



**Texas
Sunset
Advisory
Commission**

STAFF EVALUATION

*Veterans Land Board
School Land Board
Board for Lease of University Lands
Boards for Lease of State-Owned Lands*

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

1984

Veterans Land Board

SUMMARY

The Veterans Land Board, created in 1949, is currently active. Originally, the board was established to provide low interest loans to veterans for the purchase of land. The program is funded primarily through the issuance of bonds by the board with administrative support provided by the General Land Office. Loan program activities involve the purchase of land by the VLB which is then resold to the veteran desiring to purchase the tract. GLO support includes loan processing, outreach efforts to inform veterans of the available benefits, and management and investment of bond proceeds.

In addition to the land program, the VLB has oversight responsibility for the veterans housing assistance program. The purpose of the housing program is to provide loans to assist veterans in the purchase of housing. The housing program is administered by a private lending institution and loans are made in conjunction with conventional housing loans.

The need for each of the board's responsibilities was analyzed and the review indicated that there was continuing need for state involvement in these areas. In regard to current operations, the review determined that the board and related support are operated in an efficient and effective manner.

Pending federal legislation could have an impact on the future operations of both loan programs. The legislation under deliberation could affect the eligibility requirements for participating veterans and the tax-exempt status of the bonds that fund the program. While the Veterans Land Board is not subject to termination under the Sunset Act, the agency is subject to sunset review. The following are changes which should be made to improve the board's operation.

Approaches for Sunset Commission Consideration

I. MAINTAIN THE BOARD WITH MODIFICATIONS

A. Overall Administration

- 1. The statute should be amended to provide the Veterans Land Board authority to operate the land program through private contractual agreements.**

The Veterans Land Board currently operates under a legislative mandate to control cost by limiting personnel assigned to the program. In the recently approved veterans housing program, the private sector is used to administer the program, thus no new state employees were

added to support this activity. While the current land program works well, a similar option is needed for the veterans land program so that the Veterans Land Board could contract with a private entity to administer part or all of the land program if it became cost effective to transfer the activity.

B. Evaluation of Programs

1. Processing of Land Loans

- a. **The statute should be amended to eliminate the county committee review process and require the VLB to obtain written credit reports from loan applicants.**

The original purpose of the county committee review process, using local participation to ensure a valid land transaction, is no longer useful because of other steps which have been incorporated in the loan process. By requiring written credit reports from the applicant and eliminating the county committee review, loans can be processed in a more efficient manner. Adequate checks and balances on land transactions will remain in place primarily through automated procedures and the appraisal process.

- b. **The statute should be amended to eliminate the requirement for the on-site meeting between the appraiser and the veteran.**

Currently, the veteran must meet a VLB appraiser on the land being purchased to discuss the loan process. This procedure has been used effectively in the past to ensure that the veteran is familiar with the land being purchased. However, this process sometimes causes time delays and may not always represent the most efficient method of assisting the veteran. The VLB should be able to institute an alternate procedure if it is more efficient or is needed to accommodate the needs of a particular group such as disabled veterans.

2. Housing

- a. **The constitution should be amended to change the definition of a veteran under the housing program to be consistent with the land program.**

Eligibility requirements for both loan programs are similar except in one area. An eligible veteran must not have been "dishonorably discharged" under the land program and must have an "honorable discharge" with the housing program. This difference unintentionally excluded certain groups such as active military personnel, from participation in the housing program. The definition change would require a constitutional amendment since the program is constitutionally authorized.

II. ALTERNATIVES

- 1. The Veterans Land Board could be given authority to set the minimum acreage requirement in the land program at an amount not less than five acres.**

Today, veteran tracts are used primarily for investments or recreational purposes. Throughout the history of the land program loan amounts and acreage requirements for the program have been modified to meet the changing market conditions. However, each modification requires a statutory amendment which can limit the responsiveness of the needed program changes. The VLB could be allowed to make these changes by rule and reduce the acreage requirement as market conditions trigger a change. While this would improve responsiveness, the continued reduction of acreage requirements will eventually change the focus of the program from rural to urban areas as smaller tracts become eligible under the program. Reduction of the acreage requirement would likely increase the number of participants, but it may also conflict with the VLB housing assistance program since smaller acreage near urban areas could also be used for homesteads.

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 Veterans Land Board was established in 1949 and is currently active. The board was originally created to provide eligible veterans low-interest loans for purchasing rural land. In recognition of their military services, the loan program was designed to provide a state benefit to veterans. During the history of the program, loan amounts and minimum acreage requirements have been changed as necessary to allow veterans to find affordable land under the program. Initially, maximum loan amounts were set at \$7,500 but have increased to a current \$20,000 maximum. Minimum acreage for eligible tracts has decreased from 20 acres to 10 acres. As additional funds for loans were needed, the bonding authority of the board for the land program has been increased several times by constitutional amendment. Currently, bonding authority is \$1.25 billion and the interest rate on the land loans is 8.5 percent.

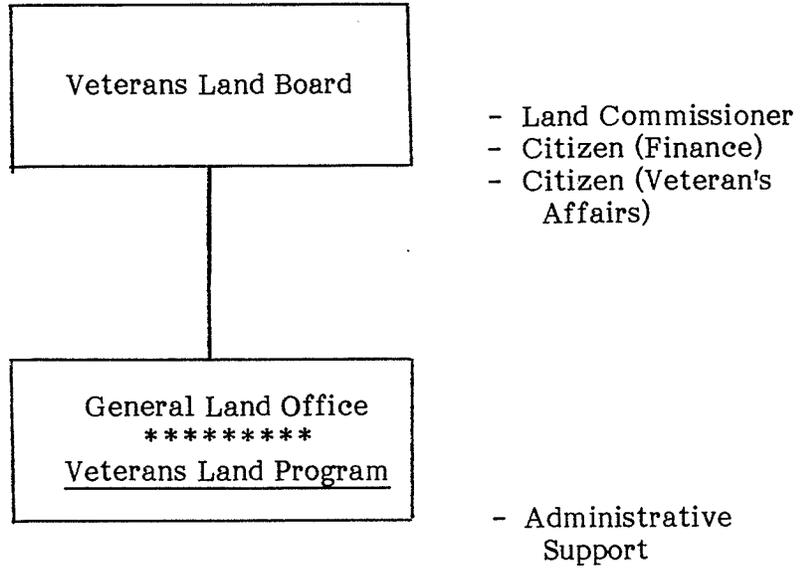
In 1983, a constitutional amendment authorized the creation of a separate veterans housing program. This housing program was established to supplement the land program by providing low interest loans of up to \$20,000 to assist veterans in purchasing a home. The housing loans are also provided by proceeds from bond sales. Bonding authority has been set at \$500 million and loans are offered with a 9.97 percent interest rate. The program provides an alternative to veterans who have difficulty participating in the land program because of rising prices and the scarcity of available land in urban areas.

The Veterans Land Board (VLB) is composed of the commissioner of the General Land Office and two citizen members appointed by the governor. Appointments must comply with constitutional provisions requiring four-year terms for members and a composition including one citizen member well-versed in veterans affairs and one member well-versed in finances. The board is supported by various divisions of the General Land Office (GLO) with primary support provided by the veterans land program of the GLO (see Exhibit I). In fiscal year 1984, 153 employees and \$4.7 million is budgeted for support of the V.L.B. . This support is funded through fees charged by the GLO in the loan process and through revenue from bond sales.

Support provided by the GLO to the Veterans Land Board is almost entirely related to the land loan program. In contrast, the housing program is administered

Exhibit I

VETERANS LAND BOARD



through a joint effort of the VLB, the GLO, private lending institutions, and the Veterans Affairs Commission. While both loan programs are designed to provide loans to veterans, they are not operated in the same fashion. The land program is structured so that the GLO acts as the lending institution for the loans. Loan applications are processed, eligibility of the veterans is determined, appraisals are conducted, legal documents are prepared, land is sold to the veteran and payments are processed by GLO staff assigned to support VLB activities.

The housing loan program is more complicated. The Veterans Land Board and the Veterans Affairs Commission determine the eligibility of veterans who can participate in the program. The actual administration of the program is contracted to a private lending institution by the Veterans Land Board. Loans are processed by private lenders approved to participate in the program. In most cases, the \$20,000 loaned to the veteran through the program is only a part of the financing needed to purchase the house. The remainder is loaned to the veteran by the lender using conventional funding sources. Consequently, the resulting loan is similar to conventional financing although \$20,000 of the total loan is at a lower interest rate which helps qualify veterans that may not otherwise be eligible.

The Veterans Land Board's current area of responsibility is oversight of the land and housing programs along with the issuance of bonds necessary to fund the programs: For the purposes of review, the VLB support activities were divided into four areas: 1) processing of land loans; 2) funds management; 3) outreach and 4) housing. A discussion of these activities is set out in the following material.

Processing of Land Loans

A major activity performed by the GLO involves processing of loan applications for the land program. Initially, a veteran locates a tract of land to purchase and requests an application packet from the agency. The veteran files the application with the agency along with the required down payment and other fees. Surveys of the proposed tract must also accompany the application. The application is reviewed by GLO staff to determine whether the veteran is eligible to participate in the land program. Eligibility requirements include 1) at least 90 consecutive days of active duty in the military; 2) residency in the state at the time of entry into the service or five consecutive years prior to filing an application; 3) residency at the time of filing; 4) applicant must not have been dishonorably discharged and; 5) applicant must not have previously participated in either the land or housing programs.

The loan process continues with an appraisal by staff appraisers to determine the fair market value of the land. The appraiser must, by statute, meet the veteran on the proposed tract of land to ensure that the veteran understands the land program and knows what land is being purchased. If the appraised value is less than the selling price, then the veteran must pay the additional amount or negotiate with the seller to reduce the price to the appraised amount.

Another aspect of the loan process involves a statutory requirement for review of the application by local county committees appointed by each county commissioner's court. Composed of three landowners in the county, the voluntary committee reviews the application and reports to the board on the credit rating of the veteran, the value of the land, and the reliability of the transaction. If a veteran lives in one county and is purchasing land in another, then both county committees must review the application. The county committees recommend approval or disapproval of each application which is then forwarded to the GLO for further action. The loan transaction cannot be completed without the comment from the county committee. Prior to loan approval, a review of the application and the related warranty deed for the land along with any other necessary legal work is performed by GLO legal staff. The county committee's report is also reviewed and is used as a guideline by GLO staff.

If the loan is approved, the Veterans Land Board purchases the land from the seller and resells the land to the veteran. A forty-year contract of sale with monthly payments is used with the VLB holding title to the land until the terms of the contract are fulfilled. The veteran can assign the loan to another person after the contract has been in effect for three years.

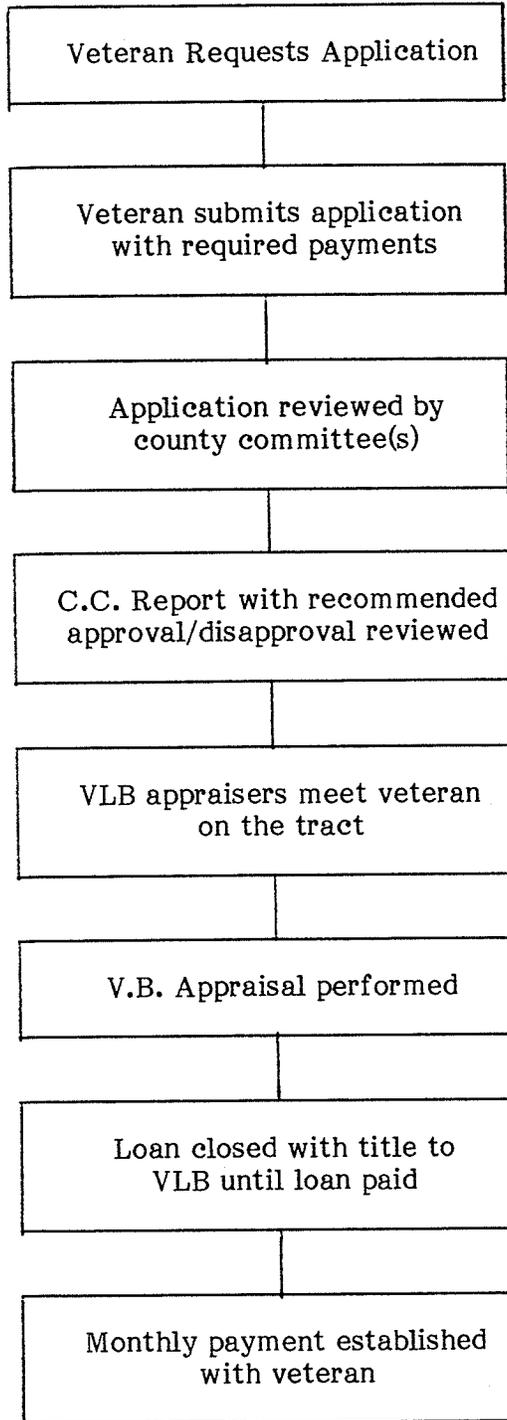
During fiscal year 1983, loan processing showed the following volume of activity. Over 5,000 requests were received and a total of 14,000 requests were processed including those on a waiting list. Approximately 5,000 appraisals were conducted and 2,500 loans were closed. Of the more than 81,000 loans which have closed throughout the history of the program, over 46,000 are still active. The land loan process is outlined in Exhibit II.

