

Approved: February 21, 2008  
Date

MINUTES OF THE HOUSE GOVERNMENT EFFICIENCY AND TECHNOLOGY COMMITTEE

The meeting was called to order by Chairman Jim Morrison at 3:40 P.M. on February 18, 2008, in Room 526-S of the Capitol.

All members were present except Representatives Kelley, Tafanelli, Frownfelter, Holland, and Trimmer, all of whom were excused.

Committee staff present:

Mary Galligan, Kansas Legislative Research Department  
Jennifer Thierer, Kansas Legislative Research Department  
Rena Jefferies, Office of Revisor of Statutes  
Gary Deeter, Committee Assistant

Conferees appearing before the committee:

Barb Hinton, Legislative Post Auditor

Others attending:

See attached list.

The minutes for February 11, 12, and 14 were approved as printed. (Motion, Representative Swenson; second, Representative McLachlan)

The Chair welcomed Barb Hinton, Legislative Post Auditor, who traced the history of Post Audit, of the sunset law, and the of Kansas Governmental Operations Accountability Law (K-GOAL) (Attachments 1 and 2). She explained that Post Audit was established in 1971 to replace the State Auditor's Office, has broad authority to conduct performance audits of government agencies and programs, and functions under a semi-autonomous Committee to serve as part of the legislative oversight function; Post Audit may audit any state agency, local unit of government, any entity that contracts with or receives a grant from the state, and any entity that is regulated or licensed by the state.

Ms. Hinton commented that the K-GOAL statutes set forth an eight-year cycle to review 2-3 agencies each year, authorizing the "committees of reference" to evaluate effective agency operations, remediate defective operations, and terminate obsolete or ineffective operations. She identified the agencies evaluated each year and noted that K-GOAL expires in 2009.

Ms. Hinton stated that the precursor to K-GOAL was the Kansas Sunset Law, the latter which functioned from 1978 to 1992, requiring audits of boards, commissions, and agencies with the purpose of abolishing them unless the legislature acted to retain them. From 1978-1983 Post Audit conducted sunset audits of 37 agencies or programs, recommending that 8 agencies/programs be abolished in full, 6 continue through consolidation, 1 have regulation transferred, and 2 continue with restrictions. Of those recommendations, 5 agencies/boards were abolished, 2 were combined, and 1 office was split out from the parent agency. Ms Hinton said a national survey at that time showed the sunset laws were primarily effective as oversight and evaluative tools. She referenced the Texas Sunset Advisory Commission, which reviews 20-30 agencies each year and from

## CONTINUATION SHEET

MINUTES OF THE House Government Efficiency and Technology Committee at 3:40 P.M. on February 18, 2008, in Room 526-S of the Capitol.

1976 to 2007 has abolished 54 agencies and consolidated 12 more (Attachment 3).

Responding to questions, Ms. Hinton replied:

- There have been no studies showing dollar/cost savings.
- Larger agency audits are done in installments.
- Thoroughly auditing a large agency would involve all Post Audit staff for about six months.
- Identifying duplication is difficult with larger agencies.
- Often a risk-assessment model can provide more efficiencies than can consolidation.
- Post Audit sometimes calls in an expert for a specific assignment.
- There have been no recent audits regarding the mentally ill.

Ms. Hinton compared the relevant statutes, noting that the Post Audit statute focuses on performance audits, the Sunset Law deals with abolishing agencies, and the K-GOAL law concentrates on developing effective, efficient government operations (Attachment 4). She referenced previous Post Audit recommendations and the 1983 legislative responses (Attachment 5), suggesting that Post Audit can offer options to help the Committee consider further actions. She said the Post Audit Committee is currently considering new directions.

The Chair observed that sometimes an agency can redefine a statutory directive through rules and regulations; he requested that Representative Wilk lead Committee discussion regarding any actions members might wish to recommend. Ms. Hinton, responding to a member's request for her suggestions, said the focus of audits could be changed to deal with systemic problems, that a sunset law could assess key functions of agencies, and, if K-GOAL were revitalized, it could serve the same purpose. Members agreed that a joint committee might have more time to examine agencies. A member requested a form/function diagram for each agency. A member praised the sunset law for including public input. Members agreed that Ms. Hinton will consult with selected members and return with further recommendations.

The meeting was adjourned at 5:00 p.m. The next meeting is scheduled for Tuesday, February 19, 2008.

# HOUSE GOVERNMENT EFFICIENCY AND TECHNOLOGY COMMITTEE

## GUEST LIST

DATE: FEBRUARY 18 2008

NAME	REPRESENTING
Mary Howell	SRS
Lindsey Douglas	Hein Law Firm

**A History of Sunset and K-GOAL Audits in Kansas**  
**Presentation to the House Government Efficiency and Technology Committee**  
**Barb Hinton, Legislative Post Auditor**  
**February 18, 2008**

**A Bit of Background: Post Audit was established in 1971 as the legislative audit arm of Kansas government:**

- replaced the constitutional State Auditor's Office; became part of the legislative oversight function
- Kansas was among the first states to formally strengthen legislative oversight
- has been conducting performance audits evaluating the efficiency and effectiveness of government programs since 1975
- has broad authority to conduct performance audits of government agencies and programs under two primary statutes
- all performance audits done at the direction of the Legislative Post Audit Committee

**Legislative Post Audit Act (K.S.A. 46-1101 et seq.):** Under this Act, the Post Audit Committee can direct Post Audit to conduct performance audits of any of the following:

- all State agencies
- all local governments (cities, counties, school districts, etc.)
- anyone who contracts with or gets a grant from the State
- anyone who is regulated or licensed by the State

**Kansas Governmental Operations Accountability Law (K-GOAL) (K.S.A. 74-7283):** The K-GOAL law states that the purpose of the act is "to provide for a governmental operations accountability system under which the legislature may ensure accomplishment of the declared purpose of state government by periodically reviewing and evaluating the operations of selected state agencies, determining the necessity, propriety and legality of the operations reviewed and evaluated, identifying inefficiency and ineffectiveness, and taking action to retain and maintain appropriate and effective governmental operations, remediate defective governmental operations, and terminate inappropriate or obsolete governmental operations."

**Basic provisions of K-GOAL:**

- set out a schedule of agencies to be reviewed and evaluated by "committees of reference" in each house over 8 years
- required committees to familiarize themselves with the agency, consider any K-GOAL audit, hold a public hearing to obtain public and agency testimony, and develop recommendations regarding the state agency and its operations.
- called for the Post Audit Committee to direct **performance audits of each State agency subject to legislative review and evaluation**; the scope could be specific or general, as the Committee directed.
- called for the audits to determine a number of factors spelled out in law, as well as any other factors at the Post Audit Committee's direction
- allowed previously conducted audits (no more than two years old) to be used to fulfill K-GOAL audit requirement
- audits had to be done no later than the 30<sup>th</sup> calendar day of the session when they were due for legislative evaluation and review.
- allowed each agency to be retained for future K-GOAL review by an act of the Legislature
- The bill was amended over the years to add or delete a number of agencies, and to give the Committee the authority to change the year in which any K-GOAL audit was due.
- K-GOAL currently would expire in 2009 because no agencies have been retained for future K-GOAL review.
- The following pages show a list of agencies reviewed under K-GOAL and the focus of the audits.

## Agencies Subject to K-GOAL Audits

Session originally Specified for <u>K-GOAL review:</u>	Session actually completed for:
1993 Department of Social and Rehabilitation Services <i>(focus on foster care)</i>	1993 (used 1991 audits)
Capitol Area Security Patrol <i>(focus on general effectiveness)</i>	1993
1994 Department of Administration <i>(focus on Personnel Services)</i>	1994
Department of Commerce and Housing <i>(focus on economic development activities)</i>	1994
1995 Department of Health and Environment <i>(focus on impact of fed-mandated regulations <b>and</b> waste tire disposal program)</i>	1996 (2 audits)
Kansas Water Office and Water Authority <i>(focus on potential duplication of water regulation)</i>	1995
1996 Department of Transportation <i>(focus on highway construction)</i>	1996
Department of Agriculture <i>(focus on weights and measures enforcement program)</i>	1996
1997 Department of Revenue <i>(focus on sales tax collection and enforcement)</i>	1997
State Conservation Commission <i>(focus on effectiveness at meeting Water Plan goals)</i>	1997
Kansas Public Employees Retirement System <i>(focus on types of benefits provided)</i>	1997
1998 State Corporation Commission <i>(focus on abandoned wells)</i>	1998
Department of Education <i>(focus on Statewide assessment tests)</i>	1998 (used 1996 audit)
1999 Department on Aging <i>(focus on in-home services to the elderly)</i>	1999
Department of Human Resources <i>(focus on implementation of 1993 changes to the Worker's Compensation law)</i>	1999
2000 Department of Corrections <i>(focus on handling of parole violators <b>and</b> safety issues)</i>	2000 (2 audits)
Department of Wildlife and Parks <i>(focus on financial management, efficiency, and effectiveness)</i>	1995
2001 Department of Administration <i>(focus on management of State-held lands)</i>	2001

