

BILL ANALYSIS

Senate Research Center
86R25786 MCK-D

C.S.S.B. 619
By: Birdwell et al.
Natural Resources & Economic Development
4/13/2019
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

This is the Sunset schedule bill, which is filed each session to make necessary adjustments to better align and group agencies set for Sunset review in upcoming biennia. The bill also updates provisions in the Sunset Act to better reflect current conditions and changes that have been made in general law.

Aligns and groups Sunset Advisory Commission (Sunset) reviews in three main ways:

- Ensures agencies undergo Sunset review at least once every 12 years and not more than 14 years.

Adjusts agencies' Sunset review dates to avoid having agencies, like the Texas Department of Licensing and Regulation (TDLR) and the Teacher Retirement System, go 18 years without a Sunset review.

- Groups reviews of like agencies together to maximize resources and comprehensively look at particular areas of state government such as health and human services and natural resources.

Groups health and human service agencies together, reviewing the Health and Human Services Commission, the Department of Family and Protective Services (DFPS), and the Department of State Health Services (DSHS) in 2023 (limited scope) and 2027 (full review).

Groups electric utility agencies together, reviewing the Public Utility Commission of Texas (PUC), Office of Public Utility Counsel, and ERCOT in 2025.

Groups river authority reviews geographically to minimize travel costs.

- Returns Sunset's review workload to fewer than 30 agencies each cycle.

This cycle Sunset reviewed 32 agencies and entities, resulting in 27 Sunset bills. Although Sunset was able to complete thorough evaluations of all these, this workload was extremely taxing on Sunset staff and commission members. Reinstating the intended workload of about 20 to 25 reviews each cycle is more appropriate for the Sunset review timeline and ensures Sunset has the ability to produce its high-quality work.

Removes certain entities from Sunset review. (Page 11, Lines 11-20)

- Lone Star Rail District (organization is defunct)
- Regional Education Service Centers (ESCs)

ESCs are currently subject to federal as well as state oversight by the commissioner of education, including annual audits, legislative reports, and performance monitoring.

Reviewing 20 ESCs throughout Texas would severely strain Sunset's limited resources.

Each of these 20 local entities is governed by a board elected by members of the local school boards and state-appropriated funds make up less than two percent of all ESC funds.

- Evaluation of the state’s overall approach to procurement and contracting

The legislature established this evaluation requirement in 2013. Since then, significant changes to the state’s contracting and procurement processes have occurred, making this requirement irrelevant and unnecessary.

The legislature has reformed the state’s contracting and procurement processes, particularly through S.B. 20 (84R) and S.B. 533 (85R), and is considering further changes in S.B. 65 (86R). These reforms have placed primary responsibility for statewide contract oversight and accountability with the comptroller of public accounts of the State of Texas, the Legislative Budget Board, and the Texas State Auditor's Office, not Sunset.

While Sunset evaluates agencies’ contracting functions as part of each Sunset review, it does not have a role in evaluating the state’s overall approach to contracting and procurement.

Modifies the Sunset Act to clarify current practices of the commission and staff.

- Specifies the legislature can place entities, not just state agencies, under Sunset review. (Page 11, Line 24)
- Clarifies that the Sunset Advisory Commission is a legislative agency and that the commission’s public members act on behalf of the legislature. (Page 12, Lines 2-11)

Clarifies that Sunset Advisory Commission staff perform legislative services to support the passage of Sunset legislation. (Page 12, Lines 16-26) (Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 619 amends current law relating to the sunset review process and certain governmental entities subject to that process.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

ARTICLE 1. ENTITIES GIVEN 2021 SUNSET DATE

SECTION 1.01. TEXAS A&M FOREST SERVICE. Amends Section 88.1016, Education Code, as follows:

Sec. 88.1016. SUNSET PROVISION. Provides that the Texas A&M Forest Service, rather than the Texas Forest Service, is subject to Chapter 325, Government Code (Texas Sunset Act). Provides that, unless continued in existence as provided by that chapter, the Texas A&M Forest Service, rather than the Texas Forest Service, is abolished September 1, 2021, rather than September 1, 2023.

