governmental level should perform what function; what level should perform which service, and how can the levels best form a partnership to achieve their joint purposes, decision makers need practical knowledge of the effects produced by intergovernmental relationships. TACIR functions as a research organization to supply the information needed by the governmental levels involved. The agency's statutory mandate includes two broad types of policy research which should be performed by the agency: 1) analysis of policies related to intergovernmental relationships and development of recommendations for improvement; and 2) provision of factual information on which policy decisions can be based. Between 1971, when it was established, and 1977, the agency actively attempted to achieve the policy analysis and recommendations part of its research function, working extensively on various intergovernmental issues, including property tax reform, constitutional revision, federal revenue sharing, land use and public housing. In 1977, the commission decided to place its emphasis on informational reports; and

since then the agency has done research without commission conclusions and recommendations on topics such as county government finance and management, tort liability of public employees and officials, professional standards for local law enforcement officers, and emergency telephone systems such as the "911" dialing code.

The review and evaluation of the agency indicates that its research activities have been managed adequately; that the research has been directed to areas that were of concern to the commission or the agencies requesting research under contract; and that the research product was used. However, the review also showed that if the agency is to be continued, modifications to its operations should be made to increase its efficiency and effectiveness.

Policy-Making Structure

The policy-making structure of the agency was designed to provide broadly based coverage of all areas considered to be important in the resolution of local, state, and federal problems. For this purpose, the composition is appropriate. However, the very broadness of the composition may have prevented the agency's full integration into the normal decision making channels. Without this integration, policy analysis and even certain types of informational reporting cannot be totally effective. To increase the agency's effectiveness, the structure of the policy-making board should be revised to give it a direct tie to the legislative process by designating the lieutenant governor and speaker of the house as chair and vice-chairman of the commission. The remaining membership of the commission should be structured so that the members have clear and direct ties to the appointing authority, whether it be executive, legislative or association memberships.

Overall Agency Administration

The review of the overall administration of the agency focused on determining whether the operating policies and procedures of the agency provide a satisfactory framework which is adequate for the internal management of personnel and funds and which satisfies reporting and management requirements placed on the agency and enforced through other state agencies. The results of the review indicate that the administration of the agency is generally conducted in an efficient manner. However, the current method used by the agency to determine prices charged for publications could be improved by the development of a system for documenting printing costs and a formula for calculating appropriate prices. In

addition, the agency currently has statutory authorization to pay commission members a per diem in addition to actual and necessary expenses. This authorization has never been used and should be removed from the statute.

Evaluation of Programs

The review of the program activities of the agency centered on its primary service product, report development and preparation. The review found that the agency has developed a reasonable process for defining the scope of the projects, managing the projects and costing out projects which are under contract. However, the agency's effectiveness could be improved by strengthening its project selection process to lessen the potential for selection of projects which duplicate other research efforts or which are not of immediate interest to policymakers. The review also indicated that the commission's 1977 decision to concentrate on informational reports has resulted in virtual suspension of activity which would address the policy analysis and recommendation aspect of its mandate. The agency's effectiveness would be enhanced by resumption of attention to the need for independent analysis of public policy and development of recommended improvements. It is probable that the suggested adjustments in the agency's policy-making structure will enhance its ability to perform this aspect of its mandate.

Other Sunset Criteria

The review of the agency's activities related to open meetings/open records, EEOC/privacy, public participation, and conflicts of interest shows that the commission has generally complied with the requirements governing these areas.

Need to Continue Functions

The review indicated that the function of developing policy research studies on intergovernmental topics is still necessary and that Texas should remain active in the area to facilitate coordination and cooperation between the state and the federal government and between the state and its local governments.

