

BILL ANALYSIS

Senate Research Center
87R9081 MCK-D

S.B. 713
By: Buckingham
Administration
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As Filed

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 agencies set for Sunset review in upcoming biennia and balance the Texas Sunset Advisory Commission's (Sunset) review workload. The bill also updates provisions in the Sunset Act to better reflect current conditions, particularly the ability to effectively operate during declared disasters or emergencies, such as COVID-19.

Adjusts agencies' Sunset review dates:

- In response to the February 2021 winter storm, the bill moves up the review of the Public Utility Commission of Texas, Electric Reliability Council of Texas, and Office of Public Utility Counsel to next biennium (2023) instead of 2025. This change also aligns these reviews with that of the Texas Commission on Environmental Quality.
- Moves the Sunset review of the Economic Development and Tourism Office and the Office of State-Federal Relations within the governor's office from 2023 to 2025. These reviews, which were scheduled to occur in 2021, were postponed due to the offices' roles in the state's COVID-19 response.
- Moves the review of the Texas Department of Insurance and its division of workers' compensation along with the Office of Public Insurance Counsel and Office of Injured Employee Counsel from 2023 to 2025 to give these agencies time to respond to changing insurance market conditions, and help balance Sunset's review workload.
- Requires a special purpose Sunset review of the Board of Veterinary Medical Examiners (board) during the 2022-2023 cycle and a limited scope state audit during the 2024-2025 audit period. Sets the board's next full Sunset review in 2029 to align it with other agencies that regulate the prescribing and dispensing of controlled substances.
- Moves the review of the Texas Real Estate Commission from 2025 to 2031 to reflect the agency's progress in implementing previous Sunset recommendations and help balance Sunset's review workload.
- Removes the Low Level Radioactive Waste Disposal Compact Commission (commission) from Sunset review.
 - The commission is an independent entity established by federal law and governed by the compact; it is not an agency of this state, leaving Sunset little ability to conduct a meaningful review or recommend significant changes.

Modifies the Sunset Act to reflect disaster and emergency procedures as a result of the pandemic:

- Authorizes Sunset to hold remote meetings and specifies requirements for these meetings.
- Specifies requirements for Sunset meetings during a declared state of disaster or emergency.
- Authorizes Sunset to exempt agencies from Sunset review due to a declared disaster or emergency.

As proposed, S.B. 713 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 2023 SUNSET DATE

SECTION 1.01. PUBLIC UTILITY COMMISSION OF TEXAS. Amends Section 12.005, Utilities Code, as follows:

Sec. 12.005. APPLICATION OF SUNSET ACT. Provides that the Public Utility Commission of Texas (PUC) is subject to Chapter 325 (Texas Sunset Act), Government Code. Provides that the PUC, unless continued in existence as provided by that chapter or by Chapter 39 (Restructuring of Electric Utility Industry), is abolished and Title 2 (Public Utility Regulatory Act) expires September 1, 2023, rather than September 1, 2025.

SECTION 1.02. OFFICE OF PUBLIC UTILITY COUNSEL. Amends Section 13.002, Utilities Code, as follows:

Sec. 13.002. APPLICATION OF SUNSET ACT. Provides that the Office of Public Utility Counsel (OPUC) is subject to Chapter 325, Government Code. Provides that OPUC, unless continued in existence as provided by that chapter, is abolished and Chapter 13 (Office of Public Utility Counsel) expires September 1, 2023, rather than September 1, 2025.

ARTICLE 2. ENTITIES GIVEN 2025 SUNSET DATE

SECTION 2.01. TEXAS ECONOMIC DEVELOPMENT AND TOURISM OFFICE. Amends Section 481.003, Government Code, as follows:

Sec. 481.003. SUNSET PROVISION. Provides that the Texas Economic Development and Tourism Office (office) is subject to Chapter 325. Provides that, unless continued in existence as provided by that chapter, the office is abolished and Chapter 481 (Texas Economic Development and Tourism Office) expires September 1, 2025, rather than September 1, 2021.

