

**SUBJECT:** Sunset Advisory Commission review of the State Board of Education

**COMMITTEE:** Public Education — committee substitute recommended

**VOTE:** 9 ayes — Eissler, Hochberg, Allen, Aycock, Farias, Jackson, Olivo, Patrick, Shelton

0 nays

2 absent — Dutton, Weber

**WITNESSES:** For — Kathy Miller, Texas Freedom Network; (*Registered, but did not testify*: Nan Clayton, League of Women Voters - TX; James Davis; James Degaravilla; Monty Exter, Association of Texas Professional Educators; Alexander Gray; Bill Grusendorf, Texas Association of Rural Schools; Lindsay Gustafson, Texas Classroom Teachers Association; Dwight Harris, Texas - AFT; Chuck Hempstead, Texas Association of College Teachers; Sara Lyford; Don Rogers, Texas Rural Education Association)

Against — Don McLeroy; (*Registered, but did not testify*: Jonathan Saenz, Free Market Foundation)

**BACKGROUND:** Art. 7, sec. 8 of the Texas Constitution establishes the State Board of Education (SBOE) and authorizes the Legislature to determine by law whether the board should be elected or appointed, the terms of office, and the duties of the board. The 15-member board currently is elected from single-member districts for four-year terms. As the policy-making body for the Texas Education Agency (TEA), the SBOE sets academic standards for Texas public schools and selects textbooks.

The SBOE designates and mandates instruction in the knowledge and skills that are essential to a well-balanced curriculum, approves and determines passing scores for the state-mandated assessment program, oversees the investment of the Permanent School Fund, approves the creation of charter schools, and adopts regulations and standards for the operation of adult education programs provided by public school districts, junior colleges and universities. The commissioner of education, appointed by the governor, serves as chief executive officer of the SBOE and supervises the administration of board policies through the TEA.

**DIGEST:** CSHB 710 would place the State Board of Education under Sunset review during the same time periods as the Texas Education Agency, but would not allow the board to be abolished.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009.

**SUPPORTERS SAY:** CSHB 710 would provide necessary oversight of the State Board of Education. The board should be reviewed periodically by the Sunset Advisory Commission with the intent of improving the effectiveness of state government, and to ensure that the board does not circumvent legislative intent and statutory limitations on its authority. This bill would not allow the board to be abolished but would ensure that the board carried out its duties in the most efficient and effective manner.

While the SBOE is established in the Constitution, much of its policy-making authority come from the Legislature through statute. It would be wholly appropriate for the Legislature to review the role and operation of the SBOE in relation to TEA, which implements policies set by the board, at the same time that TEA comes under Sunset review.

Other elected bodies or agencies with elected heads, including the Department of Agriculture, the Railroad Commission, and the Veterans' Land Board, have been subject to periodic full sunset review. The SBOE textbook adoption process also was reviewed by the Sunset Advisory Commission in 1995, which led to statutory changes narrowing the board's ability to approve textbooks.

**OPPONENTS SAY:** CSHB 710 would undermine the public's role as a check on elected officials. The State Board of Education is an elected body, and it is up to the voters to decide if the members of the board are doing a good job. If the voters do not agree with the decisions of SBOE members, they will demonstrate this dissatisfaction at the polls. It would not be an appropriate use of the Sunset process to institute review of the SBOE just because lawmakers do not agree philosophically with members of the board. The SBOE has exercised its authority within the parameters laid out in the Constitution and in the Education Code.

NOTES:           The companion bill, SB 513 by Ellis, has been referred to the Senate Education Committee.