Approaches for Sunset Commission Consideration

I. MAINTAIN THE COMMISSION WITH MODIFICATIONS

- A. Agency operations
 - 1. Policy-making structure
 - a. Amend the statute to designate the lieutenant governor and speaker of the house of representatives as chair and vice chair, respectively, of the commission, and to include members of the house and senate, relevant associations and the public. (statutory change)
 - 2. Overall administration
 - a. Amend the statute to remove the per diem provision, allowing commission members to be compensated for their actual and necessary expenses when engaged in commission business. (statutory change)
 - b. The commission should devise and follow: 1) a system for documenting costs associated with printing its publications; and 2) a written formula for calculating appropriate publications prices. (management improvement - non-statutory)
 - 3. Evaluation of programs
 - a. The commission should develop and follow a written procedure for selecting research projects which are of immediate interest to policy-makers and which do not duplicate previous work. (management improvement - non-statutory)
 - b. The commission should resume its efforts to independently analyze public policy and make recommendations for improvements in intergovernmental relations. (management improvement - non-statutory)
- B. Recommendations for other sunset criteria
(No changes recommended)

II. ALTERNATIVES

- A. **Change in method of service delivery**
 - 1. **Abolish the agency, but continue the function as part of a new agency with expanded responsibilities.**

This approach would include creation of an agency whose mandate would encompass all problems of relationships between federal, state and local governments and would pull together activities of various agencies such as TACIR, Office of State-Federal Relations, and the Texas Department of Community Affairs. The purpose of the agency would be to provide a forum for solving a broad range of intergovernmental problems in the way TENRAC addresses energy and natural resource issues.

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?

BACKGROUND

Historical Background

The Texas Advisory Commission on Intergovernmental Relations (TACIR) was created by the 62nd Legislature in 1971, following a recommendation by the Texas Urban Development Commission, a temporary task force established by Governor Preston Smith in 1970. The Urban Development Commission, Governor Smith, and the legislature felt that an advisory commission would help "improve coordination and cooperation between the state and its local governments and between the state and the federal government." In setting a goal of improved relationships between governments, Texas was responding, as were many other states in the 1970's, to a growing need for intergovernmental cooperation. Two factors were crucial to the recognition of this need: 1) the federalist system of decentralized governmental powers and responsibilities; and 2) the increasing involvement of the national government in matters that traditionally had been considered the responsibility of state and local governments.

The federal government had only limited involvement in the activities of states and localities before 1930. During the depression of the 1930's, the national government established economic relief programs which crossed state boundaries; and federal activities during World War II required the cooperation of state and local authorities in funding and administering civilian defense, rationing and other wartime programs. Fiscal and administrative links established during the depression and in wartime were continued and intensified between 1945 and 1960 as the nation faced the problems of urbanization and population growth. The federal grants which proliferated during the 1950's and 1960's were used to fund capital works projects such as highways, hospitals, sewage plants and airports, as well as anti-poverty programs and aid to education.

Although the national government, and not the states or localities, funded these projects, much of the responsibility of administering the programs remained in the hands of state and local governments. Program management was complicated because of federal conditions on the use of funds and because of the wide variety of categorical, formula, and block grants which were available. As public officials on all levels realized that the intricacies of project funding and adminis-

tration required that governmental entities work together, the concept of establishing permanent advisory boards on intergovernmental matters was developed. To help answer such questions as: what governmental level should perform what function; what level should finance which service; and how can the levels best form a partnership to achieve their joint purposes, the National Advisory Commission on Intergovernmental Relations (NACIR) was created by Congress in 1959, and by 1970 three states had set up similar bodies.

The Texas Advisory Commission on Intergovernmental Relations was established as part of an attempt to address the problems of urban growth. Between 1960 and 1970, Texas' urban areas grew rapidly, both in geographic area and in population. Much of the legislation enacted by the legislature in the late 1960's focused on changes in state-local relationships occasioned by this growth, and on changes in state responsibilities required by federal programs. In 1970, Governor Preston Smith appointed the Texas Urban Development Commission and charged it with "helping state government chart new directions for meeting its urban responsibilities." The commission concluded that there was a need for increased attention to the relationships between and among governments in Texas and to the ways they could improve their ability to work together. The Urban Development Commission and Governor Smith recommended the creation of the TACIR to "evaluate the efforts of state government to assist local governments and meet other obligations in our federal system of government."