Funds Management

Another VLB activity performed by the GLO involves the issuance of bonds for the land and housing programs. The staff also manages the bond proceeds and payments from the veterans. The VLB is authorized by the Texas Constitution to issue general obligation bonds of the State of Texas to provide monies for the land

Exhibit II

LAND LOAN PROCESS



and housing programs. Proceeds from these tax-exempt bonds are used to make loans to veterans, pay for expenses of the bond sales and making the loans, and to establish reserves to meet obligations related to retiring the bonds. Bonding authority is presently set at \$1.25 billion for the land program and \$500 million for housing. Currently, a total of \$800 million in land bonds and \$250 million housing bonds have been issued. The VLB also has the authority to issue revenue bonds as necessary to provide money for loans under the housing program. These bonds are not guaranteed by the state and are limited to the amount which can be repaid by loan payments made with the proceeds. The board has not issued any revenue bonds to date.

The issuance of bonds begins with the determination of need for a sale. This decision is approved by VLB based on a recommendation by the GLO staff and a private bond attorney retained by the board. A sealed bid process is used with the lowest net cost interest bid accepted by the board. The buyer can then sell the bonds on the bond market, however, most bonds are pre-sold to potential buyers contingent upon the outcome of the bond sale. These bonds have an AAA rating on the bond market since they are guaranteed by the state and collateralized by the land bought through the land program and interest from investment of program funds.

Bond proceeds and loan payments by veterans are invested by GLO staff based on projection schedules as to the need for available capital. Funds must be available at certain times to make interest and principal payments and to have money available for making loans. Investments are restricted by the Texas Constitution to U.S. government securities such as U.S. Treasury bills, notes and bonds. Money for loans is invested in short-term Treasury bills, while funds used as reserves and for long-term obligations are invested in medium to long-term notes and bonds. Federal regulations restrict the interest that can be earned from the investment of bond proceeds so that interest earned does not materially exceed the interest rate paid for the bonds. Violation of this so called "arbitrage" regulation can result in the forfeit of the tax-exempt status of the bonds.

Outreach

A relatively new VLB activity performed by the GLO involves efforts to provide information and education to veterans and the real estate community about the loan programs. This effort is an attempt to increase veteran participation in the programs and to target the veteran groups that have had traditionally low

levels of participation such as minorities and Vietnam veterans. The staff works with veteran service organizations, county veteran service officers, the Veterans Administration, the Veterans Affairs Commission, county officials, relators and lenders to publicize the loan programs. Seminars, workshops, and public information meetings are conducted as requested and an attempt is made to provide some type of program in each county every six weeks. This is accomplished by thirteen personnel located in three field offices around the state and in Austin. Since the program started in March, 1983, over 17,000 presentations have been conducted at conventions, public meetings, and seminars. Over 70,000 other visits have been made with persons from veteran service groups and agencies.

Housing

The Veterans Housing Assistance Program was approved by the voters with a constitutional amendment in November, 1983. The program will loan an eligible Texas veteran up to \$20,000 to use in conjunction with a loan from a private lending institution to purchase a home. The VLB is responsible for general oversight of the program, funding the program through bond sales, and selection of the program administrator. The Lomas and Nettleton Company, through a bidding process, was chosen to administer the program which initially involved working with the VLB to structure the program and to educate lenders wishing to participate in the program. Lomas and Nettleton is also responsible for continuing administration of the program.

Housing loans are made as part of a conventional loan process through an approved private lending institution. Veterans wishing to participate apply for a loan with an approved lender. The veteran must qualify for a loan based on standards similar to those for other loans. Normally, \$20,000 of the purchase price is provided by the housing program and the remainder is obtained through conventional loan sources.

The veteran must meet certain eligibility requirements to participate in the program. These requirements are similar to the land program in that a veteran must have served 90 consecutive days of active service and have been a resident of Texas at the time of entry into the service or for the last five years immediately preceding the application. The difference in the two programs relates to the veteran's discharge. A veteran must have been discharged under honorable conditions to participate in the housing program while under the land program a

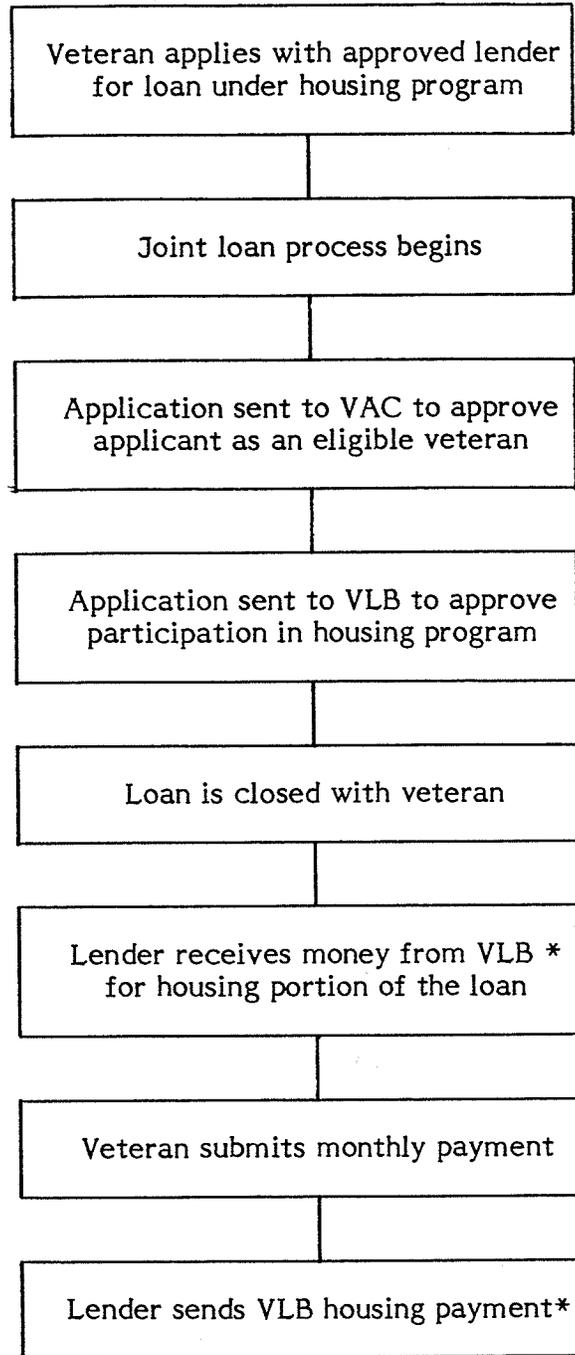
veteran cannot have a dishonorable discharge. Consequently, active military personnel can qualify for the land program but cannot under the housing program.

The Veterans Affairs Commission determines the veteran's eligibility in terms of service qualifications and residency requirements. Additionally, the veteran cannot have previously participated in the land or housing program.

The loan application process continues during the veteran's eligibility determination. The lender processes these loans using essentially the same criteria as other conventional loan programs. Once the loan is approved and closed, then the lender receives the \$20,000 for the housing portion loan from the VLB through a bank designated as the custodian of the funds. Payments on these loans are sent by the veteran to the lender with the housing portion forwarded to the VLB through the custodian. The VLB has a joint first lien with the lender on the property. Since the housing program began operating in January 1984, over 4,000 loan applications have been requested under the program, however only a few loans have been closed to date. The housing loan process is set out in Exhibit III.

Exhibit III

HOUSING LOAN PROCESS



* A bank acts as the collection point for these payments

REVIEW OF OPERATIONS

This section covers the evaluation of current board operations undertaken to identify any major changes which should be made to improve the efficiency and effectiveness of those operations. The evaluation is divided into three general areas dealing with: 1) a review and analysis of the policy-making body; and 2) a review and analysis of the overall administration of the board; and 3) a review and analysis of the operation of specific board activities.

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 for selection and removal of members.

The Veterans Land Board is composed of the Commissioner of the General Land Office and two citizen members appointed by the governor. Citizen members serve four year terms with one member having expertise in financial matters and the other being familiar with veteran affairs. The commissioner serves as chairman of the board. The review indicated that the existing policy body was appropriate and performed its required functions in a satisfactory manner.

Overall Administration

The Veterans Land Board does not have an administrative staff under its supervision. Staff support is provided mainly through personnel in the GLO veterans land program under the supervision of the land commissioner. In addition, the board selects an executive secretary, nominated by the commissioner and approved by a majority of the board. The executive secretary performs duties as required by the board. The review focused on the administrative support provided by the GLO to the extent that it related to the board's responsibilities. The review indicated that the administrative structure was generally adequate and provided necessary support to the board. However, one improvement could be made which would help ensure an efficient administrative structure.

The Veterans Land Board should have the authority to operate the land program through private contractual agreements.

The VLB has been statutorily designated to carry out both the land and housing loan programs for veterans. However, these two programs are not operated in the same fashion. Under the loan program, the land commissioner, as chairman of the VLB, is designated as the administrator of the act and may employ necessary personnel to carry out the land program. These personnel are considered employees of the GLO. Under the recently approved housing program, additional employees were not needed as the VLB was required to select a private administrator for the program in an effort to minimize the costs of the program.

The 68th Legislature, in authorizing funds for support of the land program, mandated the GLO to limit the personnel assigned to the program. The GLO has recently explored the possibility of contracting for private support of the land program in an effort to improve cost effectiveness but did not find it to be a cost beneficial alternative.

While there are no statutory restrictions against contracting for land program support activities, the VLB is not specifically authorized to operate the program in this fashion. Although the VLB has this express authority for the housing program, it is not clear whether the board could carry out the land program through private contracts if, in the future, it became cost effective.

The VLB should have specific authority to operate the land program using contracts with private entities. This would provide the flexibility for the VLB to achieve the mandate of cost control and ensure that veterans are provided the lowest cost loans available.

Evaluation of Programs

For review, the activities of the VLB and the related support provided by the GLO were divided into four main areas: processing of land loans, funds management, outreach, and housing. Major concerns resulting from the evaluation are discussed below.

Processing of Land Loans

The land loan process should be streamlined by eliminating the county committee review process and requiring written credit reports from loan applicants.

County committees are statutorily required to assist the VLB in the processing of land program loans. The local committee's responsibility is to review applications and determine the credit worthiness of the applicant, the value of the

land being sought, and whether the proposed transaction is legitimate. This review process was established to provide local input from the area where the land was located because local committees would know the current market value of land in the area and the parties involved in the transaction. However, no statewide guidelines or rules govern the actions of the county committee and procedures followed vary greatly among the committees across the state. Some committees require a meeting with the veteran and written credit reports while others rely on the information on the loan application to make their determinations regarding the loans.

The review indicated that the county committees no longer serve their original purposes. For instance, it is no longer possible for the committees to effectively make the required determinations concerning each loan. The volume of transactions, particularly in the urban areas, makes it impossible for the committees to know all of the parties involved and to determine reasonable land values. As a result, the local review has primarily focused on conducting a credit check.

The VLB could require a written credit report from applicants to replace the check now provided by the committees. This change would streamline the loan process while providing the same type of credit review currently provided. The other responsibilities of the local committees, valuation of land and reliability of the transactions, are already incorporated into the loan process. The appraisal process, which includes a face to face meeting with the veteran, has worked well to ensure reliable transactions and fair market value of land. Other safeguards are present in the automated tracking system of applications to help ensure bona-fide loan transactions. To improve the efficiency of the application procedure, the county committee review process should be eliminated and the VLB should require written credit reports from applicants.

Elimination of the on-site meeting requirement between the appraiser and the veteran would allow the board flexibility for an efficient loan procedure.

