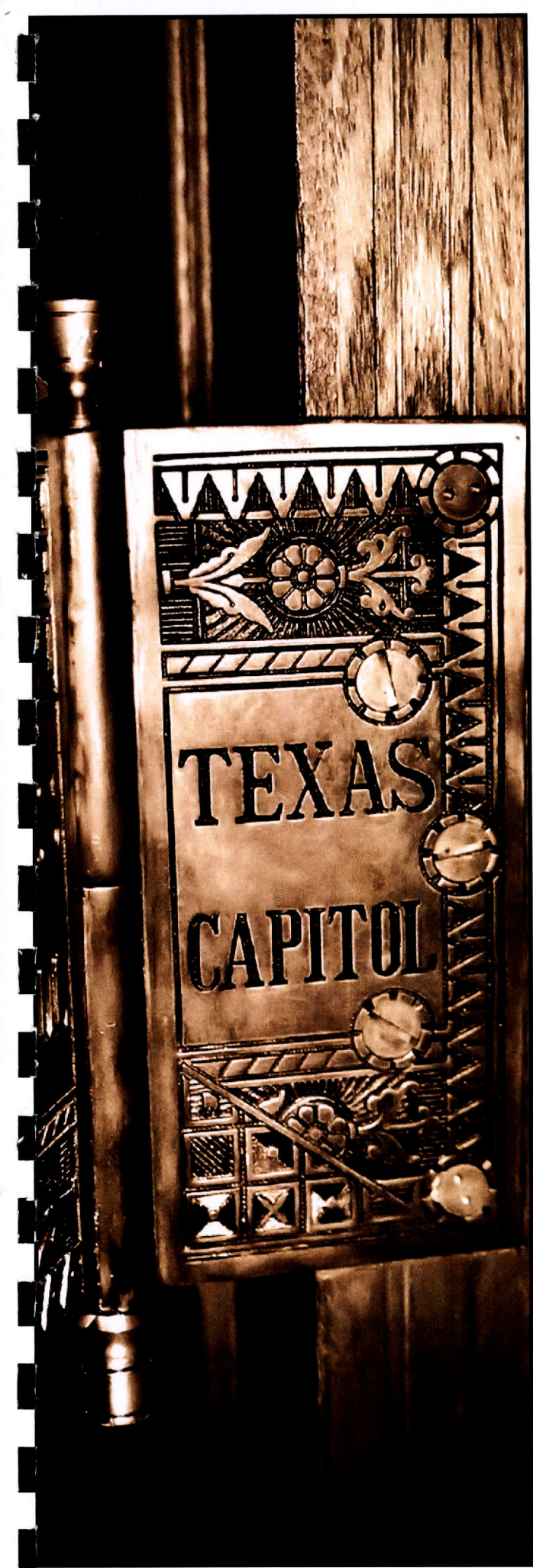


SUNSET ADVISORY COMMISSION

FINAL REPORT
WITH LEGISLATIVE ACTION

*State Preservation
Board*

JULY 2013



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Cover photo: The Texas Capitol is a marvel of craftsmanship down to the smallest details. The beautifully carved wood door frames are emphasized with elaborate, custom-designed bronze hinges and hardware produced especially for the building by Sargent and Co. of New Haven, Connecticut, in the late 1880s. The eight inch by eight inch hinges are inscribed with the words "Texas Capitol", decorated with incised designs of geometric and stylized floral motifs, and weigh over seven pounds each.

STATE PRESERVATION BOARD

**SUNSET FINAL REPORT WITH LEGISLATIVE ACTION
JULY 2013**

This document is intended to compile all recommendations and action taken by the Sunset Advisory Commission for an agency under Sunset review. The following explains how the document is expanded and reissued to include responses from agency staff and the public.

- *Sunset Staff Report, March 2012* – Sunset staff develops a separate report on each individual agency, or on a group of related agencies. Each report contains both statutory and management recommendations developed after the staff's extensive evaluation of the agency.
 - *Sunset Staff Report with Hearing Material, April 2012* – Adds responses from agency staff and the public to Sunset staff recommendations, as well as new issues raised for consideration by the Sunset Commission at its public hearing.
 - *Sunset Staff Report with Decision Material, May 2012* – Adds additional responses, testimony, or new issues raised during and after the public hearing for consideration by the Sunset Commission at its decision meeting.
 - *Sunset Staff Report with Commission Decisions, June 2012* – Adds the decisions of the Sunset Commission on staff recommendations and new issues. Statutory changes adopted by the Commission are presented to the Legislature in the agency's Sunset bill.
 - *Sunset Final Report with Legislative Action, July 2013* – Summarizes the final results of an agency's Sunset review, including action taken by the Legislature on Sunset Commission recommendations and new provisions added by the Legislature to the agency's Sunset bill.
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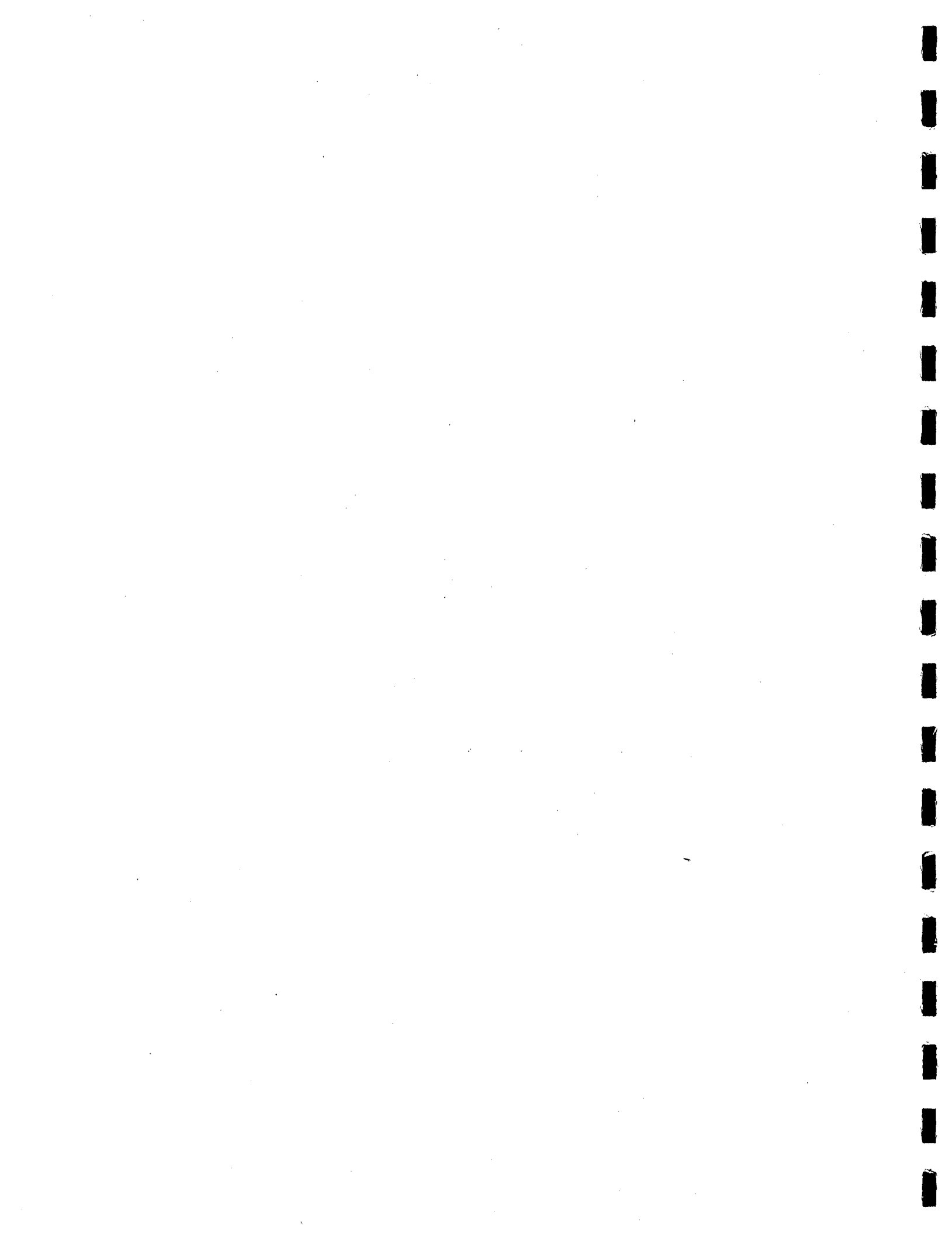
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SUMMARY