The 62nd Legislature created TACIR in 1971 and the agency began operations in January, 1972, with a staff of four professionals and one secretary and a biennial appropriation of \$175,000. During fiscal years 1972 and 1973, the commission did extensive work at the request of Governors Smith and Briscoe on public school finance, publishing several reports which contained both informational material and policy recommendations. Other commission research topics in its early years were property tax reform, constitutional revision, federal revenue sharing, land use, and public housing. By 1977, the agency's annual appropriation had grown to \$550,835, supporting 26 staff members.

Decisions by the 65th Legislature caused a significant change in the commission's funding structure. While the annual appropriation was continued at about the same level as in the previous biennium, it was decided that the agency should

obtain one-half of its funding from sources other than General Revenue. In response to the alteration in its method of funding, the commission decided to place its primary emphasis on informational reports rather than policy recommendations, and since 1978 it has followed that policy. Major topics of study by the commission between 1978 and 1980 included county government finance and management, tort liability of public employees and officials, professional standards for local law enforcement officers (which resulted in a manual of Model Rules for Peace Officers), and emergency telephone systems such as the "911" dialing code.

Current Programs and Objectives

The agency operates under the statutory mandate with which it was established, which includes the following specific duties:

1. Providing a means for continuous evaluation of the state's key role in the federal system;
2. Involving local, state, and federal officials in an advisory capacity to the public agencies of Texas;
3. Establishing a regular system of reporting to public officials on the progress of the state and its political subdivisions toward meeting intergovernmental responsibilities;
4. Evaluating on a continuous basis the interrelationships among Texas' local, state, and federal government agencies and preparing studies and recommendations to improve these relationships;
5. Evaluating proposed and existing federal programs and assessing their impact upon Texas;
6. Evaluating the state's role in assisting its political subdivisions to carry out public responsibilities and make recommendations for improvement;
7. Serving as a forum for the discussion and resolution of serious intergovernmental problems;
8. Encouraging and, where appropriate, coordinating studies relating to intergovernmental relations conducted by universities, state, federal and local agencies, and other research-oriented organizations.

ACIR's funding for fiscal year 1982 is \$482,762, with one-half appropriated from General Revenue and one-half to be obtained through grants and contracts. Currently, the agency employs 19 people and its projects include updating and

publishing the Handbook of Texas Governments, providing staff support for the governor's Texas 2000 project, and doing extensive research on local government debt in Texas and the impact of the "New Federalism" on the state.

REVIEW OF OPERATIONS

The evaluation of the operations of the agency 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 is fairly reflective of 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 operation of specific agency programs.

Policy-making Structure

In general, the structure of a policy-making body should have, as basic statutory components, specifications regarding the composition of the body and the qualifications, method of selection, and grounds for removal of the members. These provisions should ensure that there is adequate executive and legislative control over the organization of the body, that the members are competent to perform required duties, that the composition represents a proper balance of interests impacted by the agency's activities, and that the viability of the body is maintained through an effective selection and removal process.

The Texas Advisory Commission on Intergovernmental Relations is composed of twenty-four appointed members, who serve staggered six-year terms, and two ex officio members. The membership specifies four county officials, four city officials, two public school officials, two representatives of other political subdivisions, two federal officials residing in Texas and responsible for federal programs operating in the state, and four private citizens all appointed by the governor; three state senators appointed by the lieutenant governor; three state representatives appointed by the speaker of the house; and the lieutenant governor (ex officio) and speaker of the house of representatives (ex officio).

The commission structure was designed to include a relatively large number of local government officials in order to provide 1) a broad range of knowledge and expertise which would help the agency's research efforts, and 2) adequate representation of the interests and points of view of various governmental levels in Texas. The review indicated that, while the structure of the board is appropriate to achieve the first of these objectives, there are adjustments in the composition

which would ensure a level of needed expertise while enhancing the extent of representation and improving the commission's effectiveness in achieving its mandate.