SECTION 1.02. TEACHER RETIREMENT SYSTEM OF TEXAS. Amends Section 825.006, Government Code, as follows:

Sec. 825.006. SUNSET PROVISION. Requires the board of trustees of the Teacher Retirement System of Texas to be reviewed during the period in which state agencies abolished in 2021, rather than 2025, and every 12th year after that year, are reviewed.

SECTION 1.03. ANATOMICAL BOARD OF THE STATE OF TEXAS. Amends Subchapter A, Chapter 691, Health and Safety Code, by adding Section 691.003, as follows:

Sec. 691.003. SUNSET PROVISION. Provides that the Anatomical Board of the State of Texas (anatomic board) is subject to Chapter 325, Government Code (Texas Sunset Act). Provides that, unless continued in existence as provided by that chapter, the anatomical board is abolished September 1, 2021.

SECTION 1.04. TEXAS RACING COMMISSION. Amends Section 2021.008(a), Occupations Code, as follows:

(a) Provides that, unless continued in existence as provided by Chapter 325, Government Code, and except as provided by Subsections (b) and (c) (relating to exceptions to abolishment if the Texas Racing Commission has outstanding liability), the Texas Racing Commission is abolished and this subtitle (Texas Racing Act) expires September 1, 2021, rather than September 1, 2023.

ARTICLE 2. ENTITIES GIVEN 2023 SUNSET DATE

SECTION 2.01. LIMITED REVIEW OF DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES. Amends Section 531.0206(a), Government Code, as follows:

(a) Requires the review conducted by the Texas Sunset Advisory Commission (Sunset) to provide:

(1)–(2) makes no changes to these subdivisions;

(3) an evaluation and recommendations regarding the need to continue the Department of Family and Protective Services as a state agency separate from the Health and Human Services Commission (HHSC); and

(4) redesignates existing Subdivision (3) as Subdivision (4).

SECTION 2.02. OFFICE OF INSPECTOR GENERAL, HEALTH AND HUMAN SERVICES COMMISSION. (a) Amends Section 531.102, Government Code, by adding Subsection (y), as follows:

(y) Requires Sunset to conduct a special-purpose review of the overall performance of the HHSC's office of inspector general (office). Requires Sunset, in conducting the review, to particularly focus on the office's investigations and the effectiveness and efficiency of the office's processes. Requires the review to be conducted during the period in which state agencies abolished in 2023 are reviewed. Provides that the office is not abolished solely because the office is not explicitly continued following the review required by this subsection. Provides that this subsection expires September 1, 2023.

(b) Repealer: Section 14 (relating to requiring Sunset to review HHSC's office of inspector general), Chapter 945 (S.B. 207), Acts of the 84th Legislature, Regular Session, 2015.

SECTION 2.03. TEXAS INVASIVE SPECIES COORDINATING COMMITTEE. Amends Section 776.007(a), Government Code, to provide that, unless continued in existence as provided by Chapter 325, Government Code, the Texas Invasive Species Coordinating Committee is abolished and this chapter expires September 1, 2023, rather than September 1, 2021.

SECTION 2.04. TEXAS JUVENILE JUSTICE BOARD AND TEXAS JUVENILE JUSTICE DEPARTMENT. Amends Section 202.010, Human Resources Code, as follows:

Sec. 202.010. SUNSET PROVISION. Provides that, unless continued in existence as provided by Chapter 325, Government Code, the Texas Juvenile Justice Board and the Texas Juvenile Justice Department are abolished September 1, 2023, rather than September 1, 2021.

SECTION 2.05. DIVISION OF WORKERS' COMPENSATION, TEXAS DEPARTMENT OF INSURANCE. Amends Section 31.004(b), Insurance Code, to provide that, unless continued as provided by Chapter 325, Government Code, the duties of the division of workers' compensation of the Department of Insurance under Title 5 (Workers' Compensation), Labor Code, expire September 1, 2023, rather than September 1, 2021, or another date designated by the legislature.

