



**Texas
Sunset
Advisory
Commission**

STAFF EVALUATION

Office of Interstate Oil Compact Commissioner for Texas
Office of Interstate Mining Compact Commissioner for Texas
Office of Southern Interstate Nuclear Compact Board Member for Texas
Texas Commission on Interstate Cooperation
Texas Commission on Uniform State Laws
Texas Committee on Purchases and Services of Blind and Severely Disabled Persons
Council for Social Work Certification

A Staff Report
to the
Sunset Advisory Commission



1982

***OFFICE OF INTERSTATE OIL COMPACT
COMMISSIONER FOR TEXAS***

SUMMARY OF STAFF FINDINGS AND CONCLUSIONS

SUMMARY

Organization and Objectives

The Interstate Compact to Conserve Oil and Gas was established in 1935 for the general purpose of promoting oil and gas conservation. Texas, along with Colorado, Oklahoma, New Mexico, Illinois, and Kansas, were the original states to enter into this compact. Since its creation, another 24 states have entered the compact. Currently, Alabama, Alaska, Arizona, Arkansas, California, Florida, Indiana, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Montana, Nebraska, Nevada, New York, North Dakota, Ohio, Pennsylvania, South Dakota, Tennessee, Utah, West Virginia, and Wyoming are members along with the original members. Texas is currently an active participant.

The compact provides for the creation of an Interstate Oil Compact Commission composed of one representative from each member state. Texas legislation names the governor as the compact representative for Texas and provides the governor with the authority to appoint an assistant representative to act in his place. Mr. Philip F. Patman serves as Governor Clements' appointed assistant representative to the commission.

To accomplish its conservation purpose, the members of the compact agree to prevent, within reasonable limits: the operation of any oil well with an inefficient gas-oil ratio; the drowning with water of any stratum capable of producing oil or gas in paying quantities; the avoidable escape or wasteful burning of gas from a natural gas well; the creation of unnecessary fire hazards; the placement or operation of wells so as to bring about waste of oil or gas; and the inefficient or improper use of reservoir energy in producing any well.

Administrative direction and support are provided primarily through the Office of the Governor, though the state allocates no full-time staff in support of Texas' participation in the compact. In 1981, membership dues for Texas' participation in the compact amounted to \$49,000 paid from general revenue funds appropriated to the Office of the Governor.

The review of the activities of the oil compact commissioner indicated that Texas has been well represented on the commission and there were no changes necessary to improve the policy-making structure as it currently exists. Improvements in the operations could be made by requiring an annual report on the activities of the compact commissioner. This report would increase the general awareness of the activities of the compact commissioner.

Need to Continue Functions

The review indicated that there is a continuing need for Texas to exchange information and influence federal decisions related to oil and gas.

Approaches for Sunset Commission Consideration

I. MAINTAIN COMPACT MEMBERSHIP WITH MODIFICATIONS

A. Agency operations

1. Statutory changes

- a. The statute should be modified to require an annual report detailing the activities and expenditures relating to Texas' participation in the compact. This report should be included in the annual financial report of the Office of the Governor.

II. ALTERNATIVES (statutory)

A. **Modify the statute to designate a member of the Railroad Commission to serve as the governor's assistant representative on the Interstate Oil Compact Commission.**

This approach would provide a means by which one of the statewide elected officials having a primary responsibility for state oil and gas policy would represent the state on the Oil Compact Commission in the governor's absence. Under this approach, the activities and expenditures associated with Texas' participation in the compact could be set out each year in the annual report of the Railroad Commission.

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 Development

The Office of the Interstate Oil Compact Commissioner for Texas was established in 1935 with the enactment of legislation providing for Texas' membership in the Interstate Oil Compact. To understand Texas' involvement in the compact, it is helpful to briefly trace the compact's history.

The Interstate Compact to Conserve Oil and Gas was created as a result of concerns among oil-producing states over heavy overproduction of oil and gas without adequate conservation controls and a series of associated problems. Major new oil fields were developed in Texas, Oklahoma and other states between 1925 and 1935. Texas and other states adopted oil and gas conservation laws and regulations in the early 1930s, but no state could solve the problems of conservation and supply and demand alone.