SUMMARY

The Legislature originally created the State Preservation Board (SPB) in 1983 to preserve, maintain, and restore the Capitol and the 1857 General Land Office Building (now the Capitol Visitors Center). Since then the Legislature has continued to give the agency additional, significant responsibilities, including the construction of the Capitol Extension and restoration of the Capitol grounds; the construction and operation of the Bob Bullock Texas State History Museum (Museum); and the restoration and ongoing maintenance of the Governor's Mansion. The agency is unique in that it has successfully unified the typically separate and often competing interests of building and property management with historical preservation and curatorial expertise. As such, SPB does a notable job restoring, preserving, and maintaining the state's key historic buildings, as well as effectively balancing those responsibilities with the functional needs of the buildings' occupants and visitors. The agency's governance and funding structures are also unique. The Board includes the Governor, Lieutenant Governor, and Speaker of the House of Representatives; and the majority of the agency's funding is made up of earned revenues held outside the Treasury.

Expanded duties, diverse responsibilities, and funding limitations challenge the Board's current approach to operating the agency.

The Sunset review found that while these unique aspects of the agency afford it the flexibility and agility with which to serve its immediate constituency, they also present certain challenges. Because most of the agency's board members have other significant state responsibilities, the Board does not meet regularly to provide the level of direction and oversight typical of most other state agencies. Instead, the Board and agency use informal, thus less transparent, means to provide and obtain needed direction, approval, and oversight. Also, as with most other state agencies, SPB faces new funding challenges. As a result of recent legislative changes, SPB must increasingly rely on its earned revenues, rather than general revenue, to fund its operations. Increasing responsibilities coupled with tighter budget constraints emphasize the need for a more formal, comprehensive budgeting process. However, SPB's operating budget does not include all of the agency's revenues and expenditures, painting an incomplete picture of the agency. Additionally, the agency lacks certain budgeting and planning tools needed to adequately address capital improvement needs across the agency, particularly as these relate to the long-term viability of the Museum.

Now over 10 years old, the Museum is at a pivotal point in its history, poised to carry out a \$10 million strategic plan designed to bring the Museum into national prominence. As part of this effort, in 2013, the Museum will begin installing its cornerstone exhibit, the 17th century French shipwreck, *La Belle*, recovered from Matagorda Bay. The Museum will rely on its newly changed, and as yet untested, relationship with the private, nonprofit Texas

State History Museum Foundation to raise most of the funds needed to install the *La Belle* exhibit and fully implement the Museum's strategic plan. However, implementing this ambitious plan necessitates strong, ongoing leadership, direction, and oversight. As with the agency's other functions, the Board structure does not provide the direct level of oversight of these strategic decisions that is common for most other state agencies. In addition, the Museum struggles to be self sufficient, creating financial and operational risks to the State if the Museum continues to operate at a loss. While not all financial losses can be fully predicted and mitigated, SPB has not established a policy or priorities for maintaining reserves to help reduce the financial risk to the State.

Overall, the recommendations in this report aim to position the agency to function in a manner that acknowledges and addresses its expanded duties, diverse operations, and funding limitations. The recommendations intend to facilitate more regular and direct board oversight, as well as to strengthen the agency's planning and budgeting functions and improve the operations of the Museum. The expected result is a stronger and more transparent organization that continues to effectively provide protection, functionality, and awareness of these elements of Texas heritage.

The following material summarizes the Sunset staff's recommendations on the State Preservation Board.

Issues and Recommendations

Issue 1

Texas Has a Continuing Need for the State Preservation Board, but More Regular, Formal Involvement of the Board Is Also Needed.

Texas continues to need the State Preservation Board to preserve, maintain, and manage the State's \$281 million investment in its key historic buildings and to serve the buildings' occupants and visitors. Previously, having the maintenance, preservation, and various other functions of these historic buildings split among several different agencies created problems and ultimately led to the creation of SPB, bringing these responsibilities under the purview of a single agency, with significant involvement of the State's leadership.

The agency is governed by a unique Board made up of some of the State's highest ranking and busiest leaders and as such, it rarely meets. Instead, the agency uses informal and less transparent means to obtain needed oversight and direction from the Board. Recognizing the unique attributes and constraints of having the State's leadership on the Board, Sunset staff determined requiring more regular board meetings, but allowing certain members to designate a representative would provide more direct oversight of agency operations, but still allow for needed flexibility in scheduling these meetings.

Key Recommendations

- Allow certain Board members to designate representatives to participate in State Preservation Board meetings.
- Require the Board to meet at least twice per year.
- Continue the State Preservation Board for 12 years.

Issue 2

The State Preservation Board Lacks Certain Key Budgeting and Planning Tools Needed to Best Manage the Agency.

Since the majority of SPB's funding is held outside the Treasury, its budget is not subject to the same controls most state agencies receive through the appropriations process. The agency also does not receive the same level of direct, public oversight more typical boards regularly provide, including formal review and approval of the agency budget. Therefore, a clear and consistent budgeting process is critical to effectively plan for and manage agency finances, particularly as the Legislature is asking SPB to rely more on its earned revenues and less on state funding. However, SPB's budget does not include all of its revenues and expenditures, resulting in an incomplete picture of the agency and its operations. The agency also does not tie capital needs, funding, and decision making together to meet the most critical needs of the buildings it manages within limited resources. A comprehensive agency operating budget and a more formal, documented process for capital planning would provide SPB with additional tools for more effective management.

Key Recommendations

- Direct SPB to create a comprehensive five-year capital improvement plan across all properties it manages and an annual project schedule.
- Direct SPB to create and maintain an agency operating budget that includes all areas of expenditure and funding.

Issue 3

The Bob Bullock Texas State History Museum Needs Planning Tools and a Clear Management Structure to Best Ensure Its Success.

The Museum opened in 2001 to educate and engage visitors in the unique "Story of Texas." The Museum tells this story through exhibits focused on the themes of land, opportunity and identity. Today the Museum is at a pivotal turning point. The Museum is currently seeking accreditation by the American Association of Museums which requires a museum's governing entity to formally authorize full responsibility for museum operations to the museum director, and to ensure clarity of roles and responsibilities between the governing entity and staff. Establishing the museum director position in statute and clearly delineating authority between the executive director and museum director could help the Museum in its efforts to gain national accreditation.

The Museum, in partnership with the private nonprofit Texas State History Museum Foundation, has developed an ambitious strategic plan designed to make the Museum one of the leading history museums in the country. Implementation of this strategic plan assumes the Foundation raising \$10 million to support the Museum. Currently, the Museum is not required to produce certain planning and budgeting documents that would provide important information about the Museum's financial status, activities, and progress in meeting its goals to the Board, Foundation, Legislature, and others. In addition, the Board does not have a clear policy specifying the purpose and approved uses of the Museum Fund to help the Museum achieve greater financial stability.

Key Recommendations

- Establish the museum director position in statute and direct the Board to adopt a policy that clearly defines the roles and responsibilities of the museum director and the executive director.
- Require the agency to develop a strategic plan and annual report for the Museum.
- Require the Board to develop a policy on the use of the Museum Fund that governs the Fund's balances.

Issue 4

The State Preservation Board Benefits From the Support of Its Affiliated Nonprofit Organizations, but Additional Controls Are Needed.

The agency has developed partnerships with affiliated nonprofit organizations, such as the Texas State History Museum Foundation, to further SPB's mission and goals. Relationships between state agencies and closely affiliated nonprofit organizations can be beneficial to the state when both partners adhere to established best practices, but such partnerships also entail inherent risks.

Because of the close relationships of affiliated nonprofits with state agencies under Sunset review over the years, Sunset staff has identified standards of conduct and best practices for such organizations. While the Board recently developed and proposed rules to govern the agency's relationships with its affiliated nonprofits, these rules include some, but not all, of the best practices identified by Sunset staff. Modifying the proposed rules would ensure SPB and its affiliated nonprofits consistently adhere to accepted best practices.