SECTION 2.06. OFFICE OF INJURED EMPLOYEE COUNSEL. Amends Section 404.003, Labor Code, as follows:

Sec. 404.003. SUNSET PROVISION. Provides that, unless continued in existence as provided by Chapter 325, Government Code, the office is abolished and this chapter expires September 1, 2023, rather than September 1, 2021.

SECTION 2.07. UPPER GUADALUPE RIVER AUTHORITY. Amends Section 1A(a), Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939, as follows:

(a) Requires the review to be conducted under Section 325.025 (River Authorities Subject to Review), Government Code, as if the Upper Guadalupe River Authority were a state agency scheduled to be abolished September 1, 2023, rather than September 1, 2021, and every 12th year after that year.

ARTICLE 3. ENTITIES GIVEN 2025 SUNSET DATE

SECTION 3.01. STATE COMMISSION ON JUDICIAL CONDUCT. Amends Section 33.003, Government Code, as follows:

Sec. 33.003. SUNSET PROVISION. Requires the State Commission on Judicial Conduct to be reviewed during the period in which state agencies abolished in 2025, rather than 2023, and every 12th year after that year, rather than 2023, are reviewed.

SECTION 3.02. JUDICIAL BRANCH CERTIFICATION COMMISSION. Amends Section 152.001, Government Code, as follows:

Sec. 152.001. SUNSET PROVISION. Requires the Judicial Branch Certification Commission to be reviewed during the period in which state agencies abolished in 2025, rather than 2023, and every 12th year after that year, rather than every 12th year after 2023, are reviewed.

SECTION 3.03. TEXAS BOARD OF CRIMINAL JUSTICE AND TEXAS DEPARTMENT OF CRIMINAL JUSTICE. Amends Section 492.012, Government Code, as follows:

Sec. 492.012. SUNSET PROVISION. Provides that, unless continued in existence as provided by that chapter, the Texas Board of Criminal Justice and the Texas Department of Criminal Justice are abolished September 1, 2025, rather than September 1, 2021.

SECTION 3.04. DEPARTMENT OF INFORMATION RESOURCES. Amends Section 2054.005(a), Government Code, to provide that, unless continued in existence as provided by Chapter 325, Government Code, the Department of Information Resources is abolished and this chapter expires September 1, 2025, rather than September 1, 2021.

SECTION 3.05. ANGELINA AND NECHES RIVER AUTHORITY. Amends Section 8501.0015(a), Special District Local Laws Code, to require the review to be conducted under Section 325.025, Government Code, as if the Angelina and Neches River Authority were a state agency scheduled to be abolished September 1, 2025, rather than September 1, 2023, and every 12th year after that year.

SECTION 3.06. LOWER NECHES VALLEY AUTHORITY. Amends Section 8504.0021(a), Special District Local Laws Code, to require the review to be conducted under Section 325.025,

Government Code, as if the Lower Neches Valley Authority were a state agency scheduled to be abolished September 1, 2025, rather than September 1, 2021, and every 12th year after that year.

SECTION 3.07. PUBLIC UTILITY COMMISSION OF TEXAS. Amends Section 12.005, Utilities Code, as follows:

Sec. 12.005. APPLICATION OF SUNSET ACT. Provides that, unless continued in existence as provided by Chapter 325, Government Code, the Public Utility Commission of Texas is abolished and this title expires September 1, 2025, rather than September 1, 2023.

SECTION 3.08. OFFICE OF PUBLIC UTILITY COUNSEL. Amends Section 13.002, Utilities Code, as follows:

Sec. 13.002. APPLICATION OF SUNSET ACT. Provides that, unless continued in existence as provided by Chapter 325, Government Code, the Office of Public Utility Counsel is abolished and this chapter expires September 1, 2025, rather than September 1, 2023.