Before a veteran can purchase a ten acre tract of land under the VLB program, an appraiser must meet the veteran on the land and explain the transaction in detail. This contact with the purchaser uses approximately 15

percent of an appraiser's time and often requires weekend or after regular work hours meetings to accommodate the veteran's schedule.

Although loan procedures with private lending institutions do not usually require a mandatory meeting on the property between the purchaser and the appraiser, this VLB procedure does provide an opportunity for GLO staff to meet the prospective buyer. While this statutory requirement may be beneficial to the veteran, it may not always represent the most efficient method of providing assistance to the veterans.

The VLB should be given more discretion in establishing a more efficient loan process. Meetings between the VLB and the veteran could occur in other settings which could ensure an adequate explanation of the transaction in a more timely manner. While the current procedure has worked well, if the VLB determines that another procedure would provide the same services currently provided, then it should have the flexibility to institute the alternative procedure. For example, if a group of veterans, such as disabled veterans, have difficulty meeting the VLB appraiser on the proposed tract, then the VLB should be able to accommodate this special circumstance.

Housing

The definition of an eligible veteran for the housing program should be changed to be consistent with the land program.

The VLB has two primary programs for Texas veterans: the Texas Veterans Land Program and the recently approved Veterans Housing Assistance Program. With one exception, the constitutional eligibility requirements for both programs are identical. Under the land program, a veteran "must not have been dishonorably discharged"; while under the housing program, a veteran must be "honorably discharged" from the Armed Services.

Differences in eligibility requirements affect the participation of certain veteran groups. By requiring an honorable discharge to participate in the housing program, military personnel on active duty are automatically excluded. This difference allows active duty military personnel to participate in the land program, but not in the housing program. A review of legislative proceedings in which the creation of the housing program was considered indicated that the housing program eligibility requirements were intended to be modeled after those in the existing land program. A Texas veteran should be treated in an equitable fashion for either

program offered by the VLB. The eligibility requirement in the Constitution for the housing program regarding a veteran's discharge should be changed to match the land program. This would allow active military personnel to participate in the housing program.

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 board's efforts in applying those general practices that have been developed to comply with the general state policies which ensure the awareness and understanding necessary to have effective participation by all persons affected by the activities of the board.

Open Meetings/Open Records

The review indicated that the Veterans Land Board has generally complied with the Open Meetings Act and Open Records Act. Timely notices of board meetings have been filed with the Office of the Secretary of State. The board has established rules regarding executive sessions although one has not been called in recent years. While most of the information maintained by the agency is considered public, certain information relating to appraisal reports, local committee reports, and litigation of real property is withheld from public disclosure in accordance with the Open Records Act. The VLB has established internal procedures regarding open records and all records, other than those specifically determined by the board as confidential, are accessible to the public upon request.

While the records policies were generally adequate, one concern was identified. The cost of photocopy reproductions of VLB records charged to persons requesting copies was found to be excessive when compared to the state's photocopy rate policy as established by Attorney General Opinion No. JM-114. Discussions with GLO staff indicated that the policy regarding VLB records would be changed to conform with state policy.

EEOC/Privacy

An evaluation was not performed related to compliance with equal employment opportunity statutes or with those related to rights and privacy of employees since the VLB does not maintain a staff.

Public Participation

The policies and activities of the Veterans Land Board were examined to determine if the general public and those affected by the board have been informed of its activities. The results of the review indicated adequate efforts have been made in this area. Information regarding the veterans programs is mailed to all requesting parties. Newsletters, press releases, special phone hotlines, and

outreach offices have also been used to increase public participation. Generally, public testimony is allowed at board meetings on any agenda item and any interested person can place an item on the agenda.

Conflicts of Interest

The review focused on efforts to inform board members of responsibilities related to conflict-of-interest statutes. All board members are briefed on the statutory obligations and have met the financial disclosure filing requirements. The review did not indicate any instances where board members disqualified themselves from deliberation for personal reasons.

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 board, the functions performed by the board were evaluated to determine if alternatives to current practices were available. Boards with functions similar to those performed by this board were reviewed to determine if they had developed alternative practices which offered substantial benefits and which could be implemented in a practical fashion. In addition, the practices of other states were reviewed in a like fashion and it was determined that their practices were similar to those of Texas. It was concluded that a practical alternative to a current practice does exist, and it is discussed below.

The VLB could be given authority to adjust the minimum acreage requirement in the land program.

The Veteran's Land Program was conceived to offer veterans long-term, low-interest loans for the purchase of land. To meet the changing market conditions, the original maximum loan amount of \$7,500 has been increased by statutory change three times. In 1967, the amount was increased to \$10,000; in 1975 to \$15,000 and finally in 1978 to \$20,000. Alternately, the statutory minimum size of a qualifiable tract, originally 20 acres, was decreased to 15 acres and finally to 10 acres in 1973.

The VLB has closed over 80,000 loans, but an estimated 1.7 million Texas veterans could still be eligible to participate in the VLB programs. It is the board's purpose to serve as many eligible veterans as possible, but changing market values and increased urbanization will likely produce additional changes in the land program structure. To date, the primary use of the land program has been for long-term investment or recreational purposes. Only about 22 percent of the land has been transferred from the original veteran owner to another owner over the life of the program. In addition, only 15 percent of the loans have had severances for homesteads, indicating the limited use of land for housing.

Historically, the veteran's land program has been periodically changed to increase loan amounts or reduce acreage requirements. In each instance, statutory changes were required through the legislative process. Because this process is time consuming and can only occur every two years when the legislature is in session, the responsiveness of the land loan program to the needs of the veteran has been limited.

A more responsive mechanism is needed to allow for the changing demands of the VLB land program. The VLB could be allowed to make changes in the acreage requirement by VLB rule rather than requiring a more time consuming statutory change. The legislature would still maintain general oversight over the board and its functions.

One drawback to this approach was identified during the review. Continued reduction of the acreage size could alter the original intent of the program. Smaller tracts would likely increase the number of applicants and change the focus of the program from rural to urban, as smaller tracts would likely be used for homesites rather than investments or recreational purposes. This may conflict and create a duplication with the newly created VLB housing assistance program which was established to provide the veteran a home at a reduced interest rate. To address this concern, a statutory minimum of five acres could be applied to the board's authority to adjust the minimum acreage eligibility requirement. This would allow the board to set the minimum at any amount that is five acres or greater.

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.

VETERANS LAND BOARD

Applied	Modified	Not Applied	Across-the-Board Recommendations
			A. GENERAL
*			1. Require public membership on boards and commissions.
X			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	X		5. Specify grounds for removal of a board member.
			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 its 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.
*			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.

*Already in statute.

Veterans Land Board
(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. 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.

School Land Board
Board for Lease of University Lands
Boards for Lease of State-Owned Lands

SUMMARY

There are three state leasing boards that have the responsibility to maximize revenues from state owned lands primarily by leasing of these lands for oil and gas development. These are: 1) the School Land Board which oversees lands dedicated to the Permanent School Fund for public education; 2) the Board for Lease of University Lands which oversees land dedicated to the Permanent University Fund; and 3) Boards for Lease of State-Owned Lands which oversee land of various state agencies owning land.

Of the 14 million acres owned by the state, the type, size and quality of the lands vary among the boards having jurisdiction. The School Land Board (SLB) governs approximately 4.75 million acres throughout Texas including bays, rivers, and Gulf of Mexico submerged lands. Also closely related are 6.4 million acres of Relinquishment Act lands under authority of the General Land Office (GLO). In contrast, the University lands comprise 2.1 million acres located in the Permian Basin of West Texas. Finally, the state agency lands, are the smallest by comparison with 180,000 acres divided disproportionately between approximately 20 state agencies.

To accomplish their objectives, the leasing boards, with assistance from the GLO and the U.T. System, perform three primary functions. First, they determine the timing of lease sales along with the terms and conditions of lease. Second, they ensure that revenue due the state from leasing activities is properly accounted for and collected. Finally, they are involved in the development and improvement of state land to maximize current and future revenues.

Since the three lease boards under review have similar functions, the boards were evaluated in a single review to provide a more effective comparison of leasing activities. This method encouraged consistency in the evaluation approach applied to all the lease boards resulting in recommendations that provide a more uniform state leasing policy. The need for the leasing boards was analyzed and the review indicated that there is a continuing need to perform the function of leasing of state lands. With regard to the current structure of the boards, the review determined that the boards have generally operated in an efficient and effective manner. However, there are changes that should be made in the event the legislature decides to continue the lease boards. An analysis of alternatives to current practices of the boards revealed that one change could result in substantial

benefits. Two issues were identified that could offer potential benefits but would also require major changes in current state policy and could involve potential disadvantages.

Recommendations, alternatives, and other policy issues related to each lease board and support agencies are discussed in the respective sections of the report. The changes which should be made if the boards are continued and a discussion of the alternative and additional policy issues are set out below.

Approaches for Sunset Commission Consideration

I. MAINTAIN THE BOARDS WITH MODIFICATIONS

A. Policy-making structure

1. **The statute should be amended to replace a citizen member of the School Land Board with the commissioner of education.**

Currently, the School Land Board is composed of the land commissioner and two citizen members. The SLB leases state land generating revenues dedicated to the Permanent School Fund used to finance public education. The Texas Education Agency, under the supervision of the commissioner of education, is responsible for investment of the PSF and should be represented on the board to ensure appropriate participation in policy development. Citizen input would continue through the remaining citizen member.

2. **The statute should be amended to expand the Board for Lease of University Lands to include a citizen member and a representative of Texas A&M University.**

Currently, the university board is composed of the land commissioner and two members of the U.T. System Board of Regents. The university board leases state lands with revenues dedicated to the Permanent University Fund. The PUF is divided, after expenses, between U.T. and Texas A&M. A representative of Texas A&M should be placed on the board to provide adequate representation. Like other state leasing boards, a citizen member should also be placed on the board to provide public input.

3. **The statute should be amended to rotate the chairmanship of the Board for Lease of University Lands among U.T., Texas A&M and the land commissioner.**

Currently, the university board chairman is elected by the board but there is no assurance that each group represented on the board has the opportunity to chair the board. The chairmanship should alternate between the University of Texas, Texas A&M and the land commissioner. This would provide policy leadership by each major interest represented.

4. The statutes should be amended to combine the Boards for Lease of State-Owned Lands with the School Land Board.

Currently, the agency boards for lease function with two members, thereby defeating the purpose of using a board for decision-making. The boards operate in a similar fashion to the SLB and also receive administrative and technical support from the GLO. The boards could be combined with the SLB to provide uniform decision-making by one board concerning similar leasing activities.

5. The statutes should be amended to provide the agency boards for lease with rule-making authority.

Currently, the agency boards for lease, unlike the School Land Board or the university board, do not have rule-making authority which limits their ability to establish operating criteria. To improve the board's ability to effectively carry out their responsibilities, the boards should be given statutory authority to adopt rules of practice and procedure. This change is not needed if the agency boards are combined with the SLB.

6. The statutes should be amended to allow agency representatives on the agency boards for lease to designate the agency director as an alternate to serve on the boards.

Currently, the chairman of the board or commission represents the agency on its leasing board. Because the matters covered at these meetings are often routine, the agency representative should have the ability to delegate the responsibility to attend meetings to the agency director when necessary. This change is not needed if the agency boards are combined with the SLB.

B. Overall Administration

1. **The GLO should develop a training and information program for the agencies with boards for lease.** (management improvement-non-statutory)

Because leasing expertise among the agencies with boards for lease varies greatly, a stronger information network with the GLO is needed to prepare the lease boards for oil and gas lease sales. Such a network could provide training to the agency personnel as well as administrative and technical support to assist agencies in all aspects of oil and gas leasing.

C. Evaluation of Programs

1. Leasing
 - a.1. **School Land Board and GLO land management efforts should be increased including trades for land with multiple uses.** (management improvement - non-statutory)
 2. **The statute should be amended to authorize the School Land Board to establish an escrow account for land trades.**

Current SLB and GLO efforts to develop manageable land holdings and increase the income potential of public school lands have been hampered by the cumbersome land trade process. Efforts to trade lands should be continued and simplified through establishment of an escrow account in which money from the sale of land could be held until an appropriate land purchase can be made.

- b. **The statute should be amended to authorize the GLO to establish an escrow account for permanent improvements on state public school fee lands.**

It is standard industry practice to receive money from oil and gas exploration companies for damage occurring to the land due to roads, seismic testing, power lines etc. This has not always happened in a systematic way on public school fee lands. By contrast, a damage program has existed on university lands since 1968 and has been shown to be successful. A similar type of

program is also needed for public school fee lands to guarantee reclamation, conservation and improvement of those lands.

c. The statute should be amended to authorize the School Land Board to hold public auction bid lease sales.