With Texas and Oklahoma as the leaders, representatives of nine oil-producing states agreed in 1935 to form a compact to conserve oil and gas by the prevention of physical waste from any cause. Texas, Colorado, Illinois, Kansas, New Mexico, and Oklahoma ratified the compact, Congress gave its consent and the compact became effective in 1935. Since that time, 24 additional states have become compact members. They are Alabama, Alaska, Arizona, Arkansas, California, Florida, Indiana, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Montana, Nebraska, Nevada, New York, North Dakota, Ohio, Pennsylvania, South Dakota, Tennessee, Utah, West Virginia and Wyoming. Compact membership is limited to oil-producing states, but other states may become non-voting associate members and otherwise participate fully in compact commission activities if they demonstrate an interest in oil and gas conservation. Associate members are Georgia, Idaho, North Carolina, Oregon, South Carolina and Washington.

The compact creates the Interstate Oil Compact Commission to carry out the responsibilities of the compact. The governors of the member states are representatives of the states on the commission. The Texas statute authorizes the governor to appoint an assistant representative who shall act in his stead as Texas' representative to the commission.

Texas continues to be one of the largest oil and gas producers in the nation. As a result, conservation and regulation of oil and gas continue to be a major

responsibility of the state. Reflecting these conditions, Texas has been a leader in the Oil Compact Commission since its creation. Governor Clements was Oil Compact Commission chairman in 1980 and former Governor Briscoe was chairman in 1976. Texans have also been active in other key positions in the compact commission.

Current Programs and Objectives

The activities of the compact are supported by contributions paid by member states. In 1981, the total Oil Compact Commission budget was \$248,200. Texas' allocated contribution in 1981 was \$49,000 from the General Revenue Fund. Contributions by the states are based generally on the value of oil and gas produced in the state in the most recent year for which statistics are available. Commission activities are coordinated by an executive director assisted by a technical services director and three support staff employees. Headquarters are in Oklahoma City.

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 its 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 should provide executive and legislative control over the organization of the body and should ensure 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 oil compact statute provides that the governor is Texas' representative on the Oil Compact Commission and may appoint an assistant representative who shall act in his place as the Texas representative on the commission. Generally, as is the case in Texas, the governor's representative attends commission meetings and participates in other commission activities. Philip F. Patman of Austin, a private citizen, has been the governor's representative on the commission for the last eight years.

The review of the policy-making structure indicated that no changes were needed to improve this area. Texas has been well represented on the commission and has benefited from its activities.

Summary and Recommendations - Policy-making Structure

The governor is Texas' representative on the Oil Compact Commission and appoints an assistant representative who may act in his place. The current assistant representative is Philip F. Patman of Austin. The review indicated that no problems exist with the policy-making structure, and Texas has been well represented on 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 of the Office of Interstate Oil Compact Commissioner for Texas indicated that there is no overall agency administration in the general sense. Administrative functions are limited to the processing of travel vouchers, payment of Oil Compact Commission annual contributions and clerical duties. While other state agencies participate in carrying out some of these functions, overall responsibility for membership rests with the Office of the Governor.

However, a review of the statute of the compact commissioner showed that there is no provision for an annual report, a requirement generally placed on other agencies as a part of their overall administrative responsibilities. Reports of this nature are required because they are one of the few methods by which the public, the legislature, and state agencies can be informed of the activities of an agency.

Although Texas has participated in the compact since its inception and was instrumental in its creation, the review was able to document few pieces of information on the activities of the Office of the Compact Commissioner for Texas.

Requiring an annual report could increase the general awareness of the activities of the compact commissioner and it would require relatively little effort or cost to include this information in the annual financial report required of the Office of the Governor.