Session originally Specified for <u>K-GOAL review:</u>	Session actually completed for:
2001 Department of Commerce and Housing <i>(focus on coordination/effectiveness of eco devo programs)</i>	2001
2002 Department of Health and Environment <i>(focus on nursing home inspections)</i>	2002
2002 Department of Agriculture <i>(focus on pesticide and fertilizer program)</i>	2002
2004 SRS <i>(focus on controlling Medicaid costs for medical svcs)</i>	2002 (used 2001 audit)
2005 Department of Education <i>(focus on school district budgets)</i>	2002
2004 Department on Aging <i>(focus on long-term care)</i>	2003 (used 2001 audit)
2003 Juvenile Justice Authority <i>(focus on JJA oversight of programs)</i>	2003
2003 Department of Corrections <i>(focus on cost for death penalty)</i>	2004
2003 Public Safety Agencies <i>(focus on hiring and promotion practices)</i>	2004
2005 Board of Regents <i>(focus on faculty teaching loads)</i>	2005
2008 Department of Revenue <i>(focus on delinquent trust tax collections)</i>	2005
2006 None (requirement shifted forward statutorily because of cost study)	
2006 Department of Labor <i>(focus on error rates for unemployment benefit payments)</i>	2007
2006 Corporation Commission <i>(focus on Kan-Ed effectiveness at meeting goals, and its placement within Regents)</i>	2008
2007 Department of Wildlife and Parks <i>(focus on lease/purchase of building for NE Regional Office)</i>	2008 (used 2007 audit)
2008 Department of Transportation	
2002 Kansas Water Office/ Water Authority	

## Precursor to K-GOAL: the Kansas Sunset Law (1978-1992)

The Sunset Law set up dates to abolish selected State agencies, boards, or commissions unless the Legislature acted to retain them. Kansas was the 26<sup>th</sup> state to adopt a sunset law; 35 had adopted sunset by 1985. The initial thrust of most sunset legislation was on regulatory agencies and boards, but was subsequently expanded.

The Kansas Sunset Law required a performance audit of each agency to be conducted, and public legislative hearings to be held in both chambers. It identified 37 agencies to be abolished—all but two (SRS and KDHE) were regulatory in nature, and provided for a one-year “wind-up” period for abolished agencies. Retained agencies were continued for a maximum of six years.

The Sunset Law was set to be abolished in 1981. It was re-established and amended to:

- shift the focus from regulatory activities to broad, general areas of government. More than 20 regulatory boards and commissions were removed, and larger agencies were added (Revenue, Corrections, Transportation, KCC, Human Resources, State Treasurer, Office and Commissioner of Insurance, etc.)
- make performance audits of each agency optional at the direction of the Post Audit Committee (last sunset audit done in 1983)
- change the review cycle to 8 years
- extend the law until July 1, 1984 (in 1984, it was re-established until July 1, 1992)

In Kansas, Post Audit conducted sunset audits of 37 agencies or programs between 1978 and 1983. Of those:

- 5 agencies or boards were abolished (Athletic Commission, Mobile Home and Recreational Vehicle Commission, Council of Advisors on Consumer Credit, Accountancy Advisory Council, Kansas Energy Office)
- 2 agencies were combined into one Board (Board of Social Work Examiners and Board of Examiners of Psychologists (plus others who provide psychological services) were combined into the Behavioral Sciences Regulatory Board)
- 1 agency was split out (Office of Securities Commissioner was split off from the KCC)

A Common Cause survey in 1982 found that 1,500 agencies had been reviewed since the first sunset law was passed in 1976. Of those:

- 1 in 5 had been terminated or combined with one or more other entities (mostly small agencies, advisory commissions, etc.)
- 1 in 3 had been modified (mostly requiring public membership or improved administrative practices and disciplinary procedures)
- less than half had been re-created with little or no change.

The survey concluded the sunset law was best used as a legislative oversight vehicle to periodically evaluate and improve agencies and programs, not abolish them.

A 2000 survey by staff in the Washington Joint Legislative Audit and Review Committee reported that 16 states still have a sunset process, and that those states conduct 5-15 sunset reviews per year.

**Options for having the Legislature's audit resources focus more on audits that deal with efficiency / cost savings issues:**

**1. Post Audit Committee can authorize performance audits that are focused on efficiency / cost savings issues**

- No statutory change required
- NOTE: Committee currently considering a new, aggressive strategy for re-focusing the Division's audit work on such issues

**2. K-GOAL law could be changed to better focus on efficiency / cost savings issues**

- Increase the number of K-GOAL audits to be conducted (and made part of the legislative review and evaluation of agencies) each year
- Open up the requirements related to which State agencies will be reviewed each year
- Change the focus / questions of the K-GOAL audits to be conducted
- Be more specific regarding the "committees of reference"
- Change the timing of the K-GOAL audits/legislative review and evaluation process
- NOTE: the Legislature has taken no action during the first or second rounds of K-GOAL to vote to retain any agency under K-GOAL for further audit, review, and evaluation
- NOTE: Senate Ways and Means Committee has voted to introduce legislation that would make these changes

**3. A new sunset law could be passed, with the provision that agencies reviewed under the law would be abolished unless the Legislature specifically acted to retain them**

- Many of the same issues related to K-GOAL law improvements should be considered
- without a "sunset" notion, there's been little "buy-in" to the K-GOAL legislative review and evaluation process
- little sense of urgency, and it's harder for the purpose of the statute to maintain its momentum
- CAVEAT: at the time K-GOAL was passed, many legislators/agencies still had negative perceptions of the old sunset review process (the work is analytical, but most decisions relating to government efficiency and cost-effectiveness are "little-p" political—challenging the status quo, bureaucratic inertia/protectiveness, constituencies for government programs, etc.). This approach would take strong legislative support into the future.



## How could K-GOAL be improved to better focus on efficiency / cost savings issues?

(Summary information from a presentation made to the Senate Ways and Means Committee February 11, 2008)

### 1. Increase the number of agencies to be audited and reviewed each year

**Current statute:** K-GOAL schedule generally specifies 2 agencies each year.

- represents a small number of the State agencies in Kansas government
- represents a small part of the non-school audits we do (12-20/year, depending on the size, scope, and complexity of the audit topic)

**Proposed change:** Require a minimum of 4-6 K-GOAL audits per year, covering a minimum of 6-8 State agencies per year (won't be "full-blown" audits of each agency)

- still leaves room for audit requests from individual legislators or committees, many of which are focused on effectiveness/public safety issues—like Board of Healing Arts

### 2. Change the requirements related to which State agencies will be reviewed each year

**Current statute:** K-GOAL schedule identifies selected agencies to be reviewed each year (allows the Post Audit Committee to rearrange that schedule)

- many agencies aren't covered at all by K-GOAL
- related agencies are seldom grouped (i.e., agricultural and natural resources agencies)
- some related programs cross agency lines (i.e., food safety inspection programs)
- structure doesn't lend itself as readily to efficiency/cost savings topics
- sometimes no legislative interest in the agencies being reviewed that year
- the law still should specify that the topics addressed in K-GOAL audits can relate to individual agencies or programs, or to multiple agencies or programs—including programs that cross agencies—and that they may be broad or specific in nature

### 3. Change the focus of the K-GOAL audits to be conducted

**Current statute:** Possible "determinations" to be made in K-GOAL audits can be very broad (efficiency, effectiveness, economy), and many of them were carried forward from the old Sunset Law related to regulatory agencies, even though those agencies aren't in K-GOAL

- most legislative audit suggestions have focused on "effectiveness" issues (how well is an agency or program achieving certain results, not how efficiently is it operating, is it still needed, etc.)
- because law allows use of pre-existing audits, those audits wouldn't necessarily have covered the types of determinations specified in statute
- effectiveness audits also can reveal inefficiencies/cost savings/revenue enhancement issues—like reporting of federal education dollars
- Examples of more direct efficiency / cost savings / revenue enhancement questions:
  1. Is the agency or program (or the service it provides) needed? [Does the purpose, problem, or need that the agency or program was established to address still exist? Does it provide a significant public benefit or essential public service? Would abolishing it significantly harm the public's health or welfare? What would be the possible savings from abolishing it? Would federal funding be jeopardized if it were abolished?]
  2. To what extent are advisory committees to the agency or program needed and used, and what would be the possible savings from eliminating them?
  3. If the agency or program (or the service it provides) is needed, could it be operated more efficiently and economically and still fulfill its intended purpose? [What efficiencies and potential savings might be achieved by making changes to the way it operates, reducing administrative error or fraud, adjusting staffing or other resource levels, combining it with another agency or program, outsourcing it, or the like?]
  4. Are any fees set at a level that fully supports program costs?

5. Is the agency or program maximizing its potential revenue sources for the State? [Are delinquent or third-party accounts being adequately pursued? Are all federal funds being used or are some turned back?]

#### 4. Consider whether to re-establish the “sunset” notion of abolishment / retention issues

**Current statute:** No notion that agencies are automatically abolished unless the Legislature acts to retain them, only that the Legislature must vote to retain agencies on the K-GOAL schedule.