Currently, the SLB has authority to hold a sealed bid lease sale. The University board has authority for a public auction sale in addition to the sealed bid method. Because the public auction sale can be more profitable under certain conditions, the SLB should have the flexibility to use this method when it is warranted.

d. The statutes of the Boards for Lease of State-owned Lands should be consolidated into one general statute.

Approximately 20 agency boards for lease are authorized by three separate statutes. The last leasing statute passed was general in nature and intended to provide blanket authority for all state agencies owning land. To eliminate uncertainty regarding the application of the statutes, the three statutes should be consolidated.

e. The statute should be amended to eliminate the restrictions on easements issued by the GLO, UT Board of Regents and the agency boards for lease.

Currently, authority to grant easements on state lands is limited to purposes specifically outlined in the statutes. These restrictions prevent the granting of easements for some purposes that could be beneficial to the state and improve the value of the land. Elimination of these restrictions would allow easements to be granted for any reasonable use.

2. Compliance

a. GLO compliance activities related to the School Land Board and the agency boards for lease should be strengthened to ensure proper production reporting and payment of royalties. (management improvement - non-statutory)

The GLO provides support to the SLB and the agency lease boards to account for all royalty payments from their leases. Efforts to

strengthen the audit and compliance system through automation should be continued. An independent evaluation of reported information should be provided by field inspections.

3. Enforcement

- a. **The statute should be amended to authorize all the lease boards to increase penalties for late royalty payments and production reports.**

The current penalty rates for late royalty payments and reports are outdated and insufficient to recover the administrative costs involved in applying penalties. The boards should be given authority to increase penalty rates to recover administrative costs and unearned interest from late payments and reports. This authority would result in an adequate incentive for timely payments and reports.

II. ALTERNATIVES

1. **Jurisdiction of the School Land Board and the Board for Lease of University Lands could be expanded to include all leasing activities.**

Jurisdiction over the public school fund lands is split between the School Land Board and the land commissioner. Likewise, leasing authority for University lands is split between the University board for lease and the U.T. System Board of Regents. Although consolidation of the leasing activities could increase the workload of the leasing boards on more routine matters, potential for conflict over land use could be eliminated and leasing activities could be conducted more uniformly.

III. OTHER POLICY CONSIDERATIONS

1. **Should all state leasing boards be combined into one State Land Board.**

Several separate lease boards currently issue leases for use of state lands. This division of responsibility has resulted in non-uniform leasing policies and potential conflicts in leasing activities. If consolidated, duplication of efforts would be reduced and uniform leasing policies could be developed under one board. Opponents argue that adequate attention to all public lands could not be provided by one board. Also, it is argued, that one board would be unable to maintain adequate

knowledge of all state owned lands to handle the wide variety of leasing situations.

2. Should administrative costs of the GLO related to the School Land Board be paid from the Available School Fund.

The GLO supports the SLB in its leasing efforts. Currently, these activities are financed by fees charged by the agency and general revenue. Revenues generated by leasing activities are dedicated to the Permanent School Fund. Interest from investment of the PSF is placed in the Available School Fund to be used for public education. Funding GLO support activities out of the available fund would parallel the funding mechanism for the U.T. System support of the University board and would reduce the need for general revenue. Opponents to this change argue that the legislature has not generally supported the use of the available school fund for other purposes. Because general revenue supplements the available school fund where necessary, general revenue needs may not actually be reduced.

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 State of Texas owns or has an interest in approximately 14.5 million acres of land. These public lands are administered by numerous boards and agencies having a range of leasing requirements and powers under the general supervision of the commissioner of the General Land Office (GLO). The GLO is empowered to execute and perform all acts relating to management of the public lands of the state. The commissioner acts as lessor on most of the state leases and enforces the provisions of the leases.

The land commissioner also serves as a member of the state leasing boards and is chairman in most cases. The primary purpose of these lease boards is to maximize revenues derived from leasing the land. The majority of revenues come from oil and gas development. The revenue generated is dedicated to three sources, resulting in three types of boards. These boards consist of the School Land Board which oversees lands dedicated to the Permanent School Fund for public education; the Board for Lease of University Lands which oversees land dedicated to the Permanent University Fund, and Boards for Lease of State-Owned Lands which oversee lands of various state agencies owning land. Administrative and technical support is provided by the GLO or the University of Texas System.

A description of the lease boards, the types of lands, leasing authority, and conditions of the leases are described in Exhibits I and II.

All the state leasing boards, in cooperation with the GLO or the U.T. System, perform three essential functions. First, they select the time when minerals are to be leased and set the terms and conditions of lease. These conditions are determined not only by the current market demand, but also an estimate of the minerals' value if left in the ground for future use. Second, the boards have a responsibility of control. They ensure all revenue due the state from leasing activities is properly accounted for and collected. Third, they protect the land for future uses. These activities include development of the land to its highest immediate potential, yet maintaining the land so that renewable sources of income can be sought as a supplement and eventually replace the non-renewable sources such as oil and gas. In summary, there must be a balance of land use for current income against future income to ensure maximum monetary growth of the funds to which the lands are dedicated.

Exhibit I

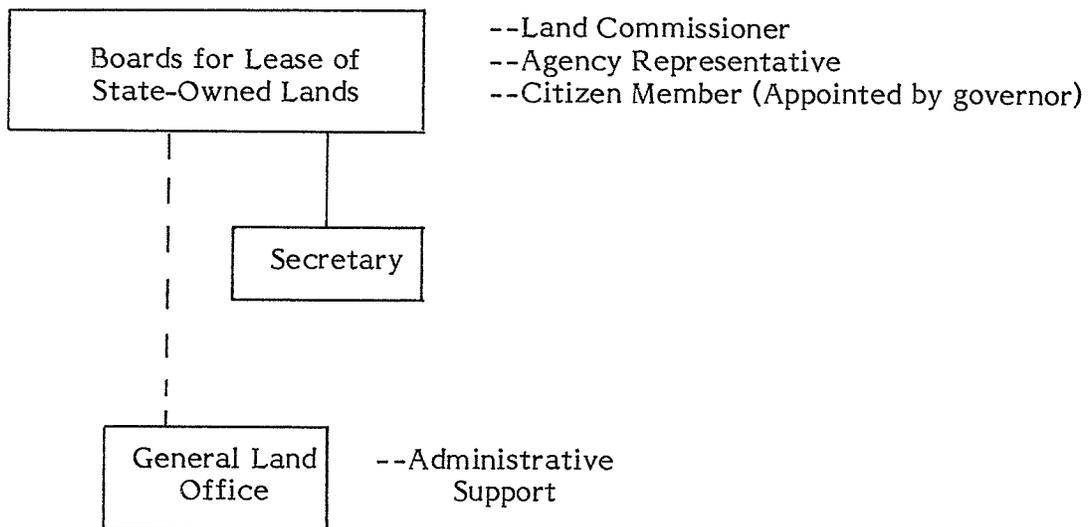
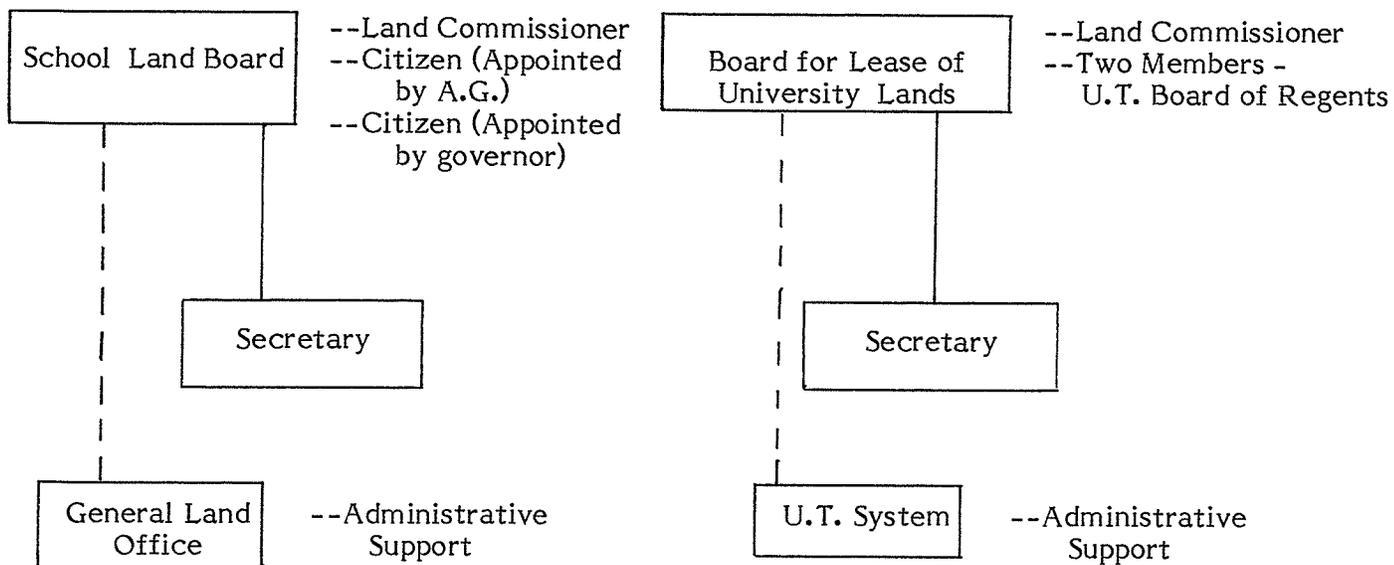


Exhibit II

	SCHOOL LAND BOARD	BOARD FOR LEASE OF UNIVERSITY LANDS	BOARD FOR LEASE OF STATE LANDS
Leasing Authority	<p>Lands under jurisdiction: Gulf of Mexico, bays, estuaries, river beds and other uplands. 4.75 million acres. Land dedicated to the Permanent School Fund.</p> <p>Land can be leased for oil and gas, goethermal leases; hard minerals (coal, lignite, sulphur, potash, and salt.)</p> <p>(Land commissioner authority over timber, grazing, other minerals, and exploration; and limited authority over 7.2 million acres of Relinquishment Act and Free Royalty Act lands.)</p>	<p>Lands under jurisdiction: Land dedicated to Permanent University Fund. Primarily land located in West Texas totaling 2.1 million acres.</p> <p>Land can be leased for oil and gas.</p>	<p>The authority for state agency lands are found in three separate statutes. Lands under jurisdiction: All state lands under departments and agencies, a separate statute applies to state parks and eleemosynary lands. Approximately 180,000 acres.</p> <p>Land can be leased for oil and gas, minerals, timber and surface uses.</p> <p>(All other minerals and surface uses are under authority of U.T. System Board of Regents.)</p>
Lease Sale	<p>Provides notice of sale, description of land, and conditions of sale. Sale is conducted through sealed bids, with flexible bidding on royalty and bonus. Must accept highest bid, but may reject all bids. Nomination fee and 1½ percent sale fee.</p>	<p>Same as School Land Board, except in addition to sealed bid, have ability to hold oral auction sales. One percent sale fee, nomination fee. Tracts for bids are screened extensively.</p>	<p>Same as School Land Board, but no nomination fee authorized. One percent sale fee.</p>
Lease Document Contents	<p>Lease contains primarily three-year production clause for uplands, and five years for Gulf land; minimum one-fourth royalty, provisions for delays, rentals and assignment, plus conditions for forfeiture.</p>	<p>Same as School Land Board, but no Gulf Lands.</p>	<p>Lease contains three to five year production clause, 1/8 to 1/4 royalty, provisions for delays, rentals and assignments, plus conditions for forfeiture.</p>
Compliance Monitoring & Enforcement	<p>General Land Office (GLO) audits royalty payments and production reports performs field inspections.</p>	<p>U.T. System performs audit and inspection functions.</p>	<p>GLO performs audit and inspection functions.</p>

A brief description of the lease boards and related activities is set out in the following material.

School Land Board

The Board of Mineral Development, predecessor of the School Land Board (SLB), was established in 1931 for the purpose of awarding mineral leases of state-owned riverbeds and channels for oil and gas development. It originally was composed of the governor, the commissioner of the General Land Office (GLO), and the chairman of the Railroad Commission. In 1933, the 58th Legislature abolished the Mineral Board and transferred its functions to the School Land Board. The School Land Board was specifically created to oversee the sale and lease of state-owned land and minerals dedicated to the Permanent School Fund. Originally, the board was composed of the commissioner of the GLO, as chairman, the governor, and the attorney general. However, the law was amended in 1963 to remove the governor and the attorney general as members and provided for two citizen members for two-year terms upon confirmation by the Senate. One citizen member is appointed by the governor and the other is appointed by the attorney general.