Concerning the necessary representation, it is difficult in Texas to achieve adequate representation of the needs of a particular governmental level because of the geographic size and the diversity of population in the state. For example, a county in west Texas has different needs from those of a county in east Texas. The current appointment to the commission of local officials, independently of a central organization which represents all governments on that level, does not guarantee that the resulting board has adequate knowledge of the views of affected officials across the state. To ensure the maximum possible level of representation, the board composition should be revised so that each member, except the public member, is responsible to or appointed by an official or organization which represents the views of the largest possible number of public officials on the relevant governmental level. The resulting membership should represent a balance of interests necessary in researching and recommending solutions on a variety of policy issues relevant to the major facets of state and local government processes. The major facets included in the current commission structure include cities, counties, school districts, other political subdivisions, federal officials, as well as public, legislative and executive interests. It is not possible to appoint a "federal" representative with broad perspective on all federal issues. This information can be obtained by commission staff as needed and through the collective knowledge of the commission members themselves. However, a membership with broad knowledge of the other elements of government operations can be obtained by appointing members in the following fashion: two senators appointed by the lieutenant governor; two representatives appointed by the speaker of the house; one representative of the Texas Municipal League; one representative of the Texas Association of Counties; one representative of the Texas Association of Regional Councils of Government; one representative of the Texas Association of Schools Boards; one representative of the governor; and one public member appointed by the governor.

A second and related change in the commission's composition will enhance its effectiveness in achieving its mandate, particularly the responsibility to analyze

public policy and make recommendations for improvement. Ultimately the commission's impact on state policy depends on its ability to gain access to the decision-making process in Texas, which is the state legislature. The state-sponsored organizations which most effectively gain this access, and make policy recommendations, have different leadership than TACIR. Governor's task forces, as well as agencies such as the Legislative Budget Board and TENRAC, can achieve the necessary access to the decision-making process because they have a direct tie to the executive and/or legislative branches of Texas government. This connection exists because the leadership of one or both of these branches of government also serve as the head of the task force or policy board. To enable the TACIR to make policy recommendations in the most effective manner possible by giving it members who are also leaders in the decision-making process, the lieutenant governor and speaker of the house should be designated as chair and vice-chair, respectively, of the commission.

Overall Administration

The evaluation of the overall agency administration focused on determining whether the operating policies and procedures of the agency provide a framework which is adequate for the internal management of personnel and cash resources and which satisfies reporting and management requirements placed on the agency and enforced through other state agencies.

The review indicated that administrative support for the agency's activities is generally efficient. Accounting procedures provide accurate records of the agency's financial practices (during the period of 1978-1981 the auditor has issued no management letters on TACIR), and furnish a means to monitor continually the use of grant/contract funds. Clerical procedures are documented in a concise manner, and clerical employees are cross-trained to maximize efficiency during peak workload periods. Two recommendations are made, however, regarding the TACIR's administrative operations. First, the statute's provision for commission member compensation should be changed; and second, the agency should improve its method of determining publication prices.

Concerning commission member compensation, TACIR's enabling legislation authorizes payment to commissioners of \$25 for each day they are engaged in agency activities, as well as reimbursement for travel and other necessary

expenses incurred while performing official business. However, the commission decided at an early meeting in 1972 that members would forego the per diem payment and be reimbursed for expenses only. Since then, members have received payment for actual and necessary expenses. So that the statute will conform to actual practice, it should be amended to remove the per diem authorization.

An examination of TACIR's policies regarding publications prices indicates that, under the provisions of Art. V, Sec. 64, of the General Appropriations Act, the agency is not required to charge for its publications because they are essential to the achievement of its primary objectives. However, since the agency has chosen to sell its publications, two factors were considered in the review. First, general state law governing the amount agencies may charge for publications (Art. 4413(33), V.A.C.S.) provides that costs of publications "shall not be greater than an amount deemed sufficient by the publishing department or agency in the executive branch, to reasonably reimburse the state for the actual expense of printing such publications or printed matter." Second, because high prices can be a barrier to dissemination of materials, and because the effectiveness of a research agency such as TACIR is enhanced by wide availability and distribution of information it produces, prices should be kept as low as possible.