- without that “sunset” notion, there’s little sense of urgency, and it’s harder for the purpose of the statute to maintain its momentum
- the Legislature has taken no action during the first or second rounds of K-GOAL to vote to retain any agency under K-GOAL for further audit, review, and evaluation
- A caveat: at the time K-GOAL was passed, many legislators/agencies still had negative perceptions of the old sunset review process (the work is analytical, but most decisions relating to government efficiency and cost-effectiveness are “little-p” political—challenging the status quo, bureaucratic inertia/protectiveness, constituencies for government programs, etc.). This approach would take strong legislative support into the future.

#### 5. Be more specific regarding the “committees of reference”

**Current statute:** Makes “committees of reference” responsible for conducting the legislative review and evaluation of State agencies under K-GOAL.

- those committees aren’t specified
- the Governmental Organization Committees were “assigned” as committees of reference to conduct these reviews and evaluations, but as far back as November 2001 I had reported to the Post Audit Committee that those committees hadn’t taken much interest in K-GOAL audits for some time
- the review/evaluation process under K-GOAL never caught on

#### 6. Change the timing of the K-GOAL audits/legislative review and evaluation process.

**Current statute:** Specifies that audits must be conducted by the 30<sup>th</sup> day of the session in which the agency is up for review.

- gives the Legislature very little time during the session to conduct a meaningful review
- if more K-GOAL audits are done, our audit schedules will need to be revised

# A History of Sunset and K-GOAL Performance Audits in Kansas

Attachment 2  
HGE7 2-18-08

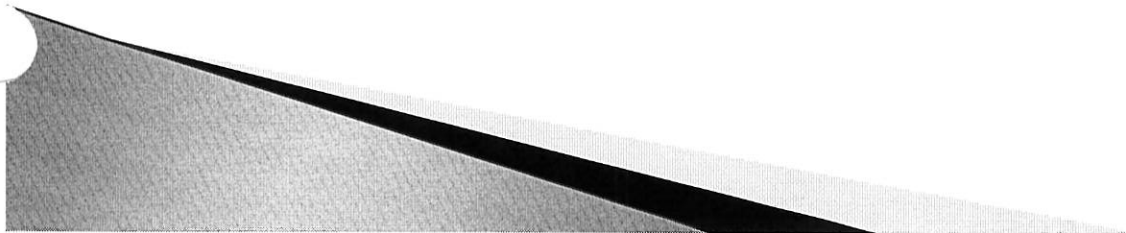
- ▶ Performance audits conducted by Legislative Post Audit (LPA)
- ▶ LPA replaced constitutional Auditor's Office in 1971
- ▶ Part of increased legislative oversight function (helps level the playing field)
- ▶ Broad authority to conduct audits under Post Audit Act and K-GOAL
- ▶ All performance audits done at direction of Legislative Post Audit Committee (LPAC)




# Legislative Post Audit Act (K.S.A. 46-1101 et seq.)

Under Act, LPAC can direct LPA to conduct performance audits of any:

- ▶ State agency
- ▶ Local unit of government
- ▶ Anyone who contracts with or gets a grant from the State
- ▶ Anyone who is regulated or licensed by the State



# Kansas Governmental Operations Accountability Law (K.S.A. 74-7283)

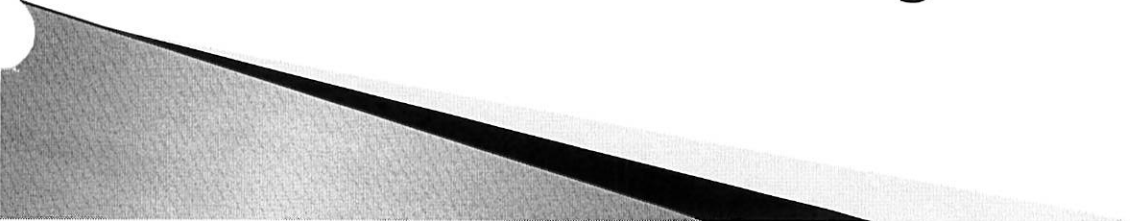
- ▶ Established a systematic legislative review and evaluation process of State agencies by “committees of reference”
  - ▶ A K-GOAL performance audit is only one component of that review
  - ▶ Requires hearings in both houses and legislative recommendations regarding the agency and its operations
- 

## Basic Provisions of K-GOAL

- ▶ 8-year schedule, 2-3 agencies/year
- ▶ LPAC directs performance audit for each agency reviewed under K-GOAL
- ▶ Calls for audits to determine several factors
- ▶ Allows previously conducted audits to “count”
- ▶ Audits to be completed by 30<sup>th</sup> day of session
- ▶ Legislature must act to keep an agency on K-GOAL for future review (hasn't happened)
- ▶ Law amended to add/delete agencies; give LPAC authority to “move” agencies
- ▶ Last agencies scheduled for 2009 review
- ▶ 27 K-GOAL audits done; 5 old ones counted

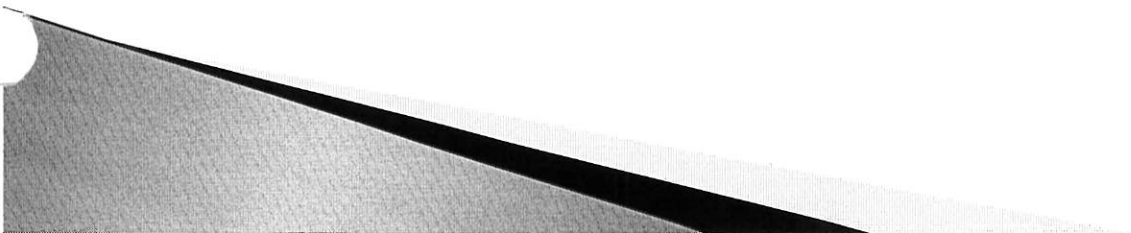
# Kansas Sunset Law (1978–1992)

2-5

- ▶ Precursor to K-GOAL
  - ▶ Kansas 26<sup>th</sup> state to adopt (40+ eventually)
  - ▶ Abolished agencies unless bill to retain
  - ▶ Initial thrust on regulatory agencies, boards
  - ▶ 1981 shift to general government agencies
  - ▶ Performance audit required until 1981 (last sunset audit done in 1983)
  - ▶ Required public hearings in both chambers
  - ▶ Review cycle of 8 years (initially 6)
  - ▶ Law extended through 1992, then abolished
- 

# Sunset Audits in Kansas

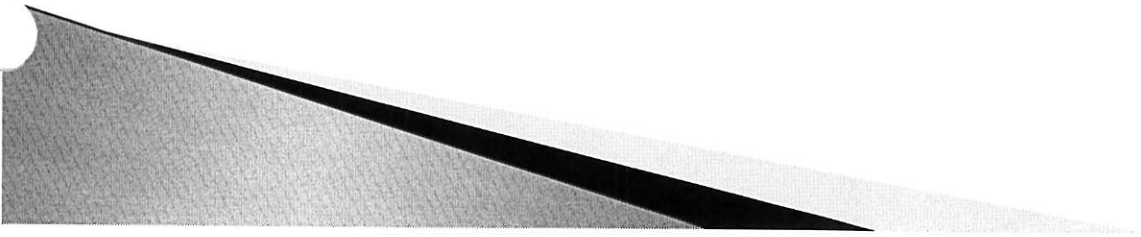
- ▶ LPA conducted sunset audits of 37 agencies or programs from 1978–1983
- ▶ Audits recommended that:
  - 8 agencies/programs be abolished in full
  - 1 be abolished; regulation transferred to KDHE
  - 6 continue but consolidate with others
  - 2 continue but deregulate some licensees
- ▶ 5 agencies/boards were abolished
- ▶ 2 were combined into BSRB
- ▶ 1 office split out from parent agency



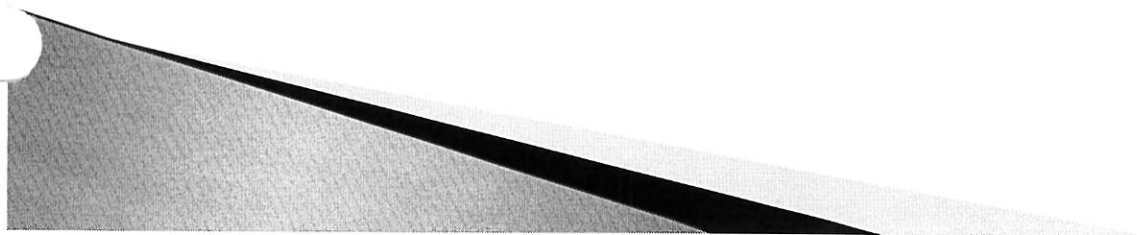



# Other States' Sunset Experience

- ▶ 1982 Common Cause survey found:
  - 1,500 agencies, etc. reviewed since 1976
  - 1 in 5 terminated or combined (mostly small)
  - 1 in 3 modified to improve
  - About half—no change at all
- ▶ Survey concluded best as legislative oversight tool to evaluate and improve, not abolish
- ▶ 2000 Washington State survey reported 16 states still have sunset, conduct 5-15 sunset reviews/year