SECTION 2.02. OFFICE OF STATE-FEDERAL RELATIONS. Amends Section 751.003, Government Code, as follows:

Sec. 751.003. SUNSET PROVISION. Provides that the Office of State-Federal Relations (OSFR) is subject to Chapter 325. Provides that, unless continued in existence as provided by that chapter, OSFR is abolished and Chapter 751 (Office of State-Federal Relations) expires September 1, 2025, rather than September 1, 2021.

SECTION 2.03. TEXAS DEPARTMENT OF INSURANCE AND DIVISION OF WORKERS' COMPENSATION, TEXAS DEPARTMENT OF INSURANCE. Amends Section 31.004, Insurance Code, as follows:

Sec. 31.004. SUNSET PROVISION. (a) Provides that the Texas Department of Insurance (TDI) is subject to Chapter 325, Government Code. Provides that, unless continued in existence as provided by that chapter, TDI is abolished September 1, 2025, rather than September 1, 2023.

(b) Provides that, unless continued as provided by Chapter 325, Government Code, the duties of the division of workers' compensation of TDI under Title 5 (Workers' Compensation), Labor Code, expire September 1, 2025, rather than September 1, 2023, or another date designated by the legislature.

SECTION 2.04. OFFICE OF PUBLIC INSURANCE COUNSEL. Amends Section 501.003, Insurance Code, as follows:

Sec. 501.003. SUNSET PROVISION. Provides that the Office of Public Insurance Counsel (OPIC) is subject to Chapter 325, Government Code. Provides that, unless continued in existence as provided by that chapter, OPIC is abolished September 1, 2025, rather than September 1, 2023.

SECTION 2.05. OFFICE OF INJURED EMPLOYEE COUNSEL. Amends Section 404.003, Labor Code, as follows:

Sec. 404.003. SUNSET PROVISION. Provides that the Office of Injured Employee Counsel (OIEC) is subject to Chapter 325, Government Code. Provides that, unless continued in existence as provided by that chapter, OIEC is abolished September 1, 2025, rather than September 1, 2023.

ARTICLE 3. ENTITIES GIVEN 2029 SUNSET DATE

SECTION 3.01. STATE BOARD OF VETERINARY MEDICAL EXAMINERS. (a) Amends Section 801.003, Occupations Code, as follows:

Sec. 801.003. APPLICATION OF SUNSET ACT. Provides that the Texas Board of Veterinary Medical Examiners (TBVME) is subject to Chapter 325, Government Code. Provides that, unless continued in existence as provided by that chapter, TBVME is abolished and Chapter 801 (Veterinarians) expires September 1, 2029, rather than September 1, 2021.

(b) Requires the Sunset Advisory Commission (Sunset) to conduct a special-purpose review of TBVME for the 88th Legislature. Provides that, in conducting the special-purpose review under this subsection:

(1) the Sunset staff evaluation and report is required to be limited to reviewing the implementation of the TBVME database system and TBVME's processes and procedures for collecting and analyzing data as recommended by Sunset to the 87th Legislature; and

(2) Sunset's recommendations to the 88th Legislature are authorized to include any recommendation Sunset considers appropriate based on the special-purpose review.

(c) Requires the state auditor to conduct an effectiveness audit of TBVME to evaluate:

(1) TBVME's implementation of the data-related recommendations made in the report on TBVME submitted by Sunset to the 85th Legislature and identified as not fully implemented in the report on TBVME submitted by Sunset to the 87th Legislature; and

(2) any additional recommendation made in Sunset's report on the special-purpose review under Subsection (b) of this section.

(d) Prohibits the state auditor from beginning the audit required by Subsection (c) of this section before December 1, 2023, and requires the state auditor to prepare and submit a report of the findings of the audit to the chair and executive director of Sunset not later than December 1, 2024.

(e) Requires the state auditor to include the auditor's duties under this section in each audit plan under Section 321.013 (Powers and Duties of State Auditor), Government Code, that governs the auditor's duties for the period specified by Subsection (d) of this section.