Agency staff is aware of the above considerations, and has attempted to set appropriate prices. Because in-house printing facilities are used to produce most publications, the staff printer's time is considered a cost of publication, along with the cost of materials and mailing expenses. The number of copies which will be distributed free of charge, and any funds received for materials and printing under grant or contract agreements, are also taken into account.

While the review indicated that the agency's prices reasonably reflect the publication costs, precise documentation of some expenses was not readily available, and estimates were necessary. Also, there was no written formula available for consistent use in setting prices, so the exact method of applying the various factors was unclear. In order to be assured of charging prices which accurately reflect its printing costs, and which do not act as an unnecessary impediment to distribution of its publications, the agency has indicated that it is devising a system of costs documentation to be used for each publication. Agency staff is also developing a written formula which sets out the ways in which the number of

copies distributed free of charge and the amounts received for printing under grant or contract agreements will be taken into account.

Evaluation of Agency Programs

In order to assess the Texas ACIR's effectiveness in performing its statutory duties, it was necessary to specify the ways in which the agency should fulfill its mandate, to discover whether it has correctly interpreted the charge made by the legislature, and to evaluate whether the programs it has developed have served adequately to achieve its objectives.

The TACIR's primary assignment is to function as a research organization. With the exception of its duty to "serve as a forum for the discussion and resolution of serious intergovernmental problems," which it fulfills simply by gathering its members together for commission business, every statutory charge to the agency involves acquiring or supplying information. There is a difference, however, between the policy research function, which is assigned to TACIR, and other types of inquiry, such as the research done at universities. Because policy research is directed toward solving immediate public problems, time is a much more critical factor than in an academic setting. Studies should address issues of current importance so that results are available when decisions are being made. There are two ways in which policy research can serve its purpose of contributing to the discovery of practical, timely solutions to current major problems. First, it can provide a collection of reliable factual information on which decisions can be based; and second, it can involve analysis of public policy and development of recommended solutions for the consideration of decision makers. The TACIR statute mandates activities in both of these areas, and the agency's performance in both of them has been evaluated.

The TACIR generally has been effective in performing the first aspect of its policy research function: the provision of factual information which policy-makers can use as a basis for decisions. The commission assigns project committees or appoints advisory committees of experts to direct the staff's work on many projects. Often reports are submitted to technical reviewers outside the agency for comment prior to publication. As a result of its thorough research methods, the agency has developed a reputation of producing comprehensive, reliable information.

To meet the definition of valuable policy research, however, the information produced must be more than reliable: it must address issues of current interest to policy-makers, and it must not duplicate previous studies. A carefully conceived procedure for selecting projects is essential to ensure that these two criteria are met.

Any method used by TACIR to set priorities will be affected by its method of funding under which one-half its financial support is supplied through general revenue and one-half is obtained by the agency through grants and contracts. In theory, one benefit of the present funding method is to allow the agency to do work in areas where interest is significant enough that other agencies or organizations are willing to finance the research. At the same time, it is assumed that the agency's general revenue funds are adequate to allow a broad range of self-generated projects. A useful balance between the two types of projects can be obtained, however, only if the agency carefully chooses projects on the basis of importance to Texas' public officials and not on the basis of funds availability.

The review indicated that currently an informal process exists for screening proposed projects. There are, however, no formalized procedures to ensure that funding concerns do not become paramount. Suggestions for projects which often involve grant or contract possibilities are received from public officials or agencies and from commission or staff members. Usually the proposal is presented by the executive director of TACIR to the operations and funding committee of the commission which decides whether it should be presented to the entire commission for consideration. Upon full commission approval, the staff either submits a bid (if a grant or contract is involved) or begins work on the project.