Key Recommendation

- The Board should modify its proposed rules governing SPB's relationships with its affiliated nonprofit organizations to ensure adherence to accepted best practices.

Issue 5

Anticipated Changes in SPB's Workforce Could Leave the Agency Vulnerable to a Significant Loss of Institutional Knowledge Critical to Its Operations.

The State Preservation Board balances the competing needs of preserving the most historically significant assets in Texas with their active use. As such, the agency employs a specialized workforce that understands the history, intricacies, and special needs of its buildings. However, in the near future, SPB will likely experience a significant loss of institutional knowledge and expertise as key management staff become eligible to retire. As SPB has relied on the institutional knowledge retained by its long-tenured staff, the agency has not fully documented important staff policies and procedures. By developing a succession plan, updating policies and procedures, and providing consistent training opportunities, SPB could capture its specialized knowledge before the departure of tenured employees.

Key Recommendations

- The State Preservation Board should develop and implement a succession plan to prepare for impending retirements and workforce changes.

- Direct SPB to formally document and regularly update its key duties and procedures in writing, and make them available electronically.
- Direct SPB to develop and implement an agencywide staff training and development policy.

Fiscal Implication Summary

These recommendations would not have a direct fiscal impact to the State. Information on potential financial impacts of certain recommendations is summarized below.

Issue 2 — Providing improved budgeting and planning tools would help provide the agency, Board, and Legislature with more complete and understandable information on which to base financial decisions, and could result in additional enterprise revenues. These tools would also assist SPB in providing the Board and Legislature with more comprehensive information on the capital improvement needs and costs of the buildings under its care.

Issue 5 — Preparing for future staffing needs is an essential agency function and should be handled with existing resources. Providing training, including internal training for positions at risk of becoming vacant, can be accomplished within the agency's existing budget.



SUMMARY OF FINAL RESULTS

S.B. 201 Birdwell (Price)

The State has made a significant investment in the construction, restoration, and preservation of several historic and notable buildings, including the Capitol, 1857 General Land Office Building, Governor's Mansion, and Bob Bullock Texas State History Museum. The State Preservation Board (SPB) is the agency responsible for protecting and maintaining these irreplaceable elements of Texas heritage. The Sunset review of SPB produced comprehensive improvements to the governance and overall operations of the agency to allow it to more successfully manage its expanding duties, diverse operations, and funding limitations.

Senate Bill 201, the SPB Sunset bill, enacts changes to strengthen SPB's unique governance structure. The bill requires the Board to meet more regularly to provide the level of direction and oversight typical of most other state agencies, but allows its busiest members — the Governor, Lieutenant Governor, and Speaker of the House of Representatives — to appoint designees for needed flexibility. A series of directives made through the Sunset review also ensure the Board and agency establish needed and more transparent budget and planning tools to effectively manage agency operations and finances, particularly as SPB continues to rely more on its earned revenues and less on state funding.

Other changes made through the Sunset review help secure the future of the Bob Bullock Texas State History Museum, as it begins to carry out a \$10 million strategic plan designed to bring the Museum into national prominence. Senate Bill 201 establishes the museum director position in statute to clarify responsibility for the management of the Museum and to support efforts to earn national accreditation. The review also directs better use of the Museum Fund and more controls over partnerships with affiliated nonprofits, and allows for the naming of areas within the Museum in honor of donors or benefactors, to help it achieve greater financial stability.

The following material summarizes results of the Sunset review of SPB, including management actions directed to the Board and agency that do not require statutory change.

Continuation and Governance

- Continues the State Preservation Board for 12 years.
- Allows certain Board members to designate representatives to participate in meetings.
- Requires the Board to meet at least twice per year.
- The Board should resume oversight of SPB at a level typical of other agencies. (management action – nonstatutory)

Agency Operations

- Guides development of needed budgeting and planning tools.
 - Directs SPB to create and maintain an agency operating budget that includes all areas of expenditure and funding. (management action – nonstatutory)
 - Establishes the Governor’s Mansion Renewal Trust Fund for the maintenance and preservation of the Governor’s Mansion.
 - Directs SPB to create a comprehensive five-year capital improvement plan across all properties it manages and an annual project schedule. (management action – nonstatutory)
 - SPB should conduct a regular, comprehensive assessment of the agency’s enterprise functions to evaluate potential for optimizing revenue. (management action – nonstatutory)
 - The Board should modify its proposed rules governing SPB’s relationships with its affiliated nonprofit organizations to specifically address standards of conduct and ensure adherence to accepted best practices. (management action – nonstatutory)
- Authorizes development of staff policies and procedures.
 - SPB should develop and implement a succession plan to prepare for impending retirements and workforce changes. (management action – nonstatutory)
 - Directs SPB to formally document and regularly update its key duties and procedures in writing, and make them available electronically. (management action – nonstatutory)
 - Directs SPB to develop and implement an agencywide staff training and development policy. (management action – nonstatutory)

Museum Operations

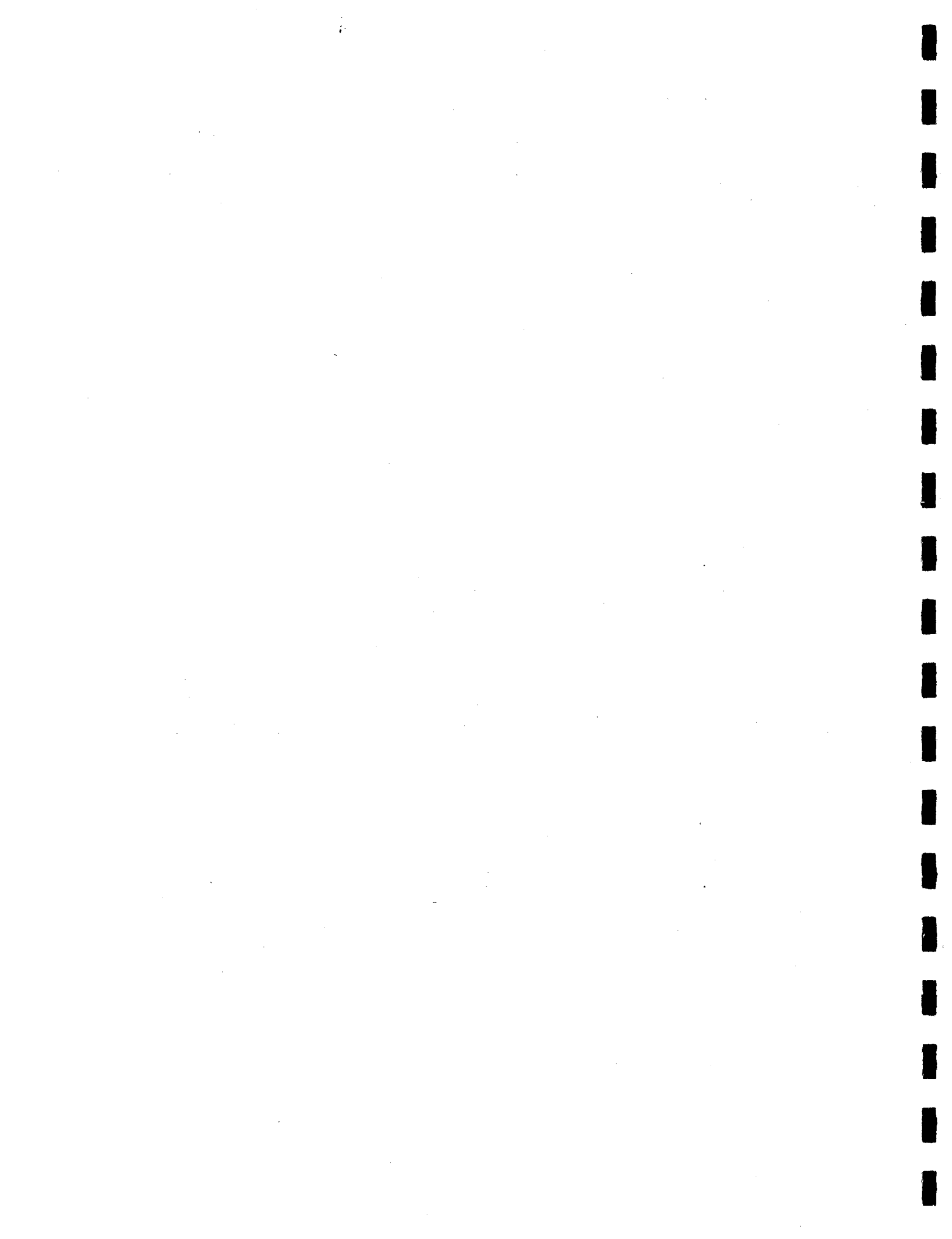
- Requires the SPB executive director to employ a museum director to operate and manage the Museum.
- Requires the Board to adopt reasonable policies for naming areas within the Bob Bullock Texas State History Museum.
- Directs the Board to adopt a policy that clearly defines the roles and responsibilities of the museum director and the executive director in the management of the Museum. (management action – nonstatutory)
- Directs the agency to develop a separate strategic plan and annual report for the Museum by January 2013, and continue to provide the Museum Fund Annual Report. (management action – nonstatutory)
- Directs the Board to develop a policy on the use of the Museum Fund that governs the Fund’s balances by January 2013. (management action – nonstatutory)