ARTICLE 4. ENTITIES GIVEN 2031 SUNSET DATE

SECTION 4.01. TEXAS REAL ESTATE COMMISSION. Amends Section 1101.006, Occupations Code, as follows:

Sec. 1101.006. APPLICATION OF SUNSET ACT. Provides that the Texas Real Estate Commission (TREC) is subject to Chapter 325, Government Code. Provides that TREC, unless continued in existence as provided by that chapter, is abolished and Chapter 1101 (Real Estate Brokers and Sales Agents), Chapter 1102 (Real Estate Inspectors), and Chapter 1303 (Residential Service Companies) of this code and Chapter 221 (Texas Timeshare Act), Property Code, expire September 1, 2031, rather than September 1, 2025.

ARTICLE 5. ENTITIES REMOVED FROM SUNSET REVIEW

SECTION 5.01. TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT COMMISSION. Repealer: Section 403.0054 (Applicability of Sunset Act), Health and Safety Code.

ARTICLE 6. SUNSET REVIEW PROCESS

SECTION 6.01. REMOTE MEETINGS. Amends Chapter 325, Government Code, by adding Sections 325.0091 and 325.0092, as follows:

Sec. 325.0091. MEETINGS USING TELECOMMUNICATION DEVICES. (a) Provides that as an exception to Chapter 551 (Open Meetings) and other law, if a meeting is located in Austin and the presiding officers of Sunset are physically present at the meeting, then any number of the other members and employees of Sunset are authorized to participate in the meeting by use of telephone conference call, video conference call, or other similar telecommunication device.

(b) Provides that a member attending a meeting using a telecommunication device authorized by Subsection (a) is considered to be attending the meeting for purposes of constituting a quorum, for purposes of voting, and for any other purpose allowing a member of Sunset to otherwise fully participate in the meeting.

(c) Provides that a meeting held by use of telephone conference call, video conference call, or other similar telecommunication device:

(1) is subject to the notice requirements applicable to other meetings;

(2) is required to specify in the notice of the meeting the location in Austin of the meeting at which the presiding officers will be physically present;

(3) is required to be open to the public and to be audible to the public at the location in Austin specified in the notice of the meeting as the location of the meeting at which the presiding officers will be physically present; and

(4) is required to provide two-way audio communication between all members of Sunset attending the meeting during the entire meeting, and if the two-way audio communication link with any member attending the meeting is disrupted at any time, the meeting is prohibited from continuing until the two-way audio communication link is reestablished.

Sec. 325.0092. MEETINGS DURING STATE OF DISASTER OR EMERGENCY. (a) Authorizes Sunset to limit public access to the physical location of a Sunset meeting during a state of disaster or emergency declared by the governor.

(b) Requires Sunset, if public access to a meeting is limited as authorized by this section, to:

(1) broadcast the video and audio of the meeting in real time on Sunset's Internet website; and

(2) provide the following information in the notice of the meeting:

(A) the link to the broadcast on Sunset's Internet website; and

(B) a description of the manner in which the public will be able to participate in the meeting, including any health and safety protocols Sunset imposes to attend the meeting and any procedures for a member of the public to testify electronically or in person at the meeting or to electronically submit public comments without testifying.

(c) Requires Sunset to make a reasonable effort to invite witnesses representing different viewpoints on the matters to be considered at the meeting Sunset invites witnesses to testify at a meeting to which public access is limited under this section.

SECTION 6.02. PROCEDURES DURING DECLARED DISASTER. Amends Section 325.0125(b), Government Code, as follows:

(b) Authorizes Sunset to only exempt agencies that have been inactive for a period of two years preceding the date the agency is scheduled for abolition, that have been rendered inactive by an action of the legislature, or that Sunset determines are unable to participate in the review due to a declared disaster. Makes nonsubstantive changes.

ARTICLE 7. EFFECTIVE DATE

SECTION 7.01. EFFECTIVE DATE. Effective date: upon passage or September 1, 2021.