Further, discussions with agency staff indicate that no formal "needs assessment" has been conducted by the agency to identify areas of intergovernmental relations which are seen by its service population to be the topics on which research is most needed. The agency, then, is left in a situation of having to seek outside funding to support half its activities with only informal processes in place to ensure that the dollars pursued are tied to projects of significant importance to those the agency serves.

In order to ensure that the research undertakings of the TACIR staff are of immediate interest to policy-makers and do not duplicate previous efforts, a

written procedure for project selection should be developed. This statement of commission policy should include three things. First, it should state the criteria which will be considered in the choice process, (i.e. the proposed project must concern an intergovernmental issue; it must be a topic of current interest; and it must not duplicate the efforts of other research organizations). Second, the statement should specify the methods which the commission will use to designate intergovernmental issues which deserve priority consideration. To identify areas in which there is a need for research, the commission should conduct a survey of public officials in Texas, eliciting their perspectives regarding subjects of current interest. The survey can be used to gain an assessment of what research would be most useful to those the commission serves, as well as an indication of how well the agency's past research has met the needs of public officials in Texas. The results of the survey should serve as a basis in setting priorities for commission research efforts. The third aspect of the written procedure should be a description of the steps in the project approval process, including possible sources of suggestions, necessary background study to determine what information exists in the area, development of a project description for presentation to the commission, consideration by the appropriate committees, approval by the commission, and other details which the commission considers appropriate.

Although the TACIR generally has been effective in performing the informational aspect of its policy research function, it has not achieved the second aspect of its mandate: analysis of public policy and formulation of recommendations for improvement. To perform a policy analysis and recommendation function effectively, an agency should independently develop timely proposals addressing intergovernmental issues of current interest.

The review indicated that since 1977, the agency has not attempted independently to develop policy analysis and recommendation reports. From its origin in 1972 until 1977, the commission was actively involved in attempting to fulfill this part of its mandate. During that period, the agency generated reports containing recommendations for improvements in intergovernmental relationships concerning ten subjects, including public school finance, constitutional revision, cooperative purchasing, and land use standards. Several of these studies were independently conceived and developed by the commission.

In 1977, a special committee of TACIR members evaluated the agency's previous work and recommended ways it could adjust to the change in funding which had been made by the 65th Legislature. In response to the committee's suggestions and written report, the commission decided to "increase the percentage of its research directed toward information reports (without commission conclusions and recommendations) designed to improve the factual base upon which public officials make decisions affecting governmental management and the implementation or alterations of intergovernmental programs." Further, they concluded that "policy reports of the commission were most relevant when issued in response to a special request from a public official or agency. While sometimes controversial, these 'user-oriented' policy reports tended to be translated more quickly into public policy than those initiated without such sponsorship." The decision was made, therefore, that the commission would undertake policy reports only when requested by a public official or agency unless "a careful determination is made that commission initiated policy research is essential to the future solution of a public problem or timely response to an expected opportunity to improve the operation of public programs."

In accordance with these decisions, since 1978 the commission has issued reports containing policy recommendations on only three subjects, and all three of the studies were requested by a public official, agency or organization, rather than being initiated by TACIR.

The commission's decision to undertake policy analysis and recommendation projects only on the request of a public official or agency has resulted in virtual suspension of activity in this area of its mandate, and agency staff has indicated that the commission is still comfortable with the policy. Analysis of intergovernmental problems and development of recommendations for improvement is, however, an important part of the total policy research function, and should be performed by the agency. Since the recommended adjustments in the agency's policy-making structure will enhance its ability to perform this aspect of its mandate, the TACIR should resume its efforts to independently analyze public policy and make recommendations for improvement in intergovernmental relations.

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?

EVALUATION OF OTHER SUNSET CRITERIA

The material presented in this section evaluates the agency's efforts to comply with the general state policies developed to 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

An examination of the agency's compliance with the open meetings statutes determined that the agency files timely notices with the secretary of state's office. The agency's minutes reveal no improper use of executive sessions and show general adherence to procedures set out in the Open Meetings Act. Review of the agency's compliance with the Open Records Act indicated that the commission has never denied a formal request for information and in general considers all of its records public.