- Provides the museum director with authority to create an advisory council to provide additional advice and expertise on Museum programming and operations by January 2013. (management action – nonstatutory)

Fiscal Implication

None of these changes will have a significant fiscal impact to the State.

AGENCY AT A GLANCE
MARCH 2012



AGENCY AT A GLANCE

Created in 1983, the State Preservation Board (SPB) is responsible for preserving and maintaining the Capitol, 1857 General Land Office Building (now the Capitol Visitors Center), Capitol Visitors Parking Garage, and Governor's Mansion; and operating the Bob Bullock Texas State History Museum (Museum). The agency's responsibilities vary for each building under its care, but generally staff works to meet the daily needs of building occupants and visitors while still performing the following functions to support the agency's core preservation mission.

- Approve changes to the buildings involving construction, restoration, and repairs.
- Provide maintenance, housekeeping, and grounds keeping services.
- Provide curatorial and interpretive services for the Capitol Historical Artifact Collection.
- Conduct guided tours of the buildings, including educational tours for school children.
- Manage business enterprises to help fund agency operations, including gift shops, cafés and catering, theaters, and parking facilities.

Key Facts

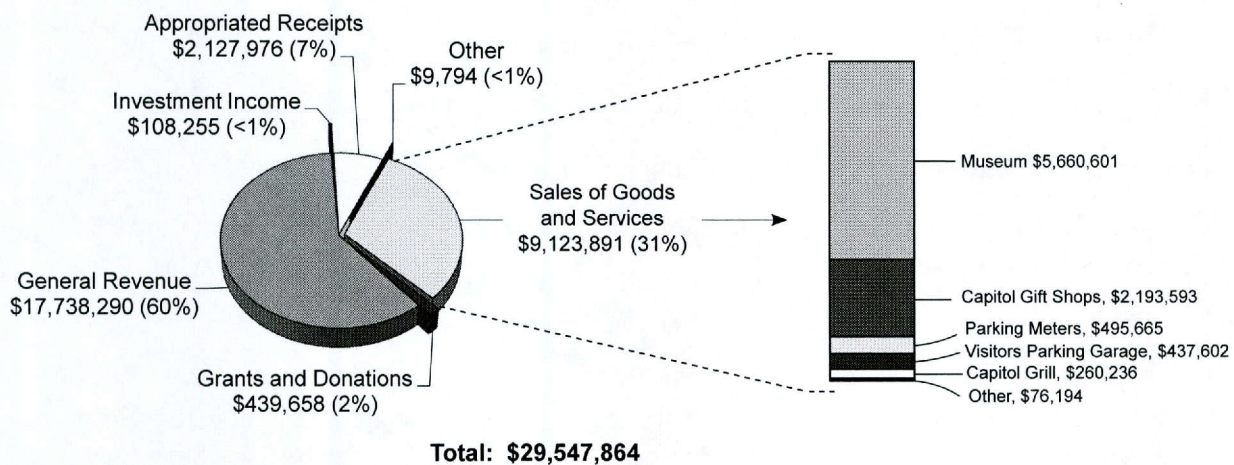
- **State Preservation Board.** A six-member board governs the agency, including the Governor, Lieutenant Governor, and Speaker of the House of Representatives, as well as three appointed members that serve two-year terms, shown in the chart *State Preservation Board Members*. Historically, the appointed Senate and House members have been the chairs of the Senate and House Administration Committees.

State Preservation Board Members

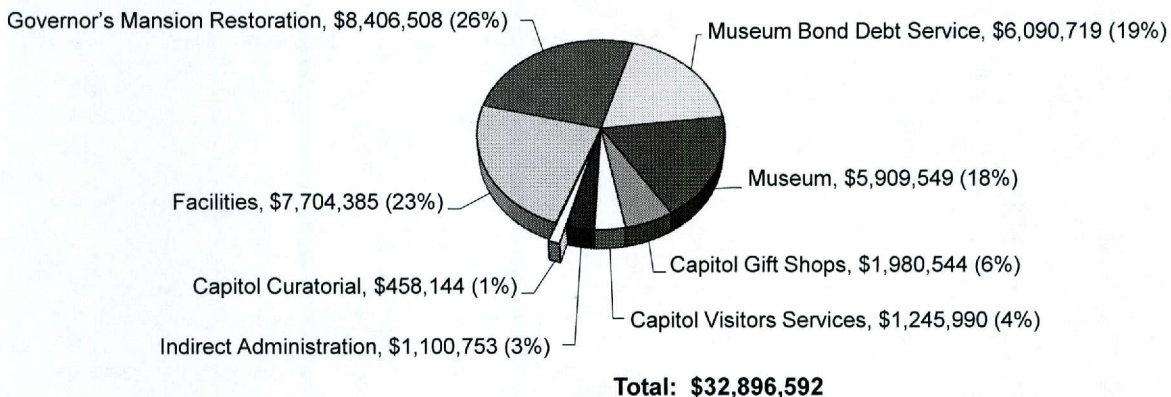
Member	Qualification	Appointed By
The Honorable Rick Perry, Chair	Governor	Ex officio
The Honorable David Dewhurst, Co-Vice Chair	Lieutenant Governor	Ex officio
The Honorable Joe Straus, Co-Vice Chair	Speaker of the House of Representatives	Ex officio
The Honorable Kevin Eltife	Senate Appointee	Lieutenant Governor
The Honorable Charlie Geren	House Appointee	Speaker of the House of Representatives
Cris Crouch Graham	Public Member	Governor

- Funding.** The agency spent about \$32.9 million in fiscal year 2011, primarily for the Governor’s Mansion Restoration Project, facilities and maintenance functions, and Museum bond debt service. About 60 percent of SPB’s available funding comes from revenue it earns which is held in statutorily-established funds outside the Treasury.¹ The Legislature appropriates the remaining 40 percent of the agency’s budget from General Revenue. The pie charts, *SPB Revenues* and *SPB Expenditures*, provide additional detail about the agency’s funding for fiscal year 2011. Because of its unique funding structure, SPB may not spend all of its earned revenues in the same year they are earned. Instead, SPB may carry these funds forward for use in future fiscal years. This ability accounts for the agency being able to spend \$3,348,728 more than its revenues in fiscal year 2011.

**SPB Revenues
FY 2011**



**SPB Expenditures
FY 2011**



- Staffing.** In fiscal year 2011, SPB had 181 full-time equivalent (FTE) positions, all located in Austin, 109 of which were located primarily in SPB’s administrative offices, the Capitol, and Capitol Extension. The Museum houses the remaining 72 FTEs.

- **Facilities Maintenance and Preservation.** The agency maintains several buildings important to the state, including their associated contents and grounds. Due to the historic nature of these buildings, SPB must balance the often competing needs of historic preservation with modern functionality and safety. The textbox, *State Preservation Board Buildings*, lists the buildings.