Summary and Recommendations - Evaluation of Programs

Although there is no administration in the general sense, administrative activities related to compact participation are coordinated through the governor's office. One area of concern relates to the availability of information concerning compact activities, and accountability for these activities. In order to improve awareness of the activities of the compact commissioner and increase the availability of information, a report to the legislature should be required to be included as a part of the annual financial report of the Office of the Governor.

The following recommended change to the commission's statute or practices was developed to address these concerns.

- 1. The statute should be modified to require that a report detailing the activities of the compact be included as part of the annual financial report of the Office of the Governor.*

**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 require 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

A review and analysis of materials relating to the creation of the compact and Texas' membership in the compact shows that the single function of the compact was, and is still to provide an active forum through which member states could impact the development of a consistent approach to managing oil and gas resources.

The need for such a forum only exists as long as the type of problems it was created to address continue to exist. Interviews with personnel of the Texas Railroad Commission indicated that past efforts of the compact commission had resulted in changes to proposed federal regulations concerning underground injection controls and in the implementation of the federal Natural Gas Policy Act in ways that were beneficial to Texas. However, both of these areas still contain significant issues which have not been resolved and which are important to Texas. Another area important to Texas is the deregulation of natural gas prices which is currently being addressed by Congress and the federal regulatory agencies.

In light of the fact that significant policy issues concerning the development of oil and gas resources are yet to be resolved by the federal government, there is a continuing need for the involvement of Texas in the activities of the Interstate Oil Compact Commission.

Agency

Texas' participation in the compact is provided through membership on the commission. There is no agency in the normal sense. A review and analysis of whether the current organizational structure is the only practical means of performing the function is not appropriate. However, one element of the structure of the Office of the Compact Commissioner was reviewed as to its appropriateness.

Currently, the statute provides that the governor appoint an assistant representative as his alternate on the commission. There is no requirement for the

representative to be knowledgeable in the area of the state's oil and gas resources or policies. Over time, private citizens, members of the Railroad Commission, and members of the governor's staff have served as the governor's assistant representative.

Other states have provided in their statutes that the representative be knowledgeable in the area of oil and gas and at least one state provides that the representative be a member of the agency responsible for regulating oil and gas resources.

ALTERNATIVE APPROACHES FOR COMMISSION CONSIDERATION

The review indicated there is a continuing need for Texas' participation in the compact. However, one area was identified where the commission could consider an alternative approach. As a possible approach, the law could be changed to require that the governor's assistant representative to the compact commission be a member of the Railroad Commission. This approach would provide a means by which one of the statewide elected officials having primary responsibility for state oil and gas policy would represent the state in the governor's absence. Naming a person with such responsibility is beneficial in that there would be greater assurance that the activities of the Oil Compact Commission would be closely linked with oil and gas policies of the state. If the assistant representative is appointed from the Railroad Commission, details of the activities and expenditures related to Texas' participation in the compact would be included in the annual report of the Railroad Commission.

Summary of Need and Alternatives

The review indicated that participation in the compact is necessary and that Texas should remain a member. Texas has benefited from the efforts of the commission to influence federal regulations. Also, there are issues related to federal regulations which still require the attention of the compact commission.

While participation is necessary, the review indicated that it would be possible to strengthen the type of representation provided through the assistant representative. The suggested approach which follows was developed to implement this alternative.

- 1. Amend the statute to designate a member of the Railroad Commission to serve as the governor's assistant representative on the Interstate Oil Compact Commission.*

Currently, there are no statutory restrictions placed on the appointment of the governor's assistant representative. This approach would provide a means by which one of the statewide elected officials having primary responsibility for state oil and gas policy would represent the state on the Oil Compact Commission in the governor's absence. Under this approach, the activities and expenditures associated with Texas' participation in the compact would be set out each year in the annual report of the Railroad Commission.

ACROSS-THE-BOARD RECOMMENDATIONS

**OFFICE OF THE INTERSTATE OIL COMPACT
COMMISSIONER FOR TEXAS**

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	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	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	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.
		X	15. Require the legislative review of agency expenditures through the appropriation process.

**Office of the Interstate Oil Compact
Commissioner for Texas
(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.