EEOC/Privacy

A review was made to determine the extent to which the agency has complied with applicable provisions of both state and federal statutes concerning equal employment and the rights and privacy of individual employees. The commission currently operates under an affirmative action plan which was last updated in 1981. In general, the agency's efforts to comply with the goals set out in the plan have been good. Interviews with agency personnel indicate that procedures are in place to appropriately protect the rights and privacy of its employees.

Public Participation

A review of the commission's activities designed to encourage public participation indicate an acceptable level of public participation in the activities of the agency. Four public members serve on the 24-member commission and have good attendance records averaging 75 percent attendance in the last two years. Efforts of the agency to provide notice of its meetings appear effective in that members of the press and other interested parties are often in attendance. The publications

of the agency are widely distributed with notice of its work going to many libraries, public officials and colleges and universities as well as to those who have indicated a particular interest in the agency's work.

Conflicts of Interest

A review of commission members' compliance with statutory standards of conduct and conflict of interest provisions showed overall compliance with these requirements. Those members required by statute to file full financial disclosures with the secretary of state have done so, and five members have filed regulated interest forms indicating awareness of the statutory provisions in this area. In general, the agency makes reasonable efforts to inform commission members and employees of the requirements of state law regarding conflicts of interest.

**NEED TO CONTINUE AGENCY FUNCTIONS
AND
ALTERNATIVES**

The analysis of the need to continue the functions of the agency and 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 need is directed toward the answers to the following questions:

1. Do the conditions which required state action still exist and are they serious enough to call for continued action on the part of the state?
2. Is the current organizational structure the only way to perform the functions?

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?

NEED

The analysis of need and alternatives is divided into: 1) a general discussion of whether there is a continuing need for the functions performed and the organizational setting used to perform the function; and 2) specific discussion of practical alternatives to the present method of performing the function or the present organizational structure.

Functions

Two major considerations are influential in a determination of whether the state should continue to encourage intergovernmental cooperation and coordination by providing policy research for the use of decision makers. First, because of Texas' economic position, rapid population growth is likely to continue. About 1,760,000 people moved into Texas during the 1970s, and it is estimated that as many as 22,000,000 people will live in the state by the year 2000. Demands for governmental services such as education, transportation, medical care, and utilities will increase along with the population. Second, current attempts at the federal level to return responsibilities to the states will necessitate changes in existing relationships between governmental entities in Texas, and questions of what governmental level should finance and perform what functions will continue to be important. In order to ensure that Texas adjusts successfully (1) to increasing demands for services by a growing population and (2) to changes in the role of the national government, decision makers will still need continued access to reliable policy research.

Agency

In examining the need for the state to have a separate organizational structure to perform the policy research function, it was determined that an independent agency is desirable.

Seventeen states other than Texas have established advisory organizations or mechanisms to deal with intergovernmental concerns. All of the agencies created by these states have independent policy boards, and all but one of them are funded as separate state agencies (the exception receives its staff support through the state comptroller's office). However, the agencies can be divided into two groups on the basis of one major difference--the scope of their mandate. Nine of the

states have created broadly based organizations similar to TACIR, and have provided financial resources and staff to conduct research on intergovernmental issues and develop independent policy recommendations. The other eight states' agencies are made up primarily of local government officials, have limited budgets, and function mainly as a forum for the discussion of intergovernmental policies and problems.

While there is some variation in the membership structure of the boards which do policy research, they are similarly constituted in that they all have legislative membership and they all have members who represent the various levels of local government. The staff of the NACIR, which has studied the structures and programs of all the state ACIR's, cites the existence of a direct tie with the legislature as the key to the effectiveness of the agencies doing policy research. Since Texas' ACIR is composed similarly to other states' agencies which perform the same function, it is concluded that, with the recommended adjustments to strengthen the agency's tie to the legislature, it will be an appropriate one to carry out the policy research function.