Since 1933, the board's responsibilities have expanded and the acreage controlled by the board has increased. For instance, in 1941, the acreage controlled by the School Land Board grew from 900,000 acres to approximately 4,000,000 acres by an act of the 47th Legislature. It dedicated to the Permanent School Fund all state lands within tidewater limits including islands, lakes, and bays and the submerged lands of the Gulf of Mexico extending three marine leagues (10.36 miles) from the coastal boundary. In 1973, the Coastal Public Lands Management Act was passed by the 63rd Legislature, expanding the types of uses for which leases and easements may be issued. The Act also gave the board the responsibility of preserving the natural resources of coastal public lands. Additionally, the 63rd Legislature granted the board authority to trade Permanent School Fund land for other lands in order to combine diverse holdings into manageable units, and to acquire lands of unique cultural, recreational, or biological value.

The School Land Board meets twice a month in public meetings. The secretary of the SLB is an employee of the GLO and the staff of the GLO performs all the necessary functions to assist the SLB in meeting its statutory obligations. Areas of support provided by the GLO include accounting, data services, field

operations, surveying, appraisal, legal services, coastal, uplands, hard minerals, exploration and development, encroachments, and field inspections.

Other than per diem paid to citizen members, there is no expenditure of state funds directly attributable to the SLB. However, a substantial portion of the GLO activities are related to areas within the statutory authority of the SLB.

One of the main interlocking functions of the GLO is to provide the School Land Board a list of land areas subject to lease. The SLB sets the date for considering competitive lease bids on these lands, and, after hearing all of the bids on the nominated lands, decides whether to accept or reject any of the bids offered. The board is required by law to approve the highest bid of those accepted.

Other related responsibilities of the SLB include pooling or unitization agreements. In these cases, different tracts of state lands are combined, or state lands are combined with other lands, to form a drilling block eligible for the full Railroad Commission production allocation. The SLB also considers all school land trades that consolidate isolated tracts, yielding little or no income to the state, into larger tracts which will produce greater income. Finally, the SLB sets the fees which are charged for various uses of public school lands primarily for public benefit.

The purpose of the School Land Board is to maximize the amount of money in the Permanent School Fund (PSF) which, through a series of funding mechanisms, helps finance the education of Texas children. Essentially, the School Land Board leases the lands under its control for oil and gas development and the revenue is deposited in the PSF as provided by Section 15.01 of the Education Code. Investments of the fund are made under authority of the State Board of Education. All interest or dividends from these investments are placed in the Available School Fund. This fund includes, in addition to these sources of income, revenue from state fuel taxes and other appropriations made by the legislature. The fund is used to assist financing of education by a formula which divides the money among the counties on the basis of population of elementary and high school age youths. A summary of the relationship between the boards and the funds are shown in Exhibit III.

While the vast majority of revenues dedicated to the Permanent School Fund result from the School Land Board oil and gas leasing, certain other land uses remain under the exclusive jurisdiction of the land commissioner (see Exhibit IV). Various surface uses such as non-oil and gas leases, easements and minerals require

Exhibit III

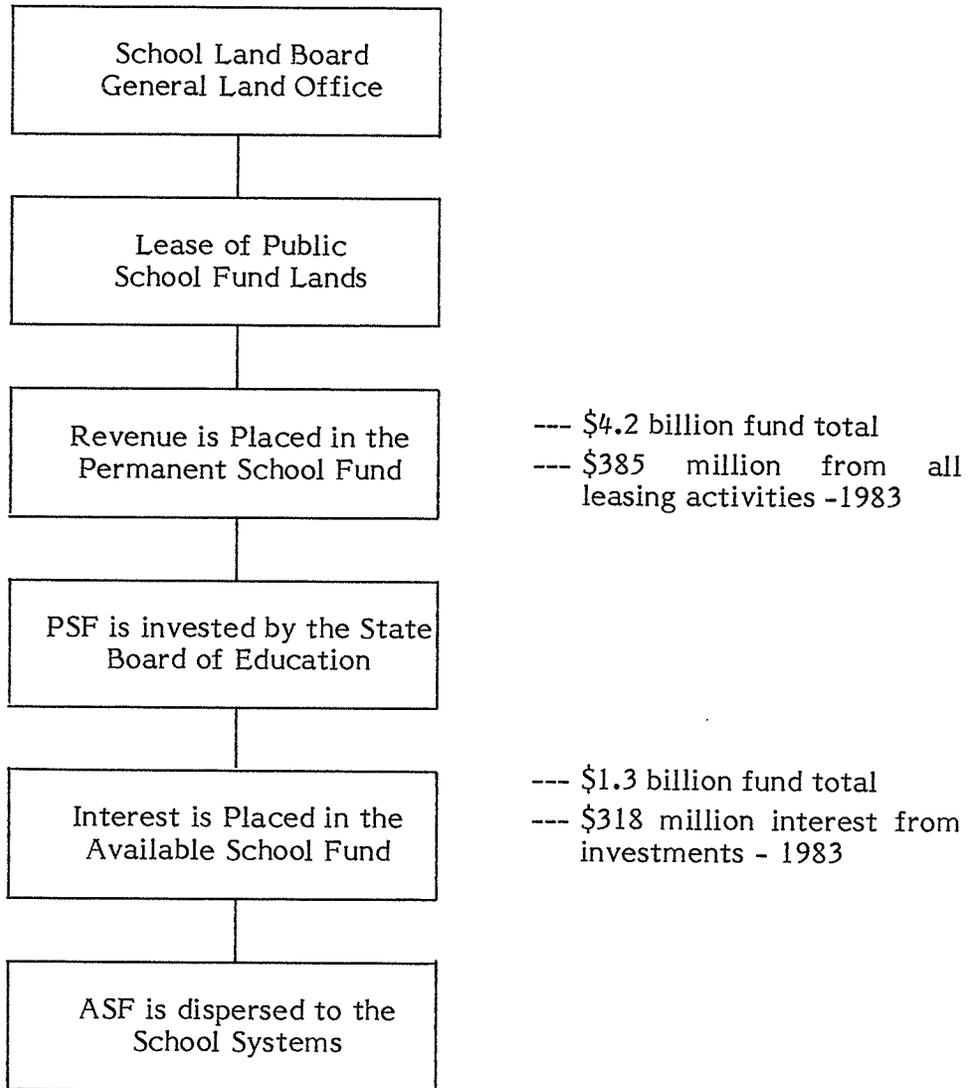


Exhibit IV

GENERAL LAND OFFICE/SCHOOL LAND BOARD ACTIVITIES

	<u>Approval</u>	
	<u>Commissioner</u>	<u>SLB</u>
A. <u>Leasing</u>		
1. <u>Oil & Gas</u> (except Relinquishment Act)		X
2. <u>Oil & Gas on Relinquishment Land*</u> (including coal, lignite, sulphur, potash, and salt)	X	
3. <u>Other Minerals on Relinquishment Land</u>	X	
4. <u>Minerals</u> , including only coal, lignite sulphur, potash, and salt		X
5. <u>Other Minerals</u> , including precious metals, uranium, thorium, and all other minerals except coal, lignite, sulphur, potash, and salt	X	
6. <u>Other</u> , navigation, geothermal, public purpose on coast		X
7. <u>Other</u> , grazing, timber, commercial	X	
B. <u>Easements</u>		
1. <u>Coastal</u> , associated with ownership		X
2. <u>Soil Conservation and Flood Prevention</u> and most other uses related to leasing	X	
C. <u>Permits</u>		
1. <u>Cabins</u>		X
2. <u>Geophysical Surveys, Prospecting</u>	X	

*On all Relinquishment Act lands, the surface owner acts as agent for the state and negotiates the lease terms.

only the commissioner's approval. Revenues from these activities are also dedicated to the PSF as shown in Exhibit III.

The Relinquishment Act and Free Royalty lands, covering approximately 7.2 million acres, comprise a special category of state land dedicated to the PSF. Their historical development is often confusing and ownership of the state's mineral interests on these lands has been heavily litigated since the creation of the Texas Relinquishment Act of 1919. In summary, during the late 1800s, Texas released the mineral rights to the surface owners of public lands. However, subsequent court decisions determined that the surface owner did not own the mineral rights to the land, but rather acted as "agent for the state" for the purpose of leasing the state's mineral interests. The surface owner now negotiates the leases and receives one-half of any royalties, rents, or bonuses in lieu of any damages to the land. Currently, the land commissioner must approve these leases with the primary term of the lease not to exceed five years. The revenues from these lands are also deposited in the PSF.

Board for Lease of University Lands

The Board for Lease of University Lands was created by the 41st Legislature in 1929. The three-member board is comprised of the commissioner of the General Land Office and two members of the Board of Regents of the The University of Texas System selected by the Board of Regents. The board for lease was given the sole and exclusive authority to award oil and gas leases on 2.1 million acres of Permanent University Fund (PUF) lands.

During its history, the composition of the board has remained unchanged. Major changes in the board's responsibilities over the last decade are summarized as follows. In 1973, oil and gas leases were required to contain a provision which enabled the board, at its discretion, to accept royalty payments in kind rather than cash payments. In 1979, the responsibility for collection of oil and gas lease income was transferred from the commissioner of the General Land Office to the Board of Regents of The University of Texas System. The amendment further provided that lease amendments and extensions could be issued administratively by the Board of Regents in accordance with statute. Finally, in 1983, the board was given the discretion to use public auction or sealed bids in awarding oil and gas leases.

The primary function of the board is to provide sound management in the sale of oil and gas leases on university lands dedicated to the P.U.F. The board must

also approve all oil and gas pooling and unitization agreements related to these lands. Consequently, the board's primary goal is to generate, through oil and gas lease sales and unitization processes, the maximum amount of revenue possible for the benefit of the PUF. Leasing and related activities are similar to those of the School Land Board and Permanent School Fund.

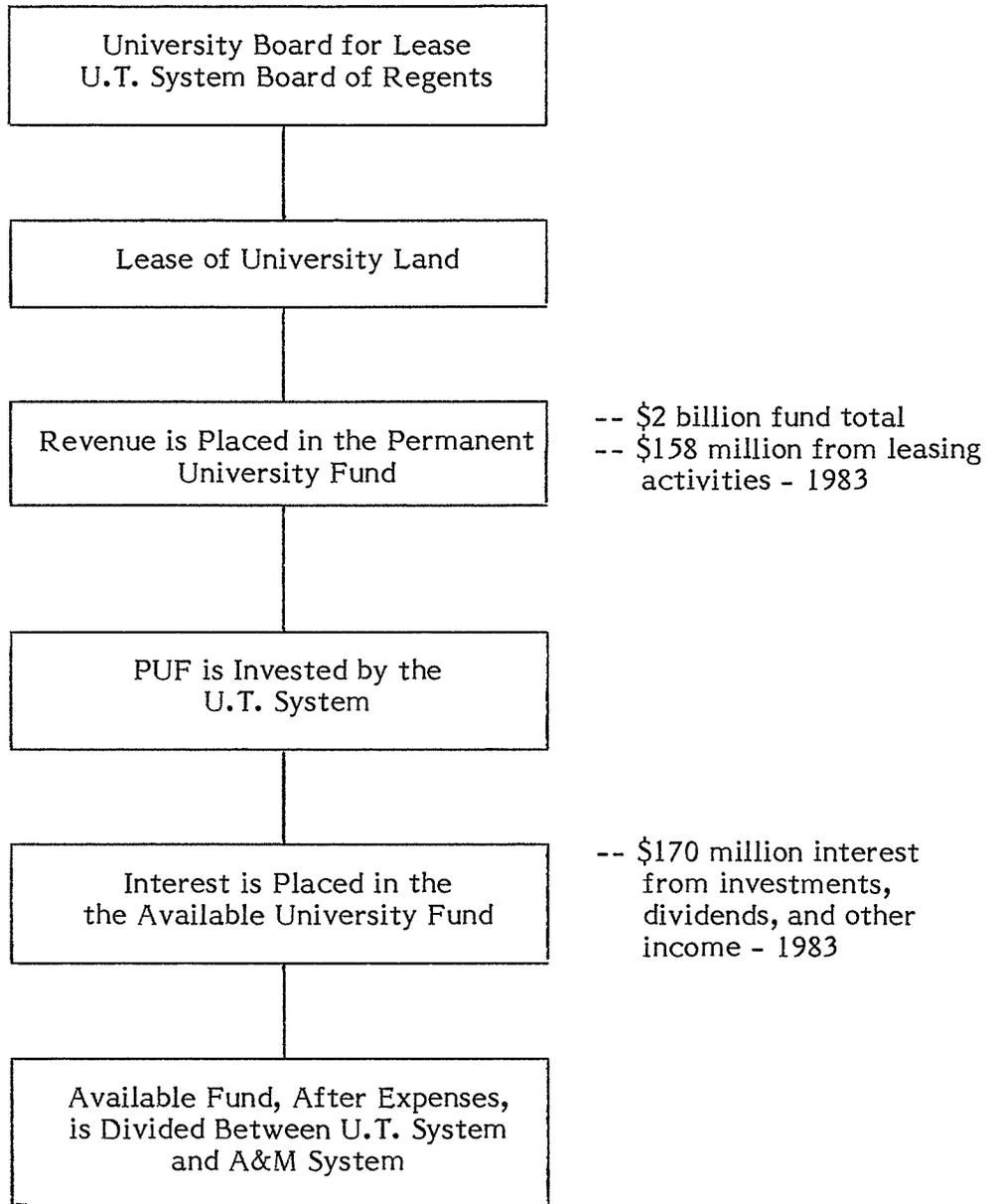
The leasing board meets as needed to conduct business. In carrying out its responsibilities, the board employs a third-time secretary and utilizes the staff of the University of Texas System as administrative support. The board is assisted with legal and technical expertise in oil and gas law, mineral leasing development, and land management. On the average, the board meets four to five times a year, to consider various leasing activities.