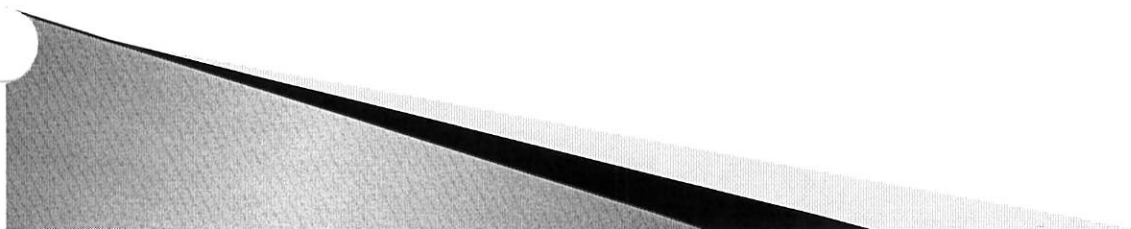
- ▶ Texas Sunset Advisory Commission
- ▶ 130 state agencies subject to sunset review
- ▶ 12-year cycle
- ▶ Agencies generally grouped by function (i.e., health and human services, natural resources, financial regulation)
- ▶ 20–30 agencies reviewed/year (3–8 months)
- ▶ From 1976–2007: 54 agencies abolished, 12 consolidated
- ▶ Examples:



- ▶ Barber and Cosmetology Boards abolished; regulation transferred to existing Dept. of Licensing and Regulation
  - ▶ Texas Structural Pest Control Board abolished; function transferred to Dept. of Ag
  - ▶ Workers' Compensation Commission abolished; function transferred to Dept. of Insurance
  - ▶ Dept. of Eco Devo and Aerospace Commission abolished; function transferred to new Eco Devo and Tourism Office within Governor's Office
- 

# Options for Focusing LPA on More Efficiency/Cost Savings Issues

- ▶ Post Audit Committee can authorize more performance audits that address such issues
  - LPAC currently embarking on new, aggressive strategy for re-focusing LPA efforts
- ▶ K-GOAL could be improved
  - Ranges from adding agencies to changing determinations
- ▶ New Sunset Law could be passed
  - Caveat: work is analytical, but decisions are political



# SUNSET ADVISORY COMMISSION

## Guide to the Texas Sunset Process

January 2006



HGET H&ET Attachment 3  
2-18-08

# Sunset Advisory Commission

**Senator Kenneth Brimer, Chair**

**Representative Vicki Truitt, Vice Chair**

Senator Robert F. Deuell, M.D.

Representative Byron Cook

Senator Craig Estes

Representative Dan Flynn

Senator Eliot Shapleigh

Representative Lois Kolkhorst

Senator John Whitmire

Representative Ruth Jones McClendon

Howard Wolf, Public Member

Ike Sugg, Public Member

Joey Longley  
Director

*In 1977, the Texas Legislature created the Sunset Advisory Commission to identify and eliminate waste, duplication, and inefficiency in government agencies. The 12-member Commission is a legislative body that reviews the policies and programs of more than 150 government agencies every 12 years. The Commission questions the need for each agency, looks for potential duplication of other public services or programs, and considers new and innovative changes to improve each agency's operations and activities. The Commission seeks public input through hearings on every agency under Sunset review and recommends actions on each agency to the full Legislature. In most cases, agencies under Sunset review are automatically abolished unless legislation is enacted to continue them.*

# GUIDE TO THE TEXAS SUNSET PROCESS

2006

(REVISED JUNE 2006)

Sunset Advisory Commission  
P.O. Box 13066  
Austin, Texas 78711  
Tel: (512) 463-1300 Fax: (512) 463-0705  
[www.sunset.state.tx.us](http://www.sunset.state.tx.us)



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# Sunset in Texas

## What Is Sunset?

Sunset is the regular assessment of the continuing need for a state agency to exist. While standard legislative oversight is concerned with agency compliance with legislative policies, Sunset asks a more basic question: Do the agency's functions continue to be needed? The Sunset process works by setting a date on which an agency will be abolished unless legislation is passed to continue its functions. This creates a unique opportunity for the Legislature to look closely at each agency and make fundamental changes to an agency's mission or operations if needed.

The Sunset process is guided by a 12-member body appointed by the Lieutenant Governor and the Speaker of the House of Representatives. Assisting the Commission is a staff whose reports provide an assessment of an agency's programs, giving the Legislature the information needed to draw conclusions about program necessity and workability.



*Sunset asks the basic question: Does an agency continue to be needed?*

## How Is an Agency Scheduled for Review Under Sunset?

About 130 state agencies are subject to the Texas Sunset Act. The Sunset Act, which became effective in August 1977, specifies each agency's review date. Agencies under Sunset typically undergo review once every 12 years. Certain entities, such as universities and courts, are not subject to the Sunset Act. Some constitutionally-created agencies, such as the Board of Pardons and Paroles and the Board of Trustees of the Teacher Retirement System of Texas, are subject to Sunset review but not abolishment.

Generally, the Legislature groups and schedules agencies for review by function to allow the examination of all major state policies related to a particular function at once, such as health and human services, natural resources, and financial regulation. About 20 to 30 agencies go through the Sunset process each legislative session. The Legislature may change the review schedule to enable a close look at certain agencies of special legislative interest. By using the Sunset process to examine problem areas, the Legislature further strengthens the accountability of state agencies.

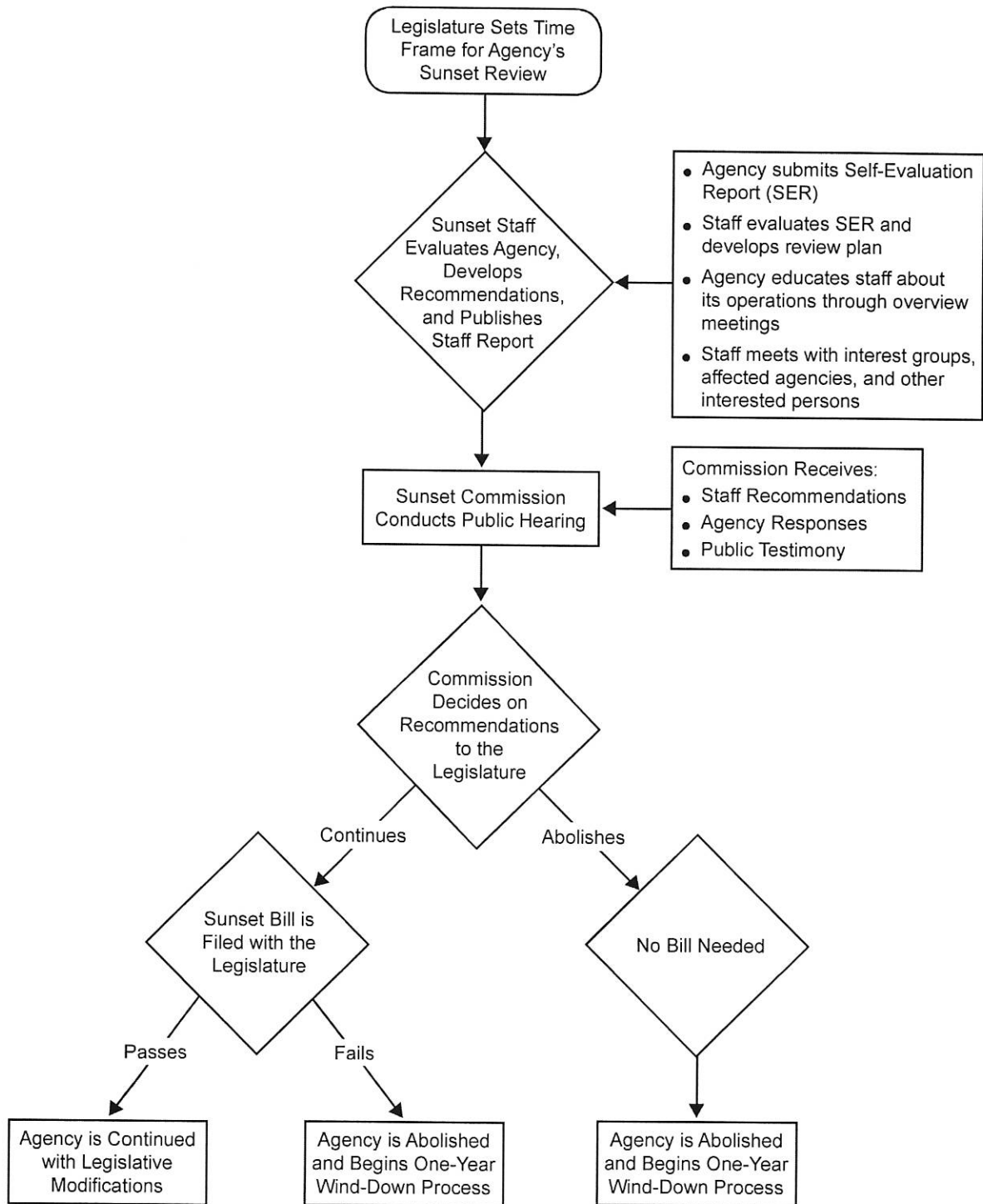


*Most state agencies undergo Sunset review every 12 years.*

## How Are Agencies Reviewed?

Staff of the Sunset Commission works extensively with each agency under review to evaluate the need for the agency, propose needed statutory or management changes, and develop legislation necessary to enact any proposed changes. A summary of the steps in a Sunset review can be found in the flowchart, *Sunset Review Process*.