Facilities staff performs building maintenance, repair, housekeeping, and grounds keeping functions for these buildings. In fiscal year 2011, staff completed 5,608 preventive maintenance tasks and responded to 11,970 service requests from building occupants. Recent major projects include the \$3 million re-painting of the Capitol dome and repairs to the House Chamber ceiling.

State Preservation Board Buildings	
●	Capitol – 337,157 sq. ft.
●	Capitol Extension – 666,955 sq. ft.
●	Capitol Visitors Center – 19,458 sq. ft.
●	Capitol Visitors Parking Garage – 233,169 sq. ft.
●	Bob Bullock Texas State History Museum – 435,074 sq. ft.
●	Governor’s Mansion – 9,839 sq. ft.

- **Curatorial.** SPB preserves and maintains all historic agency-owned artifacts in the Capitol, Capitol Extension, and Capitol Visitors Center, and ensures accurate historical representation and interpretation of the 10 historic spaces in the Capitol, such as the Treasurer’s Business Office. The agency oversees the care of 3,375 artifacts, including 2,384 original or period Capitol Historical Artifacts. Also, SPB locates and periodically acquires additional items historically significant to the Capitol, either through purchase, donation, or state agency transfer.
- **Visitors Services.** SPB welcomes, assists, and educates Capitol visitors. Visitors Services staff provides tours to the general public, school children, and tourists. Staff estimates over one million people visit the Capitol annually. In fiscal year 2011, 200,627 persons participated in tours of the Capitol. Staff conducted 2,132 tours for students at the Capitol Visitors Center, and 2,327 tours for students at the Capitol. In cooperation with Visitors Services and the Facilities division, the Capitol Events Coordinator schedules and manages public events and exhibits at the Capitol.
- **Enterprise Operations.** The agency has established several enterprise operations to provide a source of earned revenue for its operations, as described below.

Retail Gift Shops. The agency manages three gift shops located in the Capitol Visitors Center, Capitol Extension, and Museum, as well as a warehouse that processes online, phone, and mail orders. The revenue generated by the Capitol Extension and Capitol Visitors Center gift shops supports Capitol preservation and maintenance, as well as educational programs. Revenue from the Museum gift shop helps support the Museum’s operations. The textbox, *SPB Gift Shop Sales*, shows gross sales by location for fiscal year 2011.

SPB Gift Shop Sales FY 2011	
Capitol Extension.....	\$1,075,754
Museum	\$1,071,350
Online, Phone, and Mail Orders	\$643,073
Capitol Visitors Center	\$474,766
Total	\$3,264,943

Parking Facilities. The agency maintains and operates the 760-space Capitol Visitors Parking Garage and 874 Capitol Complex parking meters. Statute requires SPB to use parking revenues to fund maintenance and preservation of the Capitol, Capitol Extension, and Capitol Visitors Center. The agency earned \$933,267 in combined Capitol Visitors Parking Garage and parking meter revenues in fiscal year 2011, and \$376,090 in revenue from Museum parking garage fees, which are dedicated to Museum operations.

Food Service. The agency contracts with a private vendor to operate the Capitol Grill in the Capitol Extension, the Story of Texas Café in the Museum, and vending machines in the Capitol and Museum. The agency earns a variable percentage of gross sales from these operations. In fiscal year 2011, SPB received \$260,235 in revenue from the Capitol Grill, vending machines, and catering; and \$200,099 in Museum-dedicated revenues from the Museum’s Café and private event catering. SPB also earned \$225,684 in Museum theater concessions revenue in fiscal year 2011.

Facility Rentals. SPB rents space at the Museum to individuals and organizations for private events. In fiscal year 2011, facility rentals generated about \$502,300 in revenue to support Museum operations.

- **Bob Bullock Texas State History Museum.** The Museum opened in 2001 to educate visitors about Texas history. The Museum tells the “Story of Texas” using three floors of permanent exhibits focused on the themes of land, opportunity, and identity. The Museum is a non-collecting institution that relies on borrowing artifacts and bringing in traveling exhibits. The Museum depends primarily on earned revenues to support operations, as shown in the textbox *Sources of Earned Museum Revenue*. The Museum spent about \$6.2 million in fiscal year 2011, while taking in about \$6.1 million in total revenue. In fiscal year 2011, nearly 465,000 people visited and attended films at the Museum, including about 75,300 school children.
- **Governor’s Mansion Restoration Project.** In 2007, the Legislature transferred the care and maintenance of the Governor’s Mansion from the Texas Facilities Commission to SPB. After the fire in June 2008, the Legislature tasked SPB with the \$24.5 million restoration project. Upon completion of the restoration, expected in June 2012, SPB will be responsible for the ongoing maintenance and preservation of the Mansion. The Texas Historical Commission contracts with the Friends of the Governor’s Mansion, a private nonprofit organization, to manage the 1,000 piece Mansion Collection, which consists primarily of furniture and artwork.

Sources of Earned Museum Revenue
● Museum admissions
● IMAX theater admissions
● Texas Spirit Theater admissions
● Membership fees
● Gift shop sales
● Facility rentals
● Parking garage fees
● Theater concessions
● Catering services
● Story of Texas Café
● Exhibit rentals

¹ Article I (H.B. 1), Acts of the 82nd Legislature, Regular Session (the General Appropriations Act).

ISSUES



ISSUE 1

Texas Has a Continuing Need for the State Preservation Board, but More Regular, Formal Involvement of the Board Is Also Needed.

Background

The Legislature created the State Preservation Board (SPB) in 1983 to preserve, maintain, and restore the Capitol and the 1857 General Land Office Building (now the Capitol Visitors Center) as well as their contents and grounds. Since then, the Legislature has significantly increased the agency's responsibilities to include the construction and operation of the of the Capitol Extension and Bob Bullock Texas State History Museum (Museum); restoration and ongoing preservation and maintenance of the Governor's Mansion; and operation of the Capitol Visitors Parking Garage.

Currently, the agency's main focus is the ongoing preservation, maintenance, and management of these buildings and their contents and grounds. Some of the agency's activities include providing housekeeping, maintenance, and grounds keeping services for the buildings; interpreting and caring for the Capitol Historical Artifact Collection; and providing visitor services, including educational tours, programs, and exhibits related to Texas history. The agency also serves the buildings' occupants and visitors through its various enterprise operations including gift shops, cafés, an IMAX movie theater, and parking garages.

A six-member board governs the agency, including the Governor who serves as chair; the Lieutenant Governor and Speaker of the House of Representatives who serve as co-vice chairs; one Senator appointed by the Lieutenant Governor; one Representative appointed by the Speaker of the House of Representatives; and one public member appointed by the Governor. The appointed House and Senate members have historically been the chairs of the Senate and House Administration Committees.

Findings

Texas has a continuing need to preserve and maintain the Capitol and the other properties it manages.

The State has made a significant investment in the construction, restoration, and preservation of its Capitol and other irreplaceable historic buildings. The table on the following page, *SPB Major Projects*, on the following page shows more than \$281 million in state funding has gone towards the completion of SPB's six major projects involving buildings under its jurisdiction. The State has also invested in the development, management, and care of the Capitol Historical Artifact Collection, consisting of art and antique furnishings valued at more than \$8.5 million.¹

These buildings have unique needs related to preserving their historical integrity that must be balanced with the buildings' other purposes since they serve as office buildings, visitor attractions, and residences.

SPB protects the State's \$281 million investment in important historic buildings.

SPB Major Projects

Project	Completion Date	State Funding	Total Project Cost
Governor's Mansion Restoration Project	June 2012	\$21,585,941	\$24,531,481
Bob Bullock Texas State History Museum Construction and Interior Design	2001	\$81,110,849	\$82,027,655
Capitol Grounds Restoration	1997	\$4,236,535	\$7,694,227
Capitol Restoration	1995	\$97,061,718	\$98,374,106
Capitol Visitors Center Restoration	1993	\$3,864,574	\$3,864,574
Capitol Extension Excavation and Construction	1993	\$73,462,013	\$74,519,726
Total		\$281,321,630	\$291,011,769

The Board effectively serves the needs of Capitol occupants and visitors while preserving the historical integrity of the building.