The chairman of the board is elected by a majority of the three-member board. Currently, one of the Board of Regents members serves as board chairman, unlike the School Land and the Boards for Lease of State-Owned Lands where the commissioner of the General Land Office acts as chairman.

The commissioner serves on the board for his term of office while the Board of Regents members serve two-year terms. The Board of Regents members are prevented from being directly or indirectly employed by or being an officer of or an attorney for an oil and gas company. Board members are not compensated for their service, but are paid for their actual expenses for attending the meetings.

Revenues derived from the board's oil and gas leasing activities are dedicated to the Permanent University Fund, with the interest from this fund placed in the Available University Fund (see exhibit V). The PUF is structured like the Permanent School Fund, although the use of these revenues is for different purposes. Under authority of Article VII, Sections 11-a and 18 of the Texas Constitution, the Available University Fund can be used for permanent improvements, new construction, lands management, retiring bond obligations, and other related uses. The Available University Fund is divided, after expenses for management of the university lands by the U.T. System, between the Texas A&M University System, which receives one-third of the fund, and the University of Texas System which receives the remaining two-thirds. Furthermore, the two University Systems are given bonding authority for an amount not to exceed 20 percent of the total Permanent University Fund. Currently, the P.U.F. totals over \$2 billion dollars derived from the leasing of the university lands.

Exhibit V



Authority over the use of the university lands dedicated to the PUF is divided among the Board for Lease of University Lands and the Board of Regents of the University of Texas System. The board for lease has authority only for oil and gas leasing. All other leasing activities fall under the jurisdiction of the U.T. System Board of Regents. Some of these activities include ranching and wildlife programs, commercial vineyard development, conservation and land utilization research, minerals (non-oil and gas) and water rights leasing. This lease revenue is also included in Exhibit V.

Boards for Lease of State-Owned Lands

The Boards for Lease of State-Owned Lands are three-member boards which oversee the lease of lands owned by state agencies. Many agencies own or acquire land while carrying out their responsibilities. Since these lands may hold revenue potential from leasing for mineral development and other uses on the property, the legislature, in 1930, began establishing a series of leasing boards. The 41st Legislature created the Board for Lease of Eleemosynary (Charitable) and State Memorial Park Lands, now under control of the Texas Department of Mental Health and Mental Retardation. In 1949, the Board for Lease of State Park Lands was created to lease land in the state park system. Finally in 1951, the 52nd Legislature created a general statute authorizing any state agency to create a board for lease as necessary.

At present, there are approximately 20 boards for lease which meet as the need arises. All boards operate much like the School Land Board, with specific powers to lease lands held in trust for the use and benefit of the agency.

Membership on each of the boards includes the commissioner of the General Land Office as chairman, the agency's board or commission chairman and a citizen appointment. Originally, the attorney general served on the boards. However, the 58th Legislature, in 1963, removed the attorney general and provided for a citizen member appointed by the governor for a two year term. This policy is consistent except for the Board for Lease of State Park Lands which, by statute, has a citizen member appointed by the attorney general. Historically, the citizen member appointments have not been made and most agency boards for lease operate as a two member board.

Statutory changes have also occurred related to the boards' jurisdiction. The Board for Lease of State Park Lands was originally authorized to lease only certain parks. However, an amendment in 1979 allowed the board to lease any land in the

state park system. In 1981, oil and gas leasing of all lands under the control of the state Highways and Public Transportation Commission was prohibited. The legislature determined that the Highway Department leases were disruptive of oil and gas development on adjacent land and legal problems were associated with some of the lands leased.

The various boards for lease meet irregularly on an as needed basis. Depending upon the amount of property owned by the agency, some boards, such as the Board for Lease of Parks and Wildlife Lands, meet quite often while others such as the Board for Lease of State Library Lands have met only once.

Lease sales of agency lands are held at the same time as School Land Board lease sales. Whenever the appropriate board for lease decides there is adequate demand for the purchase of oil, gas or minerals leases on a tract of land, the board may place the leases for these tracts on the market. The board gives notice of the sale, establishes terms for bidding on the bonus, rental and royalty, primary terms of the leases, and sets other conditions. The board may also grant easements on the lands subject to its control.

Essentially, the Boards for Lease of State-Owned Lands have exclusive authority over all leasing of surface uses and minerals, unlike the School Land Board and Board for Lease of University Land, who share decision making authority for certain land uses with the commissioner of the GLO and the U.T. Board of Regents respectively. However, the amount of land controlled and the revenues derived from leasing are minimal by comparison. Exhibit VI shows the recently active lease boards, acreage and revenues for 1982. Money received from leasing is deposited in the state treasury in special mineral funds and is subject to legislative appropriation for the benefit of that agency.

Expenses for the board are similar to those found with the School Land Board and Board for Lease of University Lands. Technically, each board for lease selects a secretary to prepare and maintain minutes of meetings, post notices and prepare mailings. In practice, the secretary is an employee of the General Land Office. Otherwise, board members are not compensated for their service, but are paid actual expenses for board-related activities from their respective special mineral funds.

Exhibit VI
**ACREAGE, LEASING, AND REVENUE DATA
VARIOUS AGENCY BOARDS FOR LEASE**

	<u>Acres</u> <u>Available</u>	<u>Acres</u> <u>Leased</u>	<u>Oil & Gas</u> <u>Royalty</u>	<u>Rental &</u> <u>Receipts</u>	<u>Total</u> <u>Receipts</u>
<u>Special Mineral Funds 1982</u>					
Board of Corrections	61,588	61,588	\$1,376,801	\$1,111,121	\$2,487,922
Hospitals and Special Schools	886	886	3,079	5,515	8,594
Youth Council	929	929	474	1,000	1,474
Highway Mineral	1,152	1,152	116,780	32,114	148,894
Game & Fish	10,170	10,170	25,146	3,903	29,049
State Parks	5,223	5,223	650,000	223,056	873,056
National Guard Armory Board	160	160	10,935		10,935
Stephen F. Austin University	208	208		12,773	12,773
Midwestern University	600	600	7,064		7,064
Texas Tech University	246	246	39,329		39,329
Alabama-Coushatta Indian	<u>4,452</u>	<u>4,452</u>	<u>*</u>	<u>*</u>	<u>*</u>
TOTAL, SPECIAL MINERAL FUNDS	85,614	85,614	\$2,229,608	\$1,389,482	\$3,619,090

*Figures Unavailable.

REVIEW OF OPERATIONS

This section covers the evaluation of current board operations undertaken to identify any major changes which should be made to improve the efficiency and effectiveness of those operations, if the boards are to be continued. The evaluation is divided into three general areas dealing with: 1) a review and analysis of the policy-making bodies; and 2) a review and analysis of the boards' overall administration; and 3) a review and analysis of the operation of specific board activities.

Policy-making Structure

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

The School Land Board is a three member board composed of the commissioner of the General Land Office and two citizen members appointed for two-year terms. One public member is appointed by the Governor and the other is appointed by the Attorney General. The land commissioner serves as chairman of the board.

The Board for Lease of University Lands is a three-member board composed of the commissioner of the General Land Office and two members of the Board of Regents of the University of Texas System. While the land commissioner serves during the four year term of office as commissioner, the regent members serve two-year terms and are appointed by the Board of Regents. A chairman of the leasing board is elected from the membership.

The Boards for Lease of State-Owned Lands are three-member boards composed of the chairman of the board for the agency owning land, one citizen member appointed by the governor, and the commissioner of the General Land Office who serves as chairman. The citizen member for the Parks and Wildlife Land Board for Lease is appointed by the Attorney General. Currently, approximately 20 boards for lease are in existence and the citizen members have generally not been appointed.

While the review indicated the structure of the leasing boards was generally appropriate, certain changes in the structure should be made to improve the

balance of interests participating in policy decisions and the efficiency of the process, and the boards' ability to obtain public comment.

Composition of the School Land Board should include the commissioner of education.

The School Land Board (SLB) is a three-member board which oversees lands dedicated to the Permanent School Fund (PSF) and has a membership composed of the land commissioner and two citizen members appointed by the attorney general and the governor. The board's primary goal is to lease the PSF lands to maximize the revenue for the fund. The Texas Education Agency (TEA) under the supervision of the commissioner of education, has responsibility for the investment of the PSF consisting mainly of royalties and bonuses from oil and gas production.

The review indicated that the composition of the SLB does not include a representative of the state's education agency. Since TEA has responsibility for investment of revenues generated by SLB leasing activities, it should be represented in the decision process. This representation would allow the education agency to participate in leasing decisions that have long term impact on the revenues flowing into the fund and are available for investment. To provide this representation, the commissioner of education or the commissioner's designee should be included in the School Land Board's membership.

Removal of a citizen member would be necessary in order to maintain a three-member board, however public representation would continue to be provided by the other citizen member. The citizen member appointed by the governor should remain on the board since public representation is appropriate for a board of this type. The member appointed by the attorney general would be replaced by the commissioner of education.

The Board for Lease of University Lands should include a citizen member and a representative of Texas A&M University.

The Board for Lease of University Lands is a three-member board which oversees the oil and gas leasing of university lands dedicated to the Permanent University Fund (PUF). Interest from the PUF is placed in the Available University Fund. After expenses, two thirds of this fund is dedicated for use by the University of Texas System, with one third dedicated to the Texas A&M University System. These funds are used to finance permanent improvements and to retire obligations

of bonds issued by U.T. and A&M based on a percentage of the PUF. Membership on the University board for lease consists of the commissioner of the GLO and two members of the U.T. System Board of Regents.

The review indicated that the board membership does not include a representative of Texas A&M, or a citizen member. A&M receives one-third of the revenues from investments of PUF and should participate in the leasing decisions that generate revenues for the PUF. In addition, the University board for lease, like other leasing boards should have a citizen member to provide public input. To provide this representation, the Board for Lease of University Lands should be expanded to include a representative of Texas A&M and a citizen member appointed by the governor.

The Chairmanship of the Board for Lease of University Lands should rotate between the University of Texas, Texas A&M, and the Land Commissioner.

The chairman of the University board for lease is elected by a majority vote of the members. Historically, this chairmanship has alternated between the U.T. System Board of Regents and the land commissioner, however, the rotation of the chair has not occurred in a systematic fashion. Currently, a Board of Regents member is serving as chairman.

Although the land commissioner is chairman of all other leasing boards, the process of allowing the chair to alternate between the major interests on the board seems to have worked well. For this process to continue to provide a proper sharing of the board's leadership, the rotation of the chair should be conducted in a systematic manner. Should the previous recommendation be adopted and the composition of the board is changed to include a representative of Texas A&M, then a statutorily provided rotation is essential. This would ensure that all major interests have the opportunity to share in the leadership of the board. To provide for this systematic rotation, the statute should be amended to require the rotation of the chairmanship among the land commissioner, the University of Texas, and Texas A&M if their representation is added to the board.