## Sunset Review Process



Sunset staff uses specific criteria set by the Legislature to evaluate each of the programs and functions of a state agency placed under Sunset review. These criteria, located in §325.011 of the Government Code (page 41 of this report), are summarized in the textbox, *Sunset Review Questions*.

The staff review of an agency typically takes from three to eight months depending on the size and complexity of the agency. Sunset staff gathers information from a broad range of sources. As a part of the review process, each agency submits a Self-Evaluation Report (SER) to the Sunset Commission. The SER identifies problems, opportunities, and issues that the agency feels should be considered in the Sunset review. Sunset staff also solicits input from interest groups and professional organizations, and encourages public input and discussion of agency functions. Staff collects and evaluates information from extensive interviews of agency personnel, performance reports, operational data, and other sources. Once the evaluation phase of the review is completed, Sunset staff publishes a report containing recommendations for statutory change by the Legislature and recommendations for agency management to implement to improve internal operations.

The Sunset Commission conducts a public hearing on each agency under review after publication of the staff report. The public hearing provides an opportunity for Sunset staff to present its recommendations, for the agency to formally respond to the staff recommendations, and for the public to comment on the report and to raise additional policy issues relating to the agency. This allows for broad public input into the Sunset process and begins the Commission's consideration of potential changes to recommend to the Legislature in the form of Sunset legislation.

#### **Sunset Review Questions**

1. How efficiently does the agency operate?
2. How successful has the agency been in achieving its statutory objectives?
3. In what ways could the agency's regulation be less burdensome or restrictive and still adequately protect the public?
4. To what degree are the agency's advisory committees needed and used?
5. How much do the agency's programs and jurisdiction duplicate those of other agencies? Could the agency's programs be consolidated in another agency?
6. To what extent has the agency recommended statutory changes that benefit the public rather than the regulated businesses?
7. Does the agency promptly and effectively handle complaints?
8. To what extent does the agency encourage and use public participation when making rules and decisions? How compatible are the agency's rules with its objectives?
9. How has the agency complied with requirements for equal employment opportunity, the rights and privacy of individuals, and purchasing products from historically underutilized businesses?
10. Are changes needed in the agency's enabling statute to improve its ability to effectively respond to these questions?
11. How effectively does the agency enforce rules on conflicts of interest?
12. How effectively and efficiently does the agency comply with the Public Information Act and the Open Meetings Act?
13. Would abolishing the agency cause federal government intervention or a loss of federal funds?

All information presented to the Commission at the public hearing, whether submitted orally or in writing, is reviewed and compiled. The Commission meets in public session to review the input received and to make decisions on Sunset staff recommendations and new issues from testimony. While additional testimony is not taken, resource witnesses may be asked to provide additional information, if needed. See the textbox, *Sunset Review Timeframes*, for an overall time sequence for reviews.

<b>Sunset Review Timeframes</b>	
August 2005	Agencies submit Self-Evaluation Reports.
September 2005 to January 2007	Sunset staff prepares reports; Sunset Commission holds public hearings and makes decisions.
February 2007	Report to 80th Legislature on agencies subject to Sunset in 2007.
January 2007 to May 2007	Legislature considers Sunset Commission recommendations.

### **What Changes Can Be Made Through Sunset?**

The Commission's report on an agency must include a recommendation to abolish or continue the agency and may also contain other recommendations. If the Commission recommends continuation of an agency, the Commission must provide draft legislation to the Legislature to continue the agency for up to 12 years, and correct other problems identified during the Sunset review. The section, *Results of Previous Reviews*, which begins on page 11, gives examples of major changes that have been accomplished through the Sunset process. Although not required by law, the Commission's legislative members traditionally introduce and carry Sunset legislation.



*A state agency undergoing Sunset review is automatically abolished unless the Legislature passes a bill to continue.*

The Sunset Commission has also developed a set of standard recommendations that are applied to agencies. These Across-the-Board recommendations (ATBs) reflect an effort by the Legislature to place policy directives on agencies to prevent problems from occurring, instead of reacting to problems after the fact. The Commission's ATBs are an outgrowth of review standards contained in the Sunset Act and are designed to ensure open, responsive, and effective government. Examples of ATBs include increasing public representation on the agency's policy board, improving responsiveness to complaints filed by the public, and ensuring the opportunity for public input on issues under the agency's jurisdiction. Each ATB is briefly explained in the section, *What Are Sunset Across-the-Board Recommendations?*, on page 7.

An agency is automatically abolished unless the Legislature passes legislation to continue the agency. If an agency is abolished, the Sunset Act provides for a one-year wind-down period to conclude its operations. The agency retains full authority and responsibility until the end of that year, when all property and records are transferred to an appropriate state agency.

## How Can the Public Participate in Sunset?

Members of the public who participate in the review process can provide valuable information to the Sunset Commission about how well or poorly an agency performs its functions. Individuals and organizations usually participate by identifying potential issues for study and by commenting on proposed changes to the agency. The following points illustrate the significant ways the public can participate in the Sunset review of an agency.

- **Input with Staff.** The staff seeks input during the review at which time interested persons and organizations may voice their concerns or ideas about the agency.
- **Reviewing Sunset Reports.** Sunset reports, including agency self-evaluation reports and staff reports, are made available to the public on a regular basis to keep the public informed on the progress of the review.
- **Testifying at Public Hearings.** The Commission holds public hearings on the Sunset staff report for each agency under review. These hearings offer the public, interest groups, and professional trade associations an opportunity to comment on the agency and the Sunset staff's recommendations for the agency, and to raise new issues of their own before the Sunset Commission.
- **Taking Part in the Legislative Session.** Generally, if an agency is to be continued, a bill must be passed by the Legislature. The public can participate in the same way as with any other legislation.

For Sunset to reach its full potential, each Texan must be able to fully and equally participate in every phase of the Sunset review. Persons with special needs or questions about the Sunset process who wish to request an Americans with Disabilities Act (ADA) accommodation, should contact the Sunset ADA Coordinator. In addition, information on accommodations for people with disabilities can be found on the back cover of this report.

Persons interested in being placed on Sunset's mailing list and receiving the review schedule, meeting schedule, meeting agendas, staff reports, or decision materials should contact the Sunset Commission staff.

## How Does Sunset Coordinate With Other Oversight Agencies?

The Sunset Commission is one of several agencies charged with monitoring state agency performance. These other oversight agencies include the State Auditor, Legislative Budget Board, Governor's Office of Budget and Planning, and Legislative Committees. Sunset regularly coordinates with these entities to reduce the possibility of duplication of effort and to assist in identifying issues that may be best addressed by Sunset or another agency. The role of each oversight agency is further explored in the textbox, *Coordination with Other Oversight Agencies*.



*Members of the public may comment on an agency's performance and suggest changes in the agency's mission.*

## **Coordination With Other Oversight Agencies**

### **State Auditor**

➤ The Office of the State Auditor (SAO) reviews fiscal and management controls, efficiency and effectiveness, and legal compliance of state agencies. Sunset staff review the results of SAO audits when forming agency recommendations. In turn, the State Auditor may monitor agency implementation of Sunset management recommendations.

### **Legislative Budget Board**

➤ The Legislative Budget Board (LBB) prepares the appropriations bill, fiscal notes on proposed legislation, performance reports on state agencies, and reviews agency strategic plans. Because of its ongoing review of state agencies, the LBB serves Sunset as an important source of information on agency performance and budgets. Sunset staff also assist LBB staff in calculating the budgetary impact of recommendations in Sunset legislation.

### **Governor's Office of Budget and Planning**

➤ The Office of Budget and Planning prepares the Governor's biennial budget recommendations for the Legislature to consider; monitors state appropriations and operations, and analyzes fiscal and economic issues. Through its regular monitoring of state agencies, the Office provides Sunset staff a valuable perspective on state agency performance.

### **Legislative Committees**

➤ During a Sunset review, staff work closely with any standing or special committees that are studying issues related to the agency in an effort to identify issues and avoid duplication of effort. Previous committee reports are also reviewed to determine whether identified problems have been resolved.

## **Who Is on the Sunset Commission?**

The 12-member Sunset Advisory Commission has five members of the Senate and one public member appointed by the Lieutenant Governor, and five members of the House and one public member appointed by the Speaker. The chairmanship rotates between the Senate and the House every two years and is assigned to a Senate member for the 2006 – 2007 biennium. Past and present members of the Sunset Commission are shown on page 51. The Sunset Commission is authorized to appoint a Director who employs sufficient staff to carry out the Commission's responsibilities.

