

**SUBJECT:** Revising the Sunset Act and changing review dates for various agencies

**COMMITTEE:** State Affairs — favorable, without amendment

**VOTE:** 5 ayes — Swinford, Christian, Farrar, Flynn, Parker

0 nays

4 absent — Paxton, Van Arsdale, B. Cook, Veasey

**WITNESSES:** For — None

Against — None

On — Joey Longley, Sunset Advisory Commission

**BACKGROUND:** The Sunset Advisory Commission consists of 12 members — five members each from the House and Senate and one public member, each appointed by the lieutenant governor and the speaker of the House. Legislative members of the Sunset Advisory Commission serve four-year terms and may serve for a total of six years. A legislative member who serves more than half of a four-year term may not be appointed to an immediately succeeding term. These requirements do not apply to the lieutenant governor and the speaker of the House, who also may serve on the commission.

A person is not eligible for appointment as a public member if the person or the person's spouse, during the term of service, is regulated by an agency scheduled for Sunset review or otherwise is affiliated with a business entity or organization regulated by a state agency scheduled for review.

Government Code, sec. 325.011 lists the criteria the Sunset commission must consider when determining whether there remains a public need for an agency. Before October 30 of the odd-numbered year before the year in which a state agency is scheduled to be abolished, the agency submits a self-evaluation report to the commission based in part upon these criteria. The Sunset commission then performs its review and holds public hearings on the agency before December 1 of the calendar year before the year in which the agency is scheduled to be abolished. At each regular

legislative session, the commission reports its findings and recommendations to the Legislature, which considers this information in deciding whether to continue or abolish the agency.

Two years prior to an agency's scheduled review for abolition, the commission, with an affirmative vote of all members, may exempt certain agencies from requirements specific to staff reports, hearings, and evaluations.

The Legislature is required to consider the continuation, transfer, or modification of only one agency per bill, unless more than one agency, advisory committee, or function is to be consolidated.

DIGEST:

HB 3249 would make several revisions to the Texas Sunset Law (Government Code, ch. 325).

Under sec. 325.003, a legislative member who served an entire term, rather than half a term, could not immediately be appointed to a succeeding term. In addition, a public appointee could not serve on the commission if that person, or his or her spouse, was a registered lobbyist paid by an agency under review.

HB 3249 would change the commission's criteria for review of an agency under sec. 325.011. The Sunset commission would be required to consider:

- an agency's efficiency and effectiveness;
- the necessity of activities performed by an agency beyond those required in statute;
- the extent to which the agency had met its mission, goals, and objectives;
- the agency's authority relating to fees, inspections, enforcement, and penalties; and
- the promptness and effectiveness of an agency's hearing process.

The following criteria would be removed from sec. 325.011:

- whether an agency's advisory committee is needed and used;
- whether statutory changes recommended by the agency are calculated to benefit the public, rather than an entity that the agency regulates; and

- whether changes are necessary in the agency's enabling statutes to allow it to adequately comply with Sunset review criteria.

Under the bill, an agency scheduled for Sunset review would report to the commission by September 1, rather than October 30, of the odd-numbered year before a review was scheduled. Before January 1 of the year an agency was scheduled to be abolished, the Sunset commission would be required review the agency reports, conduct its own review, and hold public hearings. The commission would be required to complete its decision on an agency no later than February 1 of the year in which the agency would be abolished.

In its report on a state agency, the Sunset Advisory Commission, under sec. 325.012, would be required to:

- make recommendations to improve the operations of an agency, its policy body, and its advisory committee, including any management recommendations that did not require changes to an enabling statute;
- include the estimated fiscal impact of its recommendations, including, at the Sunset commission's discretion, recommended appropriation levels to improve the operations of the agency; and
- include drafts of legislation prepared to carry out the commission's recommendations.

Final actions and recommendations still would necessitate a majority record vote by the commission's full membership, but all other actions by the commission would require only a majority vote of members present and voting, including a vote to exempt an agency from review. The bill also would allow the Legislature to consider the continuation of more than one agency in a single bill for the purpose of adjusting the commission's review schedule.

HB 3249 also would change the statutory Sunset date for the Texas State Affordable Housing Corporation from September 1, 2009, to September 1, 2011. It would change the Sunset date for the Texas Council on Purchasing from People with Disabilities from September 1, 2015, to September 1, 2013. The bill would delete the Sunset provision for the Texas Military Facilities Commission, which currently is scheduled for Sunset review on September 1, 2009.

The bill also would update the language of ch. 325 to include gender-neutral references and other nonsubstantive changes.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

**SUPPORTERS  
SAY:**

HB 3249 would make necessary changes to the Texas Sunset Act to bring it into compliance with current practice. Each session, the Legislature traditionally alters the Sunset review schedule to bring similar agencies under review at the same time, to address social problems or concerns, to adjust the Commission's workload, or to remove agencies from the review schedule that no longer are in operation. The bill would make these adjustments. The bill also could be used later in the session as a vehicle to continue agencies scheduled for abolition in September that, for one reason or another, were not renewed through the enactment of their individual Sunset bills.

**OPPONENTS  
SAY:**

No apparent opposition.

**NOTES:**

The companion bill, SB 915 by Brimer, has been referred to the Senate Government Organization Committee.