The Boards for Lease of State-Owned Lands should be combined with the School Land Board.

Agency boards for lease are three-member boards which oversee the lands owned by various state agencies. There are approximately 20 boards which meet or

have met to lease state agency lands, mostly on a very irregular basis. The land commissioner and the chairman of the agency board or commission serve on the board, while the citizen member has rarely been appointed. Each board determines the terms and conditions of lease sales for its lands. Since most of the agencies don't have leasing expertise, many of the boards rely on the support of the GLO for technical assistance.

The review indicated that the agency boards for lease have not operated as intended. First, the boards have functioned with two members because the third member, a private citizen, has historically not been appointed by the governor. This limited membership requires unanimous agreement for any board decisions, thereby defeating the purpose of using a board for making decisions. Decisions made are dependent on the staff support provided by GLO staff since the agency involved may not have the necessary expertise. Second, the current board structure does not ensure that similar leasing problems on agency lands will be addressed in a consistent fashion.

The review concluded that the boards for lease should be combined with the School Land into one board which could be referred to as the State Land Board. This would provide decision-making by a multi-member board and provide some assurance of consistency for leasing of agency lands. The agencies owning the land would continue to be involved in the determination of land leased and the terms and conditions of the leases.

The Boards for Lease of State-Owned Lands should be given rule-making authority unless combined with the School Land Board.

Like almost all state boards, the School Land Board and the University board for lease have the authority to adopt rules concerning the areas under their jurisdiction. The agency boards for lease have never been given express authority to promulgate procedural or substantive rules, thereby limiting their ability to establish criteria for leasing or any other area of operation. For example, the agency boards have been unable to adopt a fee for nomination of tracts of land for lease as the School Land Board has done.

To improve the boards' ability to effectively carry out their responsibilities, the agency boards for lease should be given statutory authority to adopt rules of practice and procedure. This change, however, would not be needed if the boards were combined with the School Land Board.

Agency representatives on the agency boards for lease should have authority to designate an alternate to serve on the boards.

The agency boards are three-member boards which oversee the lands owned by various state agencies, with the commissioner of the General Land Office serving as chairman of each board. The Natural Resources Code, Section 34.013 also designates "the president or chairman of the board or agency" as the second board member, with the third member being an citizen appointed by the governor. The chairman of the board of the agency concerned is included to represent the interests of the agency and to provide input concerning any special circumstances related to the land in question.

Most of the boards meet on an irregular basis. They must approve all sales and leases of oil, gas and other minerals. They must also consider all lease suspensions, extensions, pooling and unitization requests and various permits and easements. Although most state boards and agencies are headquartered in Austin, the chairman of the governing board of the agency is likely to live in another part of the state. This situation creates problems in scheduling board meetings. Many times these meetings are held to consider routine matters that may take five or ten minutes to complete, however, they often must be rescheduled because of other commitments of the agency member. These delays can reduce the revenue generated by a lease because a decision to act was postponed. In addition, rescheduling meetings for several agency boards can be difficult and time consuming for the commissioner, as chairman of each board.

A mechanism should exist that allows the chairman of the respective agency board to designate the agency director to serve in place of the agency chairman. This would improve the efficiency of the generally routine operations of the agency boards for lease, while maintaining proper balance to provide adequate decisions and protection of the state's interests. This change would not be needed if the agency boards are combined with the School Land Board.

Overall Administration

The state boards for lease do not have an administrative staff. Administrative support is provided by personnel in either the General Land Office or the University of Texas System. The review focused on the administrative activities of the GLO and the U.T. System only as they related to the carrying out of the boards' responsibilities.

The review indicated the administrative support was generally adequate. However, one improvement could be made which would benefit the overall administrative structure.

Development of a training and information system by the GLO would assist the agencies with boards for lease.

A primary function of the agency boards for lease is to coordinate with and advise land-owning state agencies in the area of oil and gas leasing and development. This service is designed to assure that the state agency receives the maximum revenue for the use of its land and its mineral resources and is accomplished through coordination between the state agency owning the land and the General Land Office which provides technical expertise and advice.

Because oil and gas leasing activities can involve matters of a technical nature, the leasing boards must have technical advice available to properly carry out their responsibilities. While staff in the GLO has the necessary expertise, some agencies are unclear about who from the GLO can provide specific expertise and assistance in determining market value of their lands' resources and resolving other technical problems. The GLO has made an effort to inform the agencies of policy changes and information concerning GLO activities. Although the agency can request assistance from the GLO, there appears to be an insufficient network to provide expertise to the agency boards. In addition, several board members of the leasing boards have expressed uncertainty about their role and responsibility in the leasing process.

The boards for lease should have a systematic training and information network provided by the GLO that describes the various areas of expertise available to them. The purpose should be to develop an information network for the agencies to express their concerns and inquiries and gain the necessary knowledge related to oil and gas leasing and surface uses for the ultimate benefit of the agency.

Evaluation of Programs

For the purpose of review, the activities of the leasing boards and related support were divided into three areas: leasing, compliance, and enforcement. Major areas of concern resulting from the evaluation are set out below.

Leasing

School Land Board and GLO land management efforts should be increased including trades for land with multiple uses. An escrow account would simplify the trade process.

Currently, the GLO is developing a management plan for public school lands to assist the SLB in maximizing revenue from leasing these lands. This plan includes evaluating the land to determine its revenue potential and expanding the leasing activities to include other land uses such as commercial leasing and hunting. The GLO has also initiated a land trades process to block up land into manageable units and to acquire land with greater revenue potential.

While the GLO's land management efforts have been successful, two areas were identified which have hampered GLO efforts. These are lack of a complete inventory of public school land and a cumbersome land trade process. These problems are discussed below.

The GLO, in supporting the SLB, does not have a complete inventory of all the public school lands under the jurisdiction of the SLB. Adequate surveys are not available for some tracts, particularly in east Texas, causing some land not to be leased. Also, potential uses of some lands have not been investigated thereby reducing the board's ability to maximize the lease revenue of the lands. An adequate inventory of the land and a determination of the land's leasing potential would greatly improve the ability of the GLO to manage the lands.

The second problem related to land management efforts involves the land trade process. To develop more manageable land holdings, the School Land Board is becoming active in trading land in small, hard to manage tracts, for tracts adjacent or close to other school lands. Land of limited value may also be traded in order to acquire land with greater income potential. Because the SLB does not have current authority to sell land, school land transfers can only occur by trading existing property for other land of equal value. This restriction is intended to preserve an inventory of land to benefit the Permanent School Fund. The trade process begins by finding parties interested in the public school land to be traded. This person or group then purchases the land desired by the SLB and the titles to the lands are traded. Land trades are developed by GLO staff and approved by the SLB.

While land trades have occurred using this process, it has proven to be difficult and time consuming. GLO staff must locate persons who are interested in purchasing the unwanted public school land and are willing to purchase the land in which the SLB is interested. All parties involved must then meet together to trade the titles to the land. This trade must be for land of equal value which further complicates the transaction. These land trades could be greatly simplified if the SLB were authorized to sell the land and place the money into an escrow account until the new property could be purchased.

In order to improve the management of public school funds, the GLO should make every effort to develop an adequate inventory of the lands which includes a determination of the uses of the lands. The land trades program should continue to block lands into manageable units and trade for more productive land. In addition, the current trade process should be enhanced by authorizing the SLB to sell unwanted land and place the proceeds in an escrow account to be used for purchase of other land of equal or greater value. As a safeguard against an inactive account, a time limit could be placed on the escrow account which requires land be purchased in two years or the funds from the tract that was traded would be credited to the PSF.

An escrow account for surface damages would provide the GLO with a better system for permanent improvements on state public school fee land

It is common practice with the private sector for the surface owner to receive "damage money" from a person or company involved in geophysical operations, pipeline construction, or power and telephone line construction on the property. This payment is to compensate the surface owner for any damage to the land. Often, the owner will use this money to make improvements on the land which maintain or improve the overall property value. This type of damage program has existed on Permanent University Fund lands since 1968. The program has been successful by allowing for a mechanism to improve the quality and value of the University lands. Briefly summarized, initial damages are collected from oil and gas field operators and paid directly to the U.T. System where they are credited to the lessee's account. These revenues are held in an escrow account and investments are made by the U.T. System to maximize revenues. This money is then used to make permanent improvements to the land and to fund research which

includes new conservation methods and land reclamation. Furthermore, the lessee can receive credit for approved ranch improvements and/or range conservation programs. Today, the university damage program is in its fifteenth year and has a current balance of \$3.8 million.

The state, however, does not provide for consistent treatment of public school fee lands compared to the private sector or University lands regarding damage as a result of oil and gas field operations. On certain public school fee lands there have been instances and many suspected cases where the surface lessee (or whoever allows entry to the state property) receives damage money to which the state is entitled. Also, public school lands do not have an adequate program to guarantee that the land leased will be improved to the fullest extent necessary.

To improve the state's ability to be compensated for property damage and make improvements on public school fee lands, the School Land Board should be given the statutory authority to establish an escrow account and implement a comprehensive damage program using principles and procedures similar to the university program. Money from the program should be used for the sole purpose of conservation, reclamation, and other related permanent improvements.

The School Land Board should have the authority to hold public auction bid sales in addition to the current sealed bid process.

Currently, the School Land Board is given the authority, under section 52.015 of the Nat. Res. Code, to hold oil and gas sales using only the sealed bid leasing process. In contrast, the Board for Lease of University Lands was originally given the authority, under section 66.64 of the Texas Education Code, to hold only public auctions for oil and gas sales. Recently, however, the 67th Legislature, through the enactment of S.B. 739, provided that the University board for lease would have the discretion to use a public auction or sealed bids in the leasing of oil and gas minerals.

Under certain conditions, public auctions may result in higher prices per acre paid for oil and gas mineral rights. The University board for lease has a successful track record using the public auction method. Typically, public auctions require highly competitive conditions to be useful. Some of those conditions are contingent on world market demand and the attractiveness or speculation of the land to be leased. The sealed bid method has proven to be useful with less competitive situations or in a period of declining production and exploration.

Currently, there are lands under the jurisdiction of the SLB that have not been explored to their fullest extent. Furthermore, world oil market conditions have fluctuated widely, periodically creating extreme demands for oil and gas while other times causing severe cut backs in exploration and speculation.

Currently, the School Land Board does not have the flexibility to choose the type of oil and gas sale that is most advantageous in generating income at a particular time. The public auction method, under certain conditions, may be a useful method for leasing of oil and gas minerals in addition to the current sealed bid method.

To increase the boards ability to maximize revenues, the School Land Board should be given the discretion to use a public auction or sealed bids in the leasing of oil and gas minerals.

Agency boards for lease statutes should be consolidated into one general statute

Currently, there are approximately 20 boards for lease for state agency lands, which are authorized by three separate statutes. They consist of: 1) the Board for Lease of Eleemosynary and State Memorial Park Lands; 2) the Board for Lease of State Park Land, and 3) the Boards for Lease of State-Owned Lands (land owned by a department, board, or agency of the state of Texas). Authority for these boards is found in chapters 34-36 of the Texas Natural Resource Code. The general statute governing the lease of state owned lands was intended to provide blanket leasing authority for all agencies owning land.

All of the agency boards primarily serve the same purpose as the School Land Board which is to maximize revenues from the lease of their lands for mineral rights. Essentially there is little difference between the three separate agency board statutes or the SLB statute other than special lease conditions that may be pertinent to the land over which the different boards have jurisdiction. For instance, the Board for Lease of State Park Land owns land that is biologically unique and environmentally sensitive to intrusion. Consequently, special lease conditions may be required to protect these lands and the wildlife that inhabit them.

Overall, provisions of the various lease board statutes regarding administrative procedures, powers and duties, or royalty and rental provisions are essentially the same and are also similar to those in the School Land Board statutes. In addition, the commissioner of the GLO as a member of each of these

boards, has recently attempted to standardize leasing and reporting procedures of all lease boards to the greatest extent possible.

Consolidation of these three statutes would eliminate the confusion concerning the statutory application for a particular agency. Any special leasing provisions could carry over into the combined statute. Consequently, better uniformity among the statutes would result in more consistent leasing and overall management of these lands. Also, if the agency lease boards were combined with the SLB, then the agency lease board statutes could be combined with those of the SLB.

Restrictions for easements on state lands issued by the GLO, U.T., and the agency boards for lease should be eliminated.