**Membership of the Sunset Advisory Commission  
80th Legislature**

<b>Kim Brimer, Chair</b> Senator, <i>Fort Worth</i>	<b>Vicki Truitt, Vice Chair</b> Representative, <i>Keller</i>
Robert F. Deuell, M.D. Senator, <i>Greenville</i>	Byron Cook Representative, <i>Corsicana</i>
Craig Estes Senator, <i>Wichita Falls</i>	Dan Flynn Representative, <i>Van</i>
Eliot Shapleigh Senator, <i>El Paso</i>	Lois Kolkhorst Representative, <i>Brenham</i>
John Whitmire Senator, <i>Houston</i>	Ruth Jones McClendon Representative, <i>San Antonio</i>
Howard Wolf Senate Public Member, <i>Austin</i>	Ike Sugg House Public Member, <i>San Angelo</i>

**What Are Sunset Across-the-Board Recommendations?**

Across-the-Board recommendations (ATBs) are statutory administrative policies adopted by the Sunset Commission as standards for state agencies, reflecting criteria in the Sunset Act designed to ensure open, responsive, and effective government.

**1. Public Membership on State Agency Boards**

While state agencies are designed to protect the health, welfare, and safety of the public, some agencies have governing boards with membership only from the regulated industry or groups affected by the activities of the agency. These boards may be more responsive to public interests with a direct public voice on the board. To ensure appropriate representation, this ATB requires that as close as possible to one-third of the board members represent the general public.

**2. Prohibitions on Agency Conflicts of Interest**

State agencies may have ties with professional trade organizations and other groups that may not be in the public interest. Conflicts of interest can also result when an agency's board members or general counsel are involved in lobbying. This ATB reduces the possibility of such conflicts.

**3. Unbiased Appointments to Agency Boards**

The fairness and impartiality of state agencies' operations are aided by policymaking bodies that are chosen on an impartial, unbiased basis. This Sunset ATB requires appointments to be made without regard to race, color, disability, sex, religion, age, or national origin.

**4. Governor Designation of State Agency Board Chairs**

This ATB authorizes the Governor to designate the presiding officer as a means of increasing the agency's accountability to the State's leadership.

## **5. Specific Grounds for Removal of Agency Board Members**

This ATB specifies the reasons for which a member of the policymaking body may be removed. To prevent questions on the validity of actions taken by boards, the provision clarifies that if grounds for removal exist, actions taken by the board are still valid.

## **6. Board Member Training**

Members of policymaking bodies should be provided with adequate information and training to allow them to properly discharge their duties. This provision requires agencies to provide training and establishes the type of training and information to be included.

## **7. Separation of Agency Board and Staff Functions**

State agencies have difficulties when their policymaking bodies also administer the agency. This recommendation requires each policymaking body to clearly separate its functions from those of agency management.

## **8. Public Testimony at Board Meetings**

This requirement ensures the opportunity for public input to the policymaking body on issues under its jurisdiction.

## **9. Information on Complaints**

Sunset reviews have found that some agencies do not maintain complete information on complaints. Inadequate information slows the resolution of complaints and limits the agency's ability to protect the public. This ATB requires agencies to maintain files on complaints and to inform parties to a complaint of its status and agency investigation and resolution procedures.

## **10. Technology Use**

This recommendation requires agencies to ensure the effective use of technology in the delivery of services and provision of information to the public.

## **11. Alternative Dispute Resolution**

This recommendation requires agencies to develop a written, comprehensive plan that encourages the use of alternative procedures for agency rulemaking, and internal and external disputes.

## **What Is the Sunset Occupational Licensing Model?**

The Sunset Occupational Licensing Model is a collection of standard practices gleaned from more than 25 years of Sunset Commission reviews. The compilation of these standard practices provides a model for evaluating occupational licensing agencies, promoting efficiency, effectiveness, fairness, and accountability to protect the public. The Sunset Commission uses these standards to guide reviews of agency structure, oversight, and operations.

The model examines every aspect of an occupational licensing agency or program from the need for the agency to how licensing enforcement should work. For example, the model contains a standard relating to agency licensing



that supports minimum experience requirements to ensure competency, but not limit entry to a profession. As another example, in the area of enforcement, the model indicates that an agency should have clear procedures, rules, and statutory authority for conducting inspections to ensure consistent treatment of licensees and timely compliance. The licensing model can be found on the Sunset Web site, located at [www.sunset.state.tx.us](http://www.sunset.state.tx.us).

Before recommending changes to an agency's statute based on these standards, the Sunset Commission considers the specific circumstances of the agency and the historical context of the issues. Common benefits of applying licensing model standards include agency efficiency, administrative flexibility, fairer processes for the licensee, and additional protections for consumers.



Attachment 4  
HGF 2-18-08

**Comparison of Audit Determinations That Have Been Made Under Three Statutes**

<b>Legislative Post Audit Act (General)</b>	<b>Sunset Law ("Abolished" Agencies)</b>	<b>K-GOAL Law (No "Abolishment" Provision)</b>
<p>✓ S.A. 46-1108 spells out <u>the types of rminations that may be made for .formance audits of State agencies</u>. These types of determinations also are referenced in K.S.A. 46-1114, which provides for audits of <u>local governments, contractors, etc.</u> Those performance audit determinations are as follows:</p> <p>(a) whether any state agency is carrying out only those activities or <b>programs authorized</b> by the legislature; or</p> <p>(b) whether the programs and activities of a state agency, or a particular program or activity, is being <b>efficiently and effectively operated</b>; or</p> <p>(c) whether any new activity or program is being <b>efficiently and effectively</b> implemented in accordance with the intent of the legislature; or</p> <p>(d) whether there is a <b>need for change</b> in any authorized activity or program of a state agency; or</p> <p>(e) whether any <b>reorganization</b> of a state agency, or group of state agencies, is <b>needed or justified</b> to accomplish the results of programs or activities authorized by the legislature; or</p> <p>any <b>combination</b> of the purposes specified in this or any other section of the legislative post audit act.</p>	<p>K.S.A. 74-7248 stated that, "In such public hearings, the committee of reference <u>shall take into consideration the following factors, if applicable, among others, in developing its recommendations and determining whether there is a public need for the continued existence of the state agency, office, programs, function, or duty involved:</u></p> <p>(1) whether the <b>absence</b> of the state agency or office or of any program, function or duty thereof would significantly <b>harm or endanger</b> the public health, safety or welfare;</p> <p>(2) whether there is a reasonable relationship between the exercise of the police power of the state by the state agency or office and the protection of the public health, safety or welfare;</p> <p>(3) whether there is another <b>less restrictive method of regulation</b> available which could adequately protect the public;</p> <p>(4) whether <b>regulation</b>, administration of the program or performance of the function or duty by the state agency or office has the effect of <b>directly or indirectly increasing the cost</b> of any goods or services involved, and, if so, to what degree;</p> <p>(5) whether the increase in <b>cost is more harmful</b> to the public than the harm which could result from the absence of regulation, administration of the program or performance of the function or duty by the state agency or office;</p> <p>(6) whether all facets of the regulatory or administrative process are designed solely for the purpose of the <b>protection of public interests</b> and have such protection as a primary effect; and</p> <p>(7) whether the purposes of the state agency or office or of any program, function or duty thereof can be accomplished in a <b>more efficient, effective, or economical manner</b>.</p>	<p>K.S.A. 74-7287(b) states that, "In reviewing and evaluating a state agency, each committee of reference <u>shall take into consideration the following factors, if applicable, among others, in developing its recommendations regarding the state agency and its operations:</u></p> <p>(a) whether all operations of the state agency have been <b>authorized</b> by the legislature and whether the effects of such operations accord with legislative intent;</p> <p>(b) whether all operations of the state agency are being performed <b>efficiently and effectively</b> and whether any such operations could be performed in a more efficient, effective or economical manner;</p> <p>(c) whether <b>regulatory operations</b> of the state agency are reasonably related to and are designed for the purpose of <b>protection or benefaction of the public</b> and have such protection or benefaction as a primary effect;</p> <p>(d) whether <b>regulatory operations</b> of the state agency could be performed in a <b>less restrictive manner</b> which could adequately protect the public;</p> <p>(e) whether <b>regulatory operations</b> of the state agency have the effect of directly or indirectly <b>increasing the cost</b> of any goods or services involved and, if so, whether the increase in cost is more harmful to the public than the harm which could result from the termination of such regulatory operations;</p> <p>(f) whether there is need for any change in the organization of the state agency or in any of its operations which would enable the state agency to fulfill its purposes in a <b>more efficient, effective or economical manner</b>; and</p> <p>(g) whether the <b>termination</b> of any of a state agency's operations would <b>significantly harm or endanger</b> the rights, health, safety or welfare of the public <b>or result in the reduction or foreclosure of services required or desired by the public.</b>"</p>