SPB effectively balances the competing needs and interests of these buildings. The Legislature created SPB specifically to unite the typically separate functions of property and building management with architectural and curatorial expertise. For instance, SPB is responsible for not only the preservation and curatorial aspects of the Capitol, but also its maintenance, housekeeping, and grounds keeping. SPB has staff in each of these areas that share their expertise and coordinate their efforts to best care for, preserve, and protect the building and its contents and grounds.

Review of SPB and other related agencies did not reveal any significant beneficial alternatives for consolidating or transferring functions.

While some state agencies perform property management functions and others perform architectural and curatorial functions for the state, no other state agency has the expertise necessary to perform both of these functions for the important historic buildings under SPB's purview. In addition to its property management and curatorial expertise, SPB has additional expertise related to the operation of these buildings, including running enterprise operations, such as cafés and gift shops, and providing educational programming and visitor services, such as tours for school groups and others. Although other state agencies could perform functions related to these buildings, such an approach could have several disadvantages.

Although the Texas Facilities Commission (TFC) has primary responsibility for maintaining most state-owned properties, it does not have the experience or expertise necessary for the preservation functions related to SPB's buildings and their contents. Maintenance of these buildings is different than maintenance of other state buildings because of the special care needed to preserve and prevent damage to the buildings' historical integrity and unique building materials. While TFC (formerly the General Services

Commission and the Texas Building and Procurement Commission) was previously responsible for the property management functions at several state historic structures, the Legislature has repeatedly chosen to transfer these housekeeping, grounds keeping, and facilities maintenance responsibilities for historic buildings to agencies with more restoration and preservation experience, including SPB, to avoid potential deterioration and loss of historical value.²

While the Texas Historical Commission (THC) has the expertise to perform architectural and curatorial services related to the preservation and maintenance of historical buildings, it currently does not have the experience or property management expertise necessary to maintain and manage the buildings under SPB's care, particularly balancing the historic needs of the buildings with the working needs of their occupants. While THC is responsible for the National Museum of the Pacific War in Fredericksburg, it contracts with a nonprofit foundation for its operation.

Previously, having the maintenance, preservation, and various other functions of these historic buildings split among several different agencies created significant problems. Each agency had its own individual responsibilities in the buildings, with little or no coordination or cooperation between them. This situation led to the deterioration of the Capitol and ultimately the creation of SPB to bring these responsibilities under the purview of a single agency, with significant involvement of the State's leadership.^{3,4,5}

Other states offer a variety of organizational structures to preserve and maintain their capitol buildings and key historic structures.

Most states have one agency responsible for all aspects of the operation of their capitol buildings; however, many of these agencies are responsible for the operation of all other state office buildings as well. The State Preservation Board's building maintenance, preservation, and visitors services duties are modeled after Ohio and Michigan, which have a single state agency devoted only to the preservation and management of their capitol buildings.⁶ Overall, the wide variety of organizational structures in other states is indicative of each state's special circumstances to ensure preservation of their capitols. In addition, several states, such as Washington, California, and South Carolina, operate state museums under the umbrella of state government, similar to the Bob Bullock Texas State History Museum.

The Board's unique makeup has limited its ability to meet regularly and provide the usual direction and oversight of most other state agency boards.

The agency's Board is unique because its members include the Governor, Lieutenant Governor, and Speaker of the House of Representatives. As such, scheduling and holding regular, formal board meetings has been difficult, as evidenced by the Board having met only four times in the last five fiscal years.⁷

The Legislature has repeatedly recognized SPB's restoration and preservation experience by entrusting the agency with the care of several historic buildings.

The Board includes the State's key leaders with broad state responsibilities, and therefore rarely meets to formally oversee the agency's operations.

Instead, as discussed below, the Board and agency have had to develop less formal and open means to achieve oversight and coordination.

Infrequent board meetings require the agency to perform duties typically reserved for the Board.

Throughout SPB's history, the Legislature has changed the required number of board meetings several times to reflect the needs and busyness of the agency. Between 1989 and 1998, SPB was carrying out major construction and restoration projects, and the Board likely needed to meet more frequently. This need was evidenced by the Legislature changing the Board's statutory meeting requirement from twice per year to quarterly in 1989.⁸ Ten years later, the Legislature changed the meeting requirement again to allow the Board to meet at the call of the Chair rather than meeting quarterly, likely reflecting an end to this busy period and recognition of the need for fewer meetings.⁹ At this same time, the statutory provision authorizing certain Board members to have designees to represent them, including the authority to vote, was also removed.¹⁰

Several purposes exist for a board to meet regularly, such as to meet required planning, budgeting, and internal auditing requirements. However, because this Board meets so infrequently, the agency must perform certain duties usually reserved for the Board, such as hiring the internal auditor and having the auditor report to the executive director rather than the Board. The agency also does not receive the direct, public oversight other boards typically provide, including formal board review and approval of the agency's annual budget, legislative appropriations request, and strategic plan. The executive director works informally with staff from each Board member's office to keep the Board members informed and to get needed direction and approval on certain projects. These meetings are not public.

Allowing for board designees has proven useful in running other agencies more effectively.

Infrequent board meetings can also delay needed rule revisions. For example, a bill authorizing the Board to recover the estimated indirect cost to the state for the use of the Capitol, the Capitol Extension, or the Capitol grounds for an event, exhibit, or other scheduled activity, became effective on June 17, 2011. However, the Board did not meet for six months to adopt the rules necessary to implement this provision, delaying SPB's ability to begin recovering these costs.

In comparison, the Bond Review Board also has a unique board structure made up of the Governor, Lieutenant Governor, Speaker of the House of Representatives, and Comptroller. This board needs to meet frequently to carry out necessary decision making, so statute authorizes the board members to designate another person to act on the member's behalf, and each member has assigned a designee to represent them.¹¹

While recently improving, the State Preservation Board has not met the State's HUB purchasing goals for the last three years.

The Sunset Act requires the Sunset Commission and staff to evaluate the extent to which an agency has complied with state law and applicable rules regarding purchasing guidelines and programs for historically underutilized

businesses (HUBs).¹² While staff routinely evaluates agency performance regarding these requirements in the course of a Sunset review, staff only reports deficiencies significant enough to merit attention.

While SPB has met HUB program requirements, such as appointing a HUB coordinator, establishing a HUB policy, and developing a mentor-protégé program, the agency has had difficulty meeting statewide HUB purchasing goals. From fiscal year 2009 to fiscal year 2011, SPB did not meet the HUB goals in any purchasing category in which it had expenditures, including building construction, special trade, professional services, other services, and commodities. Appendix A details the agency's HUB spending for fiscal years 2009–2011 in each of these categories.

One of the difficulties the agency faces in meeting these goals is a low HUB response rate. In fiscal year 2011, SPB solicited 1,446 HUBs and received only 39 bids from HUBs, a 2.7 percent response rate. Also, some of these categories include purchases where no opportunity for HUB participation exists, such as the lease of the IMAX projection system at the Museum. In fiscal year 2011, SPB had the most improvement in and nearly met the HUB goal in the building construction category, which accounted for the agency's largest amount of contract spending. This improvement was primarily due to two major contracts related to the painting of the Capitol dome and the Governor's Mansion Restoration Project. The agency will also significantly increase its HUB spending in the other services category in fiscal year 2012, having already secured two large HUB contracts for housekeeping for all of its buildings and grounds keeping services for the Capitol.

Recommendations

Change in Statute

1.1 Continue the State Preservation Board for 12 years.

This recommendation would continue the State Preservation Board for the standard 12-year period as an independent agency. Continuing SPB would ensure ongoing preservation and management of several of the State's important and historic landmarks. SPB's efforts would help protect the State's \$281 million investment in the Capitol and its grounds, Capitol Extension, Capitol Visitors Center, Governor's Mansion, and the Bob Bullock Texas State History Museum.

1.2 Allow certain Board members to designate representatives to participate in State Preservation Board meetings.

This recommendation would allow the Board members with the greatest need for scheduling flexibility, the Governor, Lieutenant Governor and Speaker of the House of Representatives, to designate a representative to act on their behalf during board meetings, including the ability to vote. A designee provision would provide greater flexibility to ensure needed meetings could be scheduled in a timely manner. This recommendation would not require any of the Board members to name a designee, only that they would have that option. Board members would always have the ability to attend and vote in person.