The General Land Office, the U.T. System Board of Regents and the agency boards for lease are given statutory authority to grant easements for uses of state lands. These easements are generally for uses related to the purpose for which the lands are leased or some public purpose. Permissible uses of easements are specified by statute and include easements for such things as telephone and electric power lines, pipelines and ditches. Easements cannot be issued for purposes not specifically authorized by statute. Periodically, requests are made for easements to be used for a purpose not authorized by the lease board's statute. For example, an easement cannot be granted to build a road across state lands. The value of the land could be enhanced by the road but the easement cannot be granted. This statutory restriction can result in decisions which are inconsistent with the mandate to maximize revenue and productivity of the land.

To eliminate unnecessary restrictions, statutory references to the types of easements that may be granted on state lands should be deleted. The GLO, U.T. Regents, and the agency boards should be given the flexibility to issue easements for any reasonable use which relates to the land's lease, any public purpose, or other beneficial use.

Compliance

Stronger GLO compliance activities would improve the accuracy and timeliness of royalty payments and production reports related to the School Land Board and the agency boards for lease.

The GLO provides the administrative support to verify all royalty payments for the School Land Board and the agency boards for lease. These payments are received along with related production information supplied by the oil company or an operator and are processed and reviewed through an internal desk audit. If the desk audit shows no accounting exceptions, then no other steps are taken by the GLO to independently evaluate the accuracy of the reported royalty payments.

The volume of work includes 2,900 active leases with 5,500 monthly reports handled by 15 desk auditors from the oil and gas audit section. Currently, the extent of misinformation reported by the lessee is not known since little independent evaluation of production amounts reported and related royalties due is conducted. However, the GLO staff estimates that a two percent reduction in the error rate could result in an additional \$2 million annually. Recent efforts by the GLO have been aimed at establishing an automated system to audit information for accuracy and a field inspection program to provide a verification of reported information. However, the GLO is currently unable to adequately verify information and royalty payments submitted.

The GLO should complete implementation of an effective tracking system for royalty payment compliance. This system should be automated to the extent possible to provide timely reviews of payments. An independent evaluation of production information should be provided by GLO field inspections that periodically test actual production volumes, check meters and determine co-mingling and other allocation procedures on all state leases. The results of this evaluation can be used to determine whether accurate information is reported and to ensure that equipment on the leases is allowing the state its fair share of any joint leases. Recent pilot projects by the GLO have detected inaccurate reporting which, if corrected, could generate significant additional revenues.

Enforcement

Authority to increase penalties for all lease boards would assist in discouraging late royalty payments and production reports.

The state of Texas oil and gas leases contain a provision for late royalty payments and reports. This provision requires that all royalty payments, with supporting documents, not received within 35 days (oil) or 45 days (gas) after production are tardy and subject to a late penalty assessment. The present penalty

is one percent (12 percent annual) for each 30 day period with a five dollar minimum penalty for each late royalty payment or report.

Approximately five percent of all GLO and two percent of all U.T. System royalty payments are late. The reasons for delinquent payments vary, but they are often a result of a company's error in the royalty check or production rate, or they are simply late. Approximately three percent of all GLO and five percent of U.T. System payments are corrected by price adjustments. These adjustments may or may not have penalties assessed. In either instance, the GLO and U.T. System must bear the administrative cost to correct the error and receive proper payment. The GLO estimates their administrative costs range between fifteen and twenty-five dollars per report. Furthermore, until the proper payment is received, the state also loses revenue from the interest that the royalty payment would have earned. Consequently, a late royalty penalty is charged to recover administrative costs and unearned interest.

In other states, penalties range from one to two percent and up to one hundred dollars for each late report. However, in most states the one percent penalty appears to be most common. The U.S. Government bases their penalty on the current IRS rate, which is adjusted every six months depending upon the current prime interest rate charged by banks. It currently is about one percent per month, but increases or decreases according to interest rates.

The delinquent penalties currently applied in Texas for late payments or underpayment of royalties are not sufficient to recover administrative costs. In addition, there is not enough flexibility to ensure proper recovery of unearned interest from late payment.

A more flexible system would allow all state leasing boards to set penalties for late or underpayment of royalties within certain statutory guidelines. To adjust for fluctuating interest rates, the boards should maintain the current one percent interest fee, or utilize a system similar to the U.S. Government that adjusts the interest rate depending upon current prime rate, whichever is greater. This should discourage companies who may profit by withholding penalty fees if interest rates exceed the one percent level. Also at the board's discretion, the five dollar fee charged for each late report should be increased to reflect the actual administrative cost of collecting revenues, and provide for adequate incentive for timely payments and reports.

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 boards' efforts in applying those general practices that have been developed to comply with the general state policies which ensure the awareness and understanding necessary to have effective participation by all persons affected by the activities of the boards.

Open Meetings/Open Records

The review indicated that the lease boards have generally complied with the Open Meetings Act and Open Records Act. Timely notices of board meetings have been filed with the Office of the Secretary of State. Executive sessions have been properly announced and have dealt with appropriate topics.

Lease board records for the School Land Board and the agency leasing boards are maintained by the GLO; the U.T. System keeps the records for the University board. The GLO and the U.T. System have established procedures regarding open records and all records, other than those specifically determined by the boards to be confidential, are accessible to the public upon request.

While the records policies were generally adequate, one concern was identified. The cost of photocopy reproductions of SLB records charged to persons requesting copies was found to be excessive when compared to the state's rate policy established by Attorney General Opinion, No. JM-114. Discussions with GLO staff indicated that the policy regarding SLB records would be changed to conform with state policy.

EEOC/Privacy

Since the lease boards do not maintain a staff, an evaluation of the boards' compliance with equal employment opportunity statutes or with those statutes related to rights and privacy of employees was not performed.

Public Participation

The lease boards' policies and activities were examined to determine if the general public and those affected by the boards have been informed of their activities. The results of the review indicated adequate efforts have been made in this area given the limited scope of the lease boards' jurisdiction. Depending on the lease board holding the sale, information regarding lease sales is mailed to all requesting parties and is advertised in newspapers and oil and gas journals. News releases are also circulated regarding major policy decisions. Generally, public

testimony is allowed at board meetings on any agenda item and an interested party can place an item on the agenda.

Conflict-of-Interest

The review focused on efforts to inform board members of responsibilities related to conflict-of-interest statutes. All board members are briefed on the statutory obligations and have met the financial disclosure filing requirements. A review of board minutes indicated abstention from deliberation by members in instances where those members had a personnel interest in the boards' actions.

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 the boards, the functions performed by the boards were evaluated to determine if alternatives to current practices were available. Boards with functions similar to those performed by these boards were reviewed to determine if they had developed alternative practices which offered substantial benefits and which could be implemented in a practical fashion. In addition, the practices of other states were reviewed in a like fashion and it was determined that their practices were similar to those of Texas. It was concluded that a practical alternative to a current practice does exist, and it is discussed below.

Jurisdiction of the School Land Board and the Board for Lease of University Lands could be expanded to include all leasing activities

Currently, leasing responsibility for lands dedicated to the Permanent School Fund and the Permanent University Fund is fragmented. Leasing of public school lands is split between the School Land Board and the land commissioner. The SLB leases the land for oil and gas development and for production of coal, lignite, sulphur, salt and potash. The commissioner issues leases for all other minerals including uranium and precious metals as well as surface uses such as grazing. The commissioner also approves oil and gas leases on Relinquishment Act lands and issues leases for production of all minerals.

The Board for Lease of University Lands issues leases for oil and gas development on University lands. All other leasing activities are performed by the U.T. System Board of Regents. This authority includes all minerals and surface uses.

This split leasing authority for public school lands and for university lands creates a potential conflict regarding the use of land and does not ensure that leasing methods are uniform. For public school lands, a board is used to make some decisions while others are made by only the commissioner. Also, a potential for conflict regarding the use of the land exists since leasing is performed by the board for oil and gas production and development and by the commissioner for hunting, grazing, and other uses.

For university lands, the split authority is between the University board for lease and the U.T. System Board of Regents creates a potential for conflict

regarding the lease of the lands by the respective boards for the purposes authorized.

All leasing activities could be transferred to the School Land Board and the University lease board. This consolidation of leasing authority would eliminate the potential for conflict over use of the land and provide a uniform process for leasing the lands.

While the above approach has benefits, it is contrary to a long standing division of authority that has worked well. Generally, the leasing boards have authority over leasing activities generating the largest amount of revenue. Less significant, routine leasing activities have been adequately performed by the land commissioner and the U.T. System. These decisions have been made without conflict with board activities and have reduced the workload of the boards. This drawback can be mitigated through the delegation of certain leasing activities by the respective leasing boards to the land commissioner and the U.T. System. Although responsibility over all leasing activities would be placed with the leasing boards, the boards could delegate routine leasing matters to the land commissioner or the U.T. System.

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 boards 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 all state leasing boards be combined into one State Land Board.

Several separate lease boards currently issue leases for use of state lands. An argument can be made that these individual boards could be abolished and the functions consolidated into one board with authority for leasing all state lands.

Proponents of the consolidation argue that the assignment of the leasing activities for state lands to several different leasing boards has resulted in an inconsistent statewide leasing policy. Under this fragmented leasing structure, different leasing terms and conditions have developed depending upon the leasing board having jurisdiction over the particular property in question. In addition, an unnecessary duplication of efforts has resulted from having several separate leasing boards that operate in generally the same fashion. Under one leasing board, a uniform leasing policy for all public lands could be developed. While this single board would have the responsibility for leasing all state lands, it could continue to allow input from the state agency owning or responsible for the land regarding the lands subject to lease and the terms and conditions of proposed leases.

Opponents argue that adequate attention to all public lands could not be provided by one board. The current structure basically allows the group with a vested interest to control the lease of the land, and allows special circumstances to be considered in leasing decisions by the various boards. This attention would be diluted with the proposed structure since one board would be unable to maintain adequate knowledge of all state-owned land with respect to a wide variety of leasing circumstances.

Should administrative costs of the GLO related to the School Land Board be paid from the Available School Fund.

A major activity of the GLO involves supporting the SLB in its efforts to generate revenue from leasing of public school fund lands. The GLO is also involved in the overall management of these public school lands. Currently, these activities are financed by general revenue and from fees charged by the GLO.

Revenues generated by these leasing activities are placed in the Permanent School Fund. Interest from investment of the fund is used to finance public education in the state. An argument can be made that the activities of the GLO related to public school lands should be paid from the revenue generated.

Proponents argue that the U.T. System provides similar support to the Board for Lease of University Lands and is responsible for management of university lands. This support is funded out of the Available University Fund which consists mainly of interest from the investment of the revenues generated through leasing and management of the University lands. Similarly, a portion of the Available School Fund, consisting of interest from investment of the PSF, should be used to fund the GLO support activities.

In addition, state agency activities are generally designed so that a portion of the operational costs are covered by fees by charged or revenue generated from that program. The Veterans Land Board, for example, is also supported by the GLO. This support is funded entirely by fees charged and proceeds from bonds issued by the VLB.

Finally, the proposed funding pattern would reduce the fund requirements on the general revenue fund and would provide an added incentive to the GLO to maximize the collection of revenue in order that more revenue would be available to fund the operations of the agency.

Opponents argue that the activities of the General Land Office benefit the entire state and funding using general revenue is appropriate. If funding were provided by the Available School Fund, then the additional funds needed for education would come from the general revenue fund thereby negating any savings to the general fund. In addition, the Legislature has been reluctant to approve alternative uses of the PSF and the ASF, because of increased funding needs for education, indicating a desire to maintain the fund for educational uses.

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.

SCHOOL LAND BOARD

Applied	Modified	Not Applied	Across-the-Board Recommendations
A. GENERAL			
*			1. Require public membership on boards and commissions.
X			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	X		5. Specify grounds for removal of a board member.
			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 its 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.

*Already in statute or required.

School Land Board
(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. 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.

*Already in statute or required.

BOARD FOR LEASE OF UNIVERSITY LANDS

Applied	Modified	Not Applied	Across-the-Board Recommendations
A. GENERAL			
X *			1. Require public membership on boards and commissions.
	*		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	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 its 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.
*			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.

*Already in statute or required.

Board for Lease of University Lands
(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. 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.

*Already in statute or required.

BOARDS FOR LEASE OF STATE-OWNED LANDS

Applied	Modified	Not Applied	Across-the-Board Recommendations
			A. GENERAL
X			1. Require public membership on boards and commissions.
X			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	X		5. Specify grounds for removal of a board member.
			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 its 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.
*			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.

*Already in statute or required.

Boards for Lease of State-Owned Lands
(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. 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.
		X	(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.

*Already in statute or required.