ALTERNATIVE APPROACHES FOR COMMISSION CONSIDERATION

Agency Reorganization

Abolish the Commission, but Continue the Function as Part of a New Agency with Expanded Responsibilities. This approach would include creation of an agency whose mandate would encompass all problems of relationships between federal, state and local governments. By placing the activities of various agencies which conduct related programs under the control of one policy board, the state could receive the benefit of more in-depth analysis of intergovernmental relationships than any one of the agencies as presently constituted is able to perform. Currently, three agencies gain, analyze and act on information involving local, state and federal levels of government. The ACIR analyzes relationships between all three levels of government, the Office of State-Federal Relations monitors events occurring at state and federal levels and attempts to exchange basic and timely information between these levels to ensure that decisions made at the federal level are in Texas' best interest. The Department of Community Affairs acts as an informational and financial conduit of federal information and funding programs designed to assist state and local governments. All three functions appear needed yet are unnecessarily fragmented. Consolidation of these efforts into one agency would provide better coordination of the related functions of all three agencies. Additionally, access to the information relating to and analysis of the issues which cut across all three levels of government would be made easier for those most in need, Texas' public officials, key agency heads and their staff.

Change in Method of Service Delivery

The purpose of the agency is to conduct policy research and to serve as a forum for the discussion of intergovernmental problems, and there is no useful modification available which can strengthen this purpose.

ACROSS-THE-BOARD RECOMMENDATIONS

**TEXAS ADVISORY COMMISSION ON
INTERGOVERNMENTAL RELATIONS**

Applied	Modified	Not Applied	Across-the-Board Recommendations
			A. ADMINISTRATION
X		*	1. Require public membership on boards and commissions.
X			2. Require specific provisions relating to conflicts of interest.
X			3. 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. Appointment to the board shall be made without regard to race, creed, sex, religion, or national origin of the appointee.
X		X	5. Per diem to be set by legislative appropriation.
X			6. Specification of grounds for removal of a board member.
X			7. Board members shall attend at least one-half of the agency board meetings or it may be grounds for removal from the board.
X			8. The agency shall comply with the Open Meetings Act, and the Administrative Procedure and Texas Register Act.
X		X	9. Review of rules by appropriate standing committees.
X			10. The board shall make annual written reports to the governor and the legislature accounting for all receipts and disbursements made under its statute.
X			11. Require the board to establish skill oriented career ladders.
X			12. Require a system of merit pay based on documented employee performance.
X X			13. The state auditor shall audit the financial transactions of the board during each fiscal period.
X			14. Provide for notification and information to the public concerning board activities.
		*	15. Require the legislative review of agency expenditures through the appropriation process.

*Already in statute or required.

Texas Advisory Commission on Intergovernmental Relations
(Continued)

Applied	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. A person taking an examination shall be notified of the results of the examination within a reasonable time of the testing date.
		X	3. Provide an analysis, on request, to individuals failing the examination.
		X	4. (a) Authorize agencies to set fees.
		X	(b) Authorize agencies to set fees up to a certain limit.
		X	5. Require licensing disqualifications to be: 1) easily determined, and 2) currently existing conditions.
		X	6. (a) Provide for licensing by endorsement rather than reciprocity.
		X	(b) Provide for licensing by reciprocity rather than endorsement.
		X	7. Authorize the staggered renewal of licenses.
			C. ENFORCEMENT
		X	1. Authorize agencies to use a full range of penalties.
	X		2. Require files to be maintained on complaints.
	X		3. Require that all parties to formal complaints be periodically informed in writing as to the status of the complaint.
		X	4. Specification of board hearing requirements.
			D. PRACTICE
		X	1. Revise restrictive rules or statutes to allow advertising and competitive bidding practices which are not deceptive or misleading.
		X	2. The board shall adopt a system of voluntary continuing education.