1.3 Require the Board to meet at least twice per year.

This recommendation would require the Board to meet twice per year, and at other times at the call of the Governor and as provided by Board rule. More frequent meetings would allow for more Board oversight of agency operations, particularly related to rulemaking, planning and budgeting, and internal audit practices, but would still allow for needed flexibility in scheduling these meetings. This recommendation would also provide for more transparency in governance and opportunities for public input on the operations of the Board and agency.

Management Action

1.4 The Board should resume oversight of SPB at a level typical of other agencies.

If Recommendations 1.2 and 1.3 are adopted, the Board should resume more regular involvement in and oversight of the agency, including:

- having the internal auditor report directly to the Board, instead of the executive director, ensuring compliance with the Texas Internal Auditing Act;¹³
- annually reviewing and approving SPB's annual operating budget and work plan;¹⁴
- reviewing and approving SPB's Legislative Appropriations Request and Strategic Plan; and
- developing and implementing policies that clearly separate the policymaking responsibilities of the Board and the management responsibilities of the executive director and staff.¹⁵

These changes would bring the Board's level of involvement in and oversight of the agency more in line with its current statutory requirements and with the level of governance found at most other state agencies.

Fiscal Implication

If the Legislature continues the State Preservation Board, the general revenue portion of the agency's funding of about \$9.5 million per fiscal year, \$6 million of which is for debt service payments on the Museum, will be needed for the agency to continue to carry out its mission of preserving and maintaining the state's key historic sites, and their contents and grounds.¹⁶

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- ¹ The State Preservation Board holds an insurance policy in the amount of \$8.5 million to cover the historic artifact collection in the Capitol and Capitol Extension.
 - ² Legislative Budget Board, *Texas Government Effectiveness and Efficiency* (Austin: Legislative Budget Board, 2007), pp. 13–20.
 - ³ S.B. 147, 68th Texas Legislature, Regular Session, 1983, House Committee Report, Bill Analysis, p. 1.
 - ⁴ State Preservation Board, *Self-Evaluation Report* (Austin: State Preservation Board, 2011), p. 2.
 - ⁵ State Preservation Board, *Strategic Plan 2011–2015* (Austin: State Preservation Board, 2010) p. 7.
 - ⁶ State Preservation Board, *Self-Evaluation Report*, p. 5.
 - ⁷ State Preservation Board, February 1, 2007, January 5, 2010, April 13, 2010, and December 15, 2011, Open Meetings Act postings.
 - ⁸ S.B. 594, 71st Texas Legislature, Regular Session, 1989.
 - ⁹ S.B. 494, 76th Texas Legislature, Regular Session, 1999.
 - ¹⁰ Ibid.
 - ¹¹ Section 1231.021, Texas Government Code.
 - ¹² Section 325.011(9)(B), Texas Government Code.
 - ¹³ Section 2102.007, Texas Government Code.
 - ¹⁴ Section 443.007(3), Texas Government Code.
 - ¹⁵ Section 443.0043, Texas Government Code.
 - ¹⁶ This amount is based on the Method of Financing for fiscal year 2013, rather than 2012, which included appropriations for the restoration of the Governor's Mansion that are not ongoing.



RESPONSES TO ISSUE 1

Recommendation 1.1

Continue the State Preservation Board for 12 years.

Agency Response to 1.1

The State Preservation Board is in agreement with this recommendation. (John Sneed, Executive Director – State Preservation Board)

For 1.1

None received.

Against 1.1

None received.

Recommendation 1.2

Allow certain Board members to designate representatives to participate in State Preservation Board meetings.

Agency Response to 1.2

The Executive Director is discussing this issue with State Preservation Board members and possible options are being considered on how this provision might be implemented. (John Sneed, Executive Director – State Preservation Board)

For 1.2

None received.

Against 1.2

None received.

Recommendation 1.3

Require the Board to meet at least twice per year.

Agency Response to 1.3

The State Preservation Board is in agreement with this recommendation. (John Sneed, Executive Director – State Preservation Board)

For 1.3

None received.

Against 1.3

None received.

Recommendation 1.4

The Board should resume oversight of SPB at a level typical of other agencies.

Agency Response to 1.4

The State Preservation Board is in agreement with this recommendation. (John Sneed, Executive Director – State Preservation Board)

For 1.4

None received.

Against 1.4

None received.

COMMISSION DECISION ON ISSUE 1

(JUNE 2012)

Adopted Recommendations 1.1 through 1.4.

FINAL RESULTS ON ISSUE 1

(JULY 2013)

Legislative Action — S.B. 201

Recommendation 1.1 — Senate Bill 201 continues the State Preservation Board for 12 years.

Recommendation 1.2 — The bill allows the Governor, Lieutenant Governor, and Speaker of the House of Representatives to designate a representative to act on their behalf during board meetings, including the ability to vote.

Recommendation 1.3 — The bill requires the Board to meet at least twice per year.

Management Action

Recommendation 1.4 — The Board should resume oversight of SPB at a level typical of other agencies, such as annually reviewing and approving SPB's annual operating budget and work plan.

ISSUE 2

The State Preservation Board Lacks Certain Key Budgeting and Planning Tools Needed to Best Manage the Agency.

Background

The State Preservation Board (SPB) spent \$32.9 million in fiscal year 2011. About 60 percent of SPB's available funding is held in statutorily-established funds outside the Treasury, and the remaining 40 percent is general revenue.¹ The chart, *SPB Funding*, describes these funds.

SPB Funding

Fund	Purpose	Major Revenue Streams	FY 2011 Ending Balance
General Revenue	<ul style="list-style-type: none"> • Building maintenance and repair • Curatorial services • Visitors services • Indirect administration • Bob Bullock Texas State History Museum bond debt service, insurance, building maintenance, and operations • Governor's Mansion restoration and maintenance 	<ul style="list-style-type: none"> • Legislative appropriations 	\$10.3 million (carried forward to fiscal year 2012, primarily for the Governor's Mansion restoration)
Capitol Fund ¹	<ul style="list-style-type: none"> • Capitol, Capitol Extension, and Capitol Visitors Center building and grounds improvements and maintenance • Maintenance, acquisition and preservation of historic artifacts • Visitor education • Funding for the Capital Renewal Fund 	<ul style="list-style-type: none"> • Capitol gift shops • Capitol Grill • Capitol Complex parking meters • Capitol Visitors Parking Garage 	\$13.4 million ²
Capital Renewal Fund ¹	Major infrastructure projects of the Capitol, Capitol Extension, and Capitol Visitors Center	<ul style="list-style-type: none"> • Transfers from the Capitol Fund 	\$8.3 million
Bob Bullock Texas State History Museum Funds	Any Museum-related expense	<ul style="list-style-type: none"> • Museum earned revenues • Grants, donations, and sponsorships 	\$1.1 million ³

¹ Statutorily-established funds held outside the Treasury. Sections 443.0101 and 443.0103, Texas Government Code.

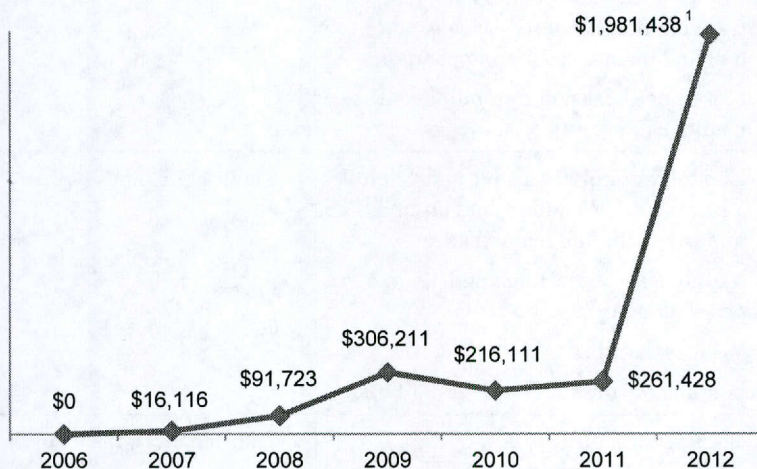
² Balance includes \$1.9 million held in the Capitol Visitors Parking Garage Fund and the Capitol Gift Shops Fund. These funds may be transferred to the Capitol Fund at any time.

