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Sunset Review of the Texas Department of Transportation (TxDOT)

Leonard Reese

Author Contact Information:

Leonard Reese

Texas Department of Transportation

Dewitt C. Greer Office Building

125 E. 11th Street

Austin, TX 78701-2483

Leonard.Reese@txdot.gov

512.463.8630

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Elements of the Sunset Review Process

Each agency under Sunset review submits a Self-Evaluation Report that provides information and identifies issues that should be considered during the review.

Sunset Advisory Commission (Sunset Commission) staff solicits input from the public, interest groups, and professional organizations regarding agency functions.

Sunset Commission staff evaluates the agency and identifies problems and publishes a staff report, which contains recommendations for the Sunset Commission to consider.

At a public hearing of the Sunset Commission, Sunset Commission staff presents its report and recommendations, the agency responds, and the Sunset Commission hears public testimony.

Staff compiles the testimony and the Sunset Commission meets again to consider and vote on recommendations.

A sunset bill on the agency is drafted by the Texas Legislative Council under the direction of the Sunset Commission staff and the bill is filed by a legislator. As the bill goes through the legislative process, it is subject to amendment. The amendments may include statutory changes on matters that were not covered the Sunset Commission recommendations; this is particularly true of amendments considered on the House floor. The legislative rules relating to the germaneness of amendments to a state agency sunset bill are House, Rule 11, Sec. 2 and Senate, Rule 7.16.

House, Rule 11, Sec. 2:

Section 2. Motions on a Different Subject Offered as Amendments - No motion or proposition on a subject different from the subject under consideration shall be admitted as an amendment or as a substitute for the motion or proposition under debate. "Proposition" as used in this section shall include a bill, resolution, joint resolution, or any other motion which is amendable.

Amendments pertaining to the organization, powers, regulation, and management of the agency, commission, or advisory committee under consideration are germane to bills extending state agencies, commissions, or advisory committees under the provisions of the Texas Sunset Act (Chapter 325, Government Code).

An amendment to a committee substitute laid before the house in lieu of an original bill is germane if each subject of the amendment is a subject that is included in the committee substitute or was included in the original bill.

Senate, Rule 7.16:

AMENDMENTS TO TAX BILLS OR SUNSET BILLS

Rule 7.16. No amendment shall be considered to any tax bill or sunset bill on second reading unless the subject matter it entails has been discussed at a Senate committee meeting at which the bill was heard.

In the General Appropriations Act, the bill pattern for a state agency that is under sunset review often contains a rider titled "Sunset Contingency." The rider limits the use of funds appropriated for the first fiscal year of the biennium to the winding up of the agency's operations and eliminates the funding for the second fiscal year if the agency is not continued in existence under the Sunset process. The rider for TxDOT's appropriation for FY 2018-2019 reads:

43. Sunset Contingency. Funds appropriated above for fiscal year 2019 for the Department of Transportation are made contingent on the continuation of the Department of Transportation by the Eighty-fifth Legislature, Regular Session, 2017. In the event that the agency is not continued, the funds appropriated above for fiscal year 2018, or as much thereof as may be necessary, are to be used to provide for the phase out of the agency operations.

In addition to recommendations for statutory changes, the Sunset Commission may recommend management actions for the improvement of agency operations that do not require statutory amendment and therefore, are not in the sunset bill. As a result of the 2017 review, the Sunset Commission adopted 30 management directives for TxDOT.

For the first regular legislative session after the session in which an agency is continued, the Sunset Commission staff reviews the implementation of commission recommendations contained in the reports for the preceding session and the commission reports to the legislature on the findings.

Below is a summary of S.B. No. 312, 85th Regular Session, 2017, which is the TxDOT sunset bill. Permission for the use of the summary for this paper was provided by the Government Affairs Division of the Texas Department of Transportation. I particularly thank Cory Henrickson and Carlos Calle of the State Legislative Affairs Section for their work in producing the summary.

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