Attachment 5  
HGE 2-18-08

RECOMMENDATIONS AND LEGISLATIVE RESPONSES RELATING TO SUNSET AUDIT REPORTS REVIEWED BY 1983 LEGISLATURE

	<u>Post Audit Recommendation</u>	<u>Legislative Response</u>	<u>Status of Legislative Response</u>
	Public Utility Regulatory Program, Kansas Corporation Commission (KCC)		
S-4 <sup>(a)</sup>	KCC utility regulatory program should be reestablished.	House Governmental Organization Committee endorses S.B. 42 which would extend KCC until July 1, 1991.	S.B. 42 referred to House Governmental Organization Committee.
S-4	Legislature should amend K.S.A. 66-1503 to enable KCC to make general assessments of utilities for indirect administrative costs on a semiannual or quarterly basis, rather than annually.	H.B. 2497 to permit quarterly assessments of utilities introduced by Legislative Post Audit Committee, endorsed by House Governmental Organization Committee.	H.B. 2497 referred to House Ways and Means Committee.
S-5	KCC should increase its use of general investigations.	Recommendation considered, but position adopted is that no recommendation be made.	—
S-5	KCC should make decision whether to adopt unresolved ratemaking standards proposed by Public Utility Regulatory Policies Act (PURPA).	Chairman of the House Governmental Organization Committee should write to Chairman of KCC asking him to respond by January 15, 1984, concerning progress KCC has made to adopt standards.	Letter being written.
S-5	Legislature should consider asking KCC to provide testimony concerning benefits and costs of including construction work in progress (CWIP) in the rate bases of utility companies.	House Governmental Organization Committee rejects proposals to include CWIP in a utility company's rate base and opposes S.B. 88. S.B. 88 is presently in Senate Transportation and Utilities Committee.	—
S-6	KCC should direct staff to compare reported fuel prices with contract prices on a spot check basis during desk audits, and to review reports regarding alternative fuel suppliers when they are received.	Chairman of House Governmental Organization Committee should write to Chairman of KCC asking him to respond by January 15, 1984, concerning what steps, if any, have been taken to respond to post audit recommendation.	Letter being written.
S-6	KCC should direct staff to require all utility companies to include research and development costs in the rates they charge customers rather than allow them to be added as surcharges.	Same as above.	Letter being written.
S-6	KCC should require periodic management audits of all public utilities it regulates.	Same as above.	Letter being written.

a) Refers to page number in audit report.

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	<u>Post Audit Recommendation</u>	<u>Legislative Response</u>	<u>Status of Legislative Response</u>
S-7	KCC should direct its staff to handle informal complaints in a more timely manner, and should encourage utility companies to be more timely in their investigation and resolution of complaints.	Chairman of House Governmental Organization Committee should write to Chairman of KCC asking him to respond by January 15, 1984, concerning steps KCC has taken to implement the recommendation that KCC develop procedures to ensure that bills or other communications from utility companies include a specific procedure to ensure the prompt resolution of customer complaints.	Letter being written.
S-7	The KCC should speed up its efforts to train hearing examiners to handle smaller, routine rate cases.	House Governmental Organization Committee recognizes efforts KCC has made and recommends that efforts continue.	—
S-7	Members of the Commission should hear more cases individually rather than as a group.	Same as above.	—
S-7	KCC should create an executive director position over all divisions.	House Governmental Organization Committee rejects the post audit recommendation. Instead, it concurs with KCC plan to expand role of existing executive secretary position and requests that KCC Chairman report to Committee by January 15, 1984, concerning changes that have been made.	Letter being written.
	Not addressed in audit.	H.B. 2479 introduced by House Governmental Organization Committee to amend K.S.A. 66-125 to remove requirement that KCC certify that each securities application it receives is true.	H.B. 2479 referred to Senate Governmental Organization Committee.
	Not addressed in audit.	H.B. 2478 introduced by House Governmental Organization Committee to amend K.S.A. 66-1513 to change composition of committee which negotiates contracts for KCC consultants.	H.B. 2478 referred to House Governmental Organization Committee and House Ways and Means Committee. Recommended favorable for passage by House Governmental Organization Committee.
	Office of the Securities Commissioner (audit reviewed by 1982 Legislature)	Although the Securities Commissioner's Office is no longer part of the KCC, the House Governmental Organization Committee believes certain recommendations made in the sunset audit report have merit and should be addressed. Committee requests that the Securities Commissioner respond to issues raised in audit by April 1, 1983.	Letter being written.

	<u>Post Audit Recommendation</u>	<u>Legislative Response</u>	<u>Status of Legislative Response</u>
Board of Nursing S-3	Board of Nursing should be reestablished.	House Governmental Organization Committee endorses S.B. 44 which reestablishes Board of Nursing and removes it from the provisions of the Kansas Sunset Law.	S.B. 44 referred to House Governmental Organization Committee.
S-4	Board should take action to improve complaint reporting and investigation, including increased communication with licensees and employers.	House Governmental Organization Committee requests that Board implement recommendations made in audit to improve complaint reporting and investigation. Committee recommends that chairman write to Chairman of House Ways and Means Committee urging that \$400 be added to Board of Nursing budget to fund informational bulletin to be sent to licensees and employers.	Letter being written.
S-4	Amend law to require employers of nurses and mental health technicians to report to Board of Nursing any disciplinary action taken or resignations due to violations of acts administered by the Board.	House Ways and Means Committee recommends that Board of Nursing budget include \$400 for informational bulletin. (Board of Nursing appropriation in H.B. 2085.)  H.B. 2526 introduced by House Governmental Organization Committee to require nurses and employers of nurses to report certain illegal acts on the part of nurses to the Board.	H.B. 2085 referred to House Ways and Means Committee.  H.B. 2526 stricken from House calendar.
S-5	Legislation should be enacted to eliminate requirement that licensees be of "good moral character."	H.B. 2503 introduced by House Governmental Organization Committee to require mental health technicians and employers of mental health technicians to report certain illegal acts on the part of mental health technicians to the Board.  H.B. 2529 introduced by House Governmental Organization Committee would eliminate "good moral character" requirement for mental health technicians.  H.B. 2501 introduced by House Governmental Organization Committee would eliminate "good moral character" requirement for nurses.  S.B. 362 introduced by Senate Public Health and Welfare Committee would eliminate "good moral character" requirement for nurses and mental health technicians.	H.B. 2503 referred to Senate Public Health and Welfare Committee.  H.B. 2529 referred to House Public Health and Welfare Committee.  H.B. 2501 referred to Senate Public Health and Welfare Committee.  S.B. 362 passed by Senate.

	<u>Post Audit Recommendation</u>	<u>Legislative Response</u>	<u>Status of Legislative Response</u>
S-5	Legislation should be enacted to eliminate the requirement that disciplinary action taken by Board against mental health technicians be by two-thirds vote.	H.B. 2529 introduced by House Governmental Organization Committee would require simple majority vote of Board for disciplinary action against mental health technicians.  S.B. 362 introduced by Senate Public Health and Welfare Committee would eliminate two-thirds vote requirement for disciplinary action against mental health technicians.	H.B. 2529 referred to House Public Health and Welfare Committee.  S.B. 362 passed by Senate.
S-5	Legislation should be enacted to change mental health technician annual license renewal period to biennial renewal.	H.B. 2529 introduced by House Governmental Organization Committee would establish biennial license renewal period for mental health technicians beginning with 1984 calendar year.  S.B. 362 introduced by Senate Public Health and Welfare Committee would establish biennial license renewal period for mental health technicians beginning on September 1, 1983.	H.B. 2529 referred to House Public Health and Welfare Committee.  S.B. 362 passed by Senate.
S-5	Legislation should be enacted to establish a mandatory continuing education requirement for mental health technicians.	H.B. 2529 introduced by House Governmental Organization Committee would institute continuing education requirement for mental health technicians beginning with 1984 calendar year.  S.B. 362 introduced by Senate Public Health and Welfare Committee would institute continuing education requirement for mental health technicians beginning with 1985 calendar year.	H.B. 2529 referred to House Public Health and Welfare Committee.  S.B. 362 passed by Senate.
S-5	Legislation should be introduced to provide an exclusion to allow licensed mental health technicians to administer medications.  Not addressed in audit.	House Governmental Organization Committee takes no position on S.B. 26 which would implement post audit recommendation to provide an exclusion to allow licensed mental health technicians to administer medications.  Chairman of House Governmental Organization Committee should write to Attorney General seeking explanation and clarification of the rate of turnover among Assistant Attorneys General assigned to the Board of Nursing.	S.B. 26 referred to House Public Health and Welfare Committee.  Letter being written.