SECTION 3.09. SABINE RIVER AUTHORITY. Amends Section 2A(a), Chapter 110, Acts of the 51st Legislature, Regular Session, 1949, as follows:

(a) Requires the review to be conducted under Section 325.025, Government Code, as if the Sabine River Authority were a state agency scheduled to be abolished September 1, 2025, rather than 2021, and every 12th year after that year.

SECTION 3.10. TRINITY RIVER AUTHORITY OF TEXAS. Amends Section 1A(a), Chapter 518, Acts of the 54th Legislature, Regular Session, 1955, as follows:

(a) Requires the review to be conducted under Section 325.025, Government Code, as if the Trinity River Authority of Texas were a state agency scheduled to be abolished September 1, 2025, rather than September 1, 2023, and every 12th year after that year.

ARTICLE 4. ENTITIES GIVEN 2027 SUNSET DATE

SECTION 4.01. TEXAS EDUCATION AGENCY. Amends Section 7.004, Education Code, as follows:

Sec. 7.004. SUNSET PROVISION. Provides that, unless continued in existence as provided by Chapter 325, Government Code, the Texas Education Agency is abolished September 1, 2027, rather than September 1, 2025.

SECTION 4.02. EXPANDED LEARNING OPPORTUNITIES COUNCIL. Amends Section 33.254, Education Code, as follows:

Sec. 33.254. SUNSET PROVISION. Provides that, unless continued in existence as provided by Chapter 325, Government Code, the Expanded Learning Opportunities Council is abolished and this subchapter expires September 1, 2027, rather than September 1, 2023.

SECTION 4.03. TEXAS CIVIL COMMITMENT OFFICE. Amends Section 420A.004, Government Code, as follows:

Sec. 420A.004. SUNSET PROVISION. Provides that, unless continued in existence as provided by Chapter 325, Government Code, the Texas Civil Commitment Office is abolished and this chapter expires September 1, 2027, rather than September 1, 2023.

SECTION 4.04. TEXAS FACILITIES COMMISSION. Amends Section 2152.002, Government Code, as follows:

Sec. 2152.002. SUNSET PROVISION. Provides that, unless continued in existence as provided by Chapter 325, Government Code, the Texas Facilities Commission is abolished and this subtitle, except for Chapter 2170 (Telecommunications Services) and Section 2157.121 (Acquisition Through Competitive Sealed Proposals), expires September 1, 2027, rather than September 1, 2021.

SECTION 4.05. MATERNAL MORTALITY AND MORBIDITY TASK FORCE. Amends Section 34.018, Health and Safety Code, as follows:

Sec. 34.018. SUNSET PROVISION. Provides that, unless continued in existence as provided by Chapter 325, Government Code, the Maternal Mortality and Morbidity Task Force is abolished and this chapter expires September 1, 2027, rather than September 1, 2023.

SECTION 4.06. PUBLIC HEALTH FUNDING AND POLICY COMMITTEE. Amends Section 117.002, Health and Safety Code, as follows:

Sec. 117.002. APPLICATION OF SUNSET ACT. SUNSET PROVISION. Provides that, unless continued in existence as provided by Chapter 325, Government Code, the Public Health Funding and Policy Committee is abolished and this chapter expires September 1, 2027, rather than September 1, 2023.

SECTION 4.07. PERINATAL ADVISORY COUNCIL. Amends Section 241.187(1), Health and Safety Code, as follows:

(1) Provides that, unless continued in existence as provided by Chapter 325, Government Code, the Perinatal Advisory Council is abolished and this section expires September 1, 2027, rather than September 1, 2025.

SECTION 4.08. DEPARTMENT OF STATE HEALTH SERVICES. Amends Section 1001.003, Health and Safety Code, as follows:

Sec. 1001.003. SUNSET PROVISION. Provides that, unless continued in existence as provided by Chapter 325, Government Code, the Department of State Health Services is abolished and this chapter expires September 1, 2027, rather than September 1, 2023.