³ Balance includes \$293,908 in the Museum Fund, established by Section 445.012, Texas Government Code, as well as \$798,427 in the Museum's operating fund.

Since the majority of SPB’s funding is held outside the Treasury, its budget is not subject to the same controls most state agencies receive through the appropriations process. Further, as discussed in more detail in Issue 1 of this report, SPB does not receive the direct, public oversight more typical boards regularly provide, including formal board review and approval of the agency budget. Therefore, having a clear and consistent budgeting process is critical to effectively plan for and manage agency finances, particularly as the Legislature is asking SPB to do more with less state funding.

Since fiscal year 2007, SPB’s legislative appropriations have not kept pace with the needs of the buildings under its care. Instead, the agency has increasingly relied on earned revenues held in the Capitol Fund to pay for its operations. The most significant shift occurred during the 82nd Legislative Session, in which the Legislature cut SPB’s biennial general revenue appropriation by over \$3 million. The agency replaced this funding with earned revenues accumulated over time in the Capitol Fund. The graph, *SPB Reliance on Capitol Fund for Building Maintenance and Repair*, shows SPB’s growing reliance on the Capitol Fund to pay for building costs. While SPB supplements funding for some of its other programs like Curatorial and Visitor Services using the Capitol Fund, the agency primarily uses the Capitol Fund for building maintenance and repair for the Capitol, Capitol Extension, and Capitol Visitors Center. As SPB relies more heavily on its funds held outside the Treasury to pay for needed activities, careful budgeting and planning becomes more critical to ensure the agency continues to effectively fulfill its mission.

**SPB Reliance on Capitol Fund for Building Maintenance and Repair
FYs 2006–2012**



¹ Budgeted to cover General Revenue cut from Facilities Division appropriation.

Source: State Preservation Board, 2006–2011 Financial Reports, Annual Report on the Capitol Fund, Building Benefit account expenditures.

While SPB relies on a combination of earned revenues and general revenue to maintain and preserve the Capitol, Capitol Extension, and Capitol Visitors Center, it depends almost entirely on earned income, such as admissions revenue, to fund the operations of the Bob Bullock Texas State History Museum (Museum). Unlike the Capitol, the Museum does not have a fund dedicated specifically to major infrastructure repair and replacement. While the Legislature appropriates funds to pay the

Museum's bond debt service, the Museum received its first general revenue appropriation of \$500,000 in fiscal year 2010 for deferred maintenance and repair.² The agency also receives a combination of general revenue and privately raised funds for restoration costs for the Governor's Mansion, and expects general revenue for the ongoing management of the Mansion. However, SPB does not have dedicated sources of revenue to help pay for future maintenance and capital costs of the Mansion.

Findings

The agency lacks a comprehensive operating budget that incorporates all of SPB's revenues and expenditures.

Agencies should operate off a clear budget that includes all projected expenditures and revenues. As with any business, a comprehensive budget is critical to effective management of an agency and ensures transparency. Currently, SPB's operating budget does not meet this standard. While agency management has an effective budget development process, the agency does not have a comprehensive budget document that includes all the agency's revenues and expenditures. Instead, this information is divided among several different documents and detailed spreadsheets and does not include all revenues and expenditures, as described below. This approach frustrates understanding of agency finances, particularly for those not closely involved in day-to-day operations. Without a comprehensive operating budget document, SPB cannot provide a complete and understandable picture of its finances and operations.

SPB's approach to budgeting frustrates understanding of agency finances.

- **Capitol Fund.** The agency relies on the Capitol Fund to supplement general revenue to preserve and maintain its historic buildings and artifacts. Prior to January 2012, SPB's operating budget did not include all of the expenditures the agency plans to make from the Capitol Fund, even though many of these are routine and expected expenditures. Before this revision, SPB's operating budget included staff salaries and some other costs from the Capitol Fund, but did not include other predictable expenditures, listed in the textbox *Routine Capitol Fund Expenditures*.
- **Capital Renewal Fund.** The agency also does not include the Capital Renewal Fund in its operating budget, further contributing to an incomplete financial picture of overall agency spending. In fiscal year 2011, the Capital Renewal Fund comprised about \$3.2 million of the agency's \$32.9 million in total expenditures, about 10 percent of total spending.

Routine Capitol Fund Expenditures

- Preventive maintenance contracts for fire protection, security systems, elevators, and generators
- General maintenance and repair, such as window washing and light bulb replacement
- Capitol historical artifact, artwork, and furniture repairs
- Maintenance, repair, and renovations of the Capitol Grill
- Educational brochures
- Research and development of the Capitol Visitors Center educational exhibits

The State Preservation Board does not have a comprehensive approach to prioritize and budget for capital improvement projects.

Agencies responsible for extensive capital improvement projects should have a process for identifying the need for capital improvements, prioritizing those needs and tying funding to the projects. SPB achieves some, but not all of this standard.

Although SPB identifies the potential capital improvement needs of its buildings on an ongoing basis, the agency lacks a complete approach to prioritize and budget for these projects. SPB staff maintains a five-year capital improvement project list for all of its buildings. The textbox, *Capital*

Improvement Projects, provides examples of these types of projects. Agency staff has thorough knowledge of the buildings under its care and continually monitors the condition of the buildings, but does not tie needs, funding, and decision making together. Instead, the executive director, with input from the facilities director, works informally with Board members and their staffs to decide which projects to fund. These funding needs are not reflected in the agency budget or in a formal capital plan. However, tighter budget constraints and increasing needs, as discussed below, emphasize the need for SPB to establish a more formal, visible capital planning and budgeting process.

Capital Improvement Projects

Capitol /Capitol Extension/Capitol Visitors Center

- Historic carpet replacement
- Fresh air unit replacements
- Elevator modernization

Bob Bullock Texas State History Museum

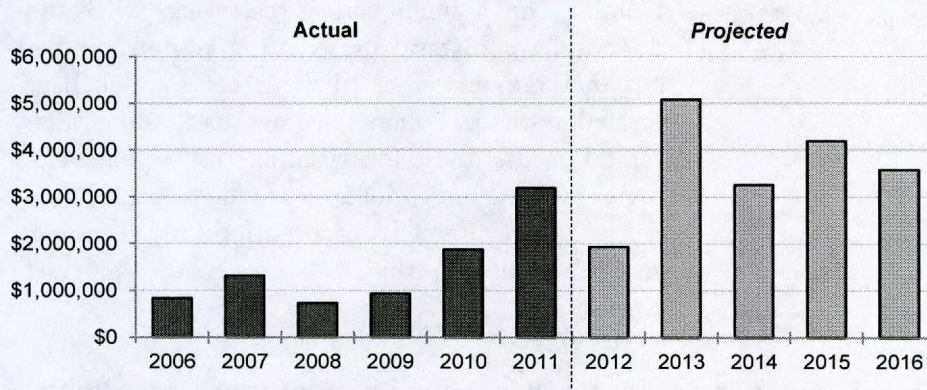
- Fire system upgrade
- Roof replacement
- HVAC control system upgrade

SPB will likely not have enough funding to pay for all identified capital needs.

- **Capitol, Capitol Extension, and Capitol Visitors Center.** While SPB has historically enjoyed sufficient resources to perform all necessary preventive maintenance and carry out capital improvement projects for the Capitol, Capitol Extension, and Capitol Visitors Center, SPB will likely not have enough funds in the Capital Renewal Fund to pay for all projects in the current capital improvement schedule for fiscal years 2012–2016. For example, if SPB were to carry out all projects it has listed for fiscal years 2012 and 2013 only, the agency would spend \$7 million, or nearly the entire \$8.32 million balance in the Capital Renewal Fund.

The chart on the following page, *Capital Renewal Fund Actual and Projected Expenditures*, shows actual expenditures from the Capital Renewal Fund over the last six fiscal years and SPB’s cost projections for the next five fiscal years. Overall, the chart shows a significant upward cost trend, demonstrating the buildings’