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	<u>Post Audit Recommendation</u>	<u>Legislative Response</u>	<u>Status of Legislative Response</u>
Division of Alcoholic Beverage Control, Department of Revenue			
S-5	The Division of Alcoholic Beverage Control (ABC) should be reestablished.	House Governmental Organization Committee endorses recommendation. S.B. 43 would extend Department of Revenue until July 1, 1991.	S.B. 43 referred to House Governmental Organization Committee.
S-5	Legislature should review regulatory fee structure of ABC to determine whether fees should be increased.	H.B. 2505 introduced by House Governmental Organization Committee would increase initial registration fee for manufacturers, distributors, retailers, and nonbeverage users of liquors from \$50 to \$100; increase renewal registration fees for these licenses from \$10 to \$50; increase initial registration fee for private club license from \$50 to \$100; increase private club renewal application from \$10 to \$50; and increase annual license fee for a Class "A" club license from \$250 to \$500.	H.B. 2505 referred to Senate Federal and State Affairs Committee.
		S.B. 326 would increase annual license fee for a Class "A" club license from \$250 to \$500.	S.B. 326 referred to Senate Federal and State Affairs Committee.
		S.B. 327 would increase the initial registration fee for manufacturers, distributors, retailers, and nonbeverage users of liquors from \$50 to \$100 and increase the renewal registration for these licenses from \$10 to \$50.	S.B. 327 referred to Senate Federal and State Affairs Committee.
S-5	Legislature should review residency requirements for liquor manufacturers, distributors, retailers, and individual owners of private clubs.	H.B. 2502 introduced by House Governmental Organization Committee would change residency requirements for holding liquor licenses to five years in the state and one year in the county.	H.B. 2502 passed by House.
		S.B. 325 would delete the five years in state and one year in county requirements which apply to persons who hold a private club license.	S.B. 325 referred to Senate Federal and State Affairs Committee.
S-6	Legislature should reevaluate all liquor advertising requirements.	S.C.R. 1615 would amend rules and regulations to permit the advertising of liquor by price and brand.	S.C.R. 1615 referred to Senate Federal and State Affairs Committee.
S-6	Legislature should review restrictions on business operations in the liquor industry and should eliminate regulations which appear to protect the industry, not the public.	H.B. 2530 would permit liquor retailers to provide gifts of up to \$1.00 value per item and to sell ice, mixes, and corkscrews, can, and bottle openers.	H.B. 2530 referred to House Federal and State Affairs Committee.



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	<u>Post Audit Recommendation</u>	<u>Legislative Response</u>	<u>Status of Legislative Response</u>
		H.C.R. 5032 would modify rules and regulations to reflect statutory provisions contained in H.B. 2530 above.	H.C.R. 5032 referred to House Governmental Organization Committee.
		H.C.R. 5035 would delete the requirement that retailers must place an order with a distributor by 2:00 p.m. on the day preceding the requested delivery.	H.C.R. 5035 referred to House Governmental Organization Committee.
		H.C.R. 5035 would delete the prohibition against making deliveries by wholesalers to retailers on Saturdays.	H.C.R. 5035 referred to House Governmental Organization Committee.
		H.C.R. 5031 would permit retailers to deliver liquor purchases to licensed private clubs.	H.C.R. 5031 referred to House Governmental Organization Committee.
S-7	Legislature should eliminate minimum retail price mark-up program.	Recommendation rejected by House Governmental Organization Committee.	
S-7	Department of Revenue should improve efforts to monitor reciprocal agreements and tighten requirements so that clubs are not able to circumvent reciprocal statutes with respect to the 50 percent food sales requirement.	H.B. 2527 would delete the requirement that clubs meet a 50 percent food requirement in order to enter into reciprocal agreements.	H.B. 2527 referred to House Federal and State Affairs Committee.
		S.B. 328 would reduce 50 percent food requirement to 40 percent for clubs to be eligible to enter into reciprocal agreements.	S.B. 328 referred to Senate Federal and State Affairs Committee.
S-9	Department of Revenue should improve effectiveness and efficiency of routine inspections and investigations conducted as part of the ABC regulatory program.	Chairman of House Governmental Organization Committee should write letter to ABC Director urging him to continue strict enforcement policy to regulate liquor industry, including continuation of criminal background investigations of prospective licensees.	Letter being written.
	Not addressed in audit.	H.B. 2504 would increase the penalty for minors purchasing or possessing liquor or for persons selling or giving liquor to an incapacitated person from a fine of up to \$200, imprisonment for up to 30 days, or both, to a fine of between \$250 and \$1,000, imprisonment of up to 90 days, or both.	H.B. 2504 referred to Senate Federal and State Affairs Committee.
	Not addressed in audit.	H.B. 2528 would give the ABC Division the authority to issue permits to liquor salesmen and to charge a fee for the permit.	H.B. 2528 referred to House Federal and State Affairs Committee.

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	<u>Post Audit Recommendation</u>	<u>Legislative Response</u>	<u>Status of Legislative Response</u>
	Not addressed in audit.	H.B. 2502 would apply the prohibition against law enforcement officers holding a liquor license to full-time law enforcement officers only.	H.B. 2502 passed by House.
	Not addressed in audit.	House Governmental Organization Committee supports recommendation to appoint an interim committee to study the Model Liquor Control Act and the regulations of the Bureau of Alcohol, Tobacco, and Firearms in relation to the current Kansas liquor laws.	
Division of Taxation, Department of Revenue			
S-5	The Department of Revenue and the Department of Human Resources should make records available to each other in order to better identify businesses required to remit sales and withholding taxes.	House Governmental Organization Committee takes no position on this recommendation, pending the outcome of a post audit review of the Department of Human Resources which is currently underway.	
S-6	Legislature should provide for filing withholding tax returns monthly, quarterly, and annually, depending on the amounts of taxes remitted.	House Governmental Organization Committee endorses provisions of S.B. 35, which provides for an acceleration in the collection of withholding taxes from employers in order to enhance the state's cash flow and to avoid a negative ending balance at the end of FY 1983.	S.B. 35 signed by Governor.
S-6	Department of Revenue should implement procedures to ensure that sales tax accounts are filed as frequently as required by law and that penalties are assessed if accounts are not filed on a timely basis.	Chairman of House Governmental Organization Committee should ask the Department of Revenue to respond to the 1984 Legislature concerning changes and improvements in departmental procedures as the result of the implementation of the Kansas Business Integrated Tax System (K-BITS).	Letter being written.
S-7	Department of Revenue should enforce the filing deadlines for retailers' sales tax and withholding tax, particularly concerning the granting of extensions.	Recommendation rejected by House Governmental Organization Committee, which concurs with Department's position that a grace period for delinquent filings should be retained.	
S-8	Department of Revenue should change rules and regulations to correspond to statutes concerning interest rates for sales taxes.	House Governmental Organization Committee endorses recommendation and has been informed that the Department has changed its regulation to conform to statutes.	

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	<u>Post Audit Recommendation</u>	<u>Legislative Response</u>	<u>Status of Legislative Response</u>
S-8	Department of Revenue should enforce administrative regulations in a more timely manner.	House Governmental Organization Committee endorses recommendation and notes that Department of Revenue does appear to enforce regulations in a timely manner.	—
S-9	Department of Revenue should determine the tax due pursuant to K.S.A. 1982 Supp. 79-3228(f) and assess a 50 percent penalty when a taxpayer fails to file a withholding tax return within 20 days notice.	Recommendation rejected by House Governmental Organization Committee, which does not agree with the Post Auditor's interpretation of the statutory reference cited as requiring a 50 percent penalty.	—
S-10	Legislature should consider providing for a minimum penalty for businesses delinquent in filing sales and withholding taxes or for delinquent returns that owe no tax.	Recommendation that there be a penalty for delinquent returns that owe no tax rejected by House Governmental Organization Committee, which does not believe recommendation would be cost-effective in helping Department of Revenue recover administrative costs. In addition, the Committee believes that further study is needed to determine whether a threshold or minimum cutoff should be established when attempts to recover delinquent taxes would not be cost-effective.	—
S-10	Department of Revenue should establish a procedure for indicating the postmark date on returns in order to establish whether a return is timely.	Recommendation rejected by House Governmental Organization Committee, which agrees with the Department of Revenue that postmark dates are an unreliable way to determine timely filings.	—
S-10	Department of Revenue should improve its procedures to ensure that jeopardy assessments are made immediately when a taxpayer fails to file a return after notice from the Director.	Chairman of House Governmental Organization Committee should request that Department of Revenue respond to 1984 Legislature concerning the impact of accelerated tax measures which will become effective April 1, 1983. Because the new legislation may effect procedures relating to the collection of taxes, the Committee prefers to review the Department's procedures after the legislation has been implemented.	Letter being written.
S-11	Department of Revenue should issue jeopardy assessments more aggressively.	Same as above.	Letter being written.
S-13	Department of Revenue should issue warrants on delinquent accounts within 60 days of tax due date.	Same as above.	Letter being written.
S-13	Department of Revenue should improve procedures relating to the revocation of sales tax registrations.	Same as above.	Letter being written.

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	<u>Post Audit Recommendation</u>	<u>Legislative Response</u>	<u>Status of Legislative Response</u>
S-14	Department of Revenue should reduce the time between referral of a case to the Legal Services Bureau and the issuance of a petition for injunction.	Same as above.	Letter being written.
S-15	Department of Revenue should initiate procedures in a more timely manner after legislation is passed.	Same as above.	Letter being written.
S-16	Department of Revenue should strengthen its policy regarding bonds which taxpayers and businesses are required to post under certain conditions.	Recommendation rejected by House Governmental Organization Committee on grounds that recommendation would not be cost-effective and would place an undue burden upon small businesses which would have to post a cash bond.	