SECTION 4.09. DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES. Amends Section 40.003, Human Resources Code, as follows:

Sec. 40.003. SUNSET PROVISION. Provides that, unless continued in existence as provided by Chapter 325, Government Code, the Department of Family and Protective Services is abolished and this chapter expires September 1, 2027, rather than September 1, 2023.

SECTION 4.10. STATE USE PROGRAM, TEXAS WORKFORCE COMMISSION. Amends Section 122.0012(b), Human Resources Code, as follows:

(b) Provides that, notwithstanding any other law, the Texas Workforce Commission's authority to administer and oversee the program administered under this chapter expires September 1, 2027, rather than September 1, 2021, unless continued in existence as provided by Chapter 325, Government Code.

ARTICLE 5. ENTITY GIVEN 2029 SUNSET DATE

SECTION 5.01. TEXAS EMERGENCY SERVICES RETIREMENT SYSTEM. Amends Section 865.0011, Government Code, as follows;

Sec. 865.0011. SUNSET REVIEW. Requires the state board of the Texas Emergency Services Retirement System to be reviewed during the period in which state agencies

scheduled to be abolished in 2029, rather than 2025, and every 12th year after that year, are reviewed.

ARTICLE 6. ENTITIES REMOVED FROM SPECIFIC SUNSET REVIEW

SECTION 6.01. REGIONAL EDUCATION SERVICE CENTERS.

Repealer: Section 8.010 (Sunset Provision), Education Code.

Repealer: Section 2(b) (relating to Sunset review of regional education service centers), Chapter 916 (S.B. 1404), Acts of the 85th Legislature, Regular Session, 2017.

SECTION 6.02. EVALUATION OF STATE PROCUREMENT SYSTEM. Repealer: Section 2151.0042 (Sunset Evaluation), Government Code.

SECTION 6.03. STATE USE PROGRAM, TEXAS COMPTROLLER OF PUBLIC ACCOUNTS. Repealer: Section 122.0012(a) (relating to the authority of the comptroller of public accounts of the State of Texas to perform any act that relates to state purchasing being subject to Sunset review), Human Resources Code.

SECTION 6.04. INTERMUNICIPAL COMMUTER RAIL DISTRICTS. Repealer: Section 173.005 (Sunset Provision), Transportation Code.

ARTICLE 7. SUNSET REVIEW PROCESS

SECTION 7.01. DEFINITIONS. Amends Section 325.002(1), Government Code, to define "state agency" as an entity, rather than an agency, expressly made subject to this chapter.

SECTION 7.02. SUNSET ADVISORY COMMISSION. Amends Section 325.003, Government Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Provides that Sunset is a legislative agency that consists of five members of the senate and one public member appointed by the lieutenant governor and five members of the house of representatives and one public member appointed by the speaker of the house.

(a-1) Provides that a public member acts on behalf of the legislature when participating on Sunset in furtherance of the legislature's duty to provide oversight of executive branch agencies' implementation of legislative priorities.

SECTION 7.03. RECOMMENDATIONS. Amends Section 325.0126, Government Code, as follows:

Sec. 325.0126. MONITORING OF RECOMMENDATIONS. Creates subdivisions from existing text of this section and requires the staff of Sunset, during each legislative session, to:

(1) monitor legislation affecting agencies that have undergone sunset review immediately before the legislative session;

(2) notify the members, rather than periodically report to the members, of Sunset about any amendment to the legislation prepared under Section 325.012(c) (relating to a requirement of Sunset to have drafts of legislation prepared to carry out Sunset's recommendations) that modifies Sunset's recommendations, rather than on proposed changes which would modify prior recommendations, for a state agency; and

(3) provide legislative services to support the passage of the legislation prepared under Section 325.012(c). Deletes existing text.

ARTICLE 8. EFFECTIVE DATE

SECTION 8.01. EFFECTIVE DATE. Effective date: upon passage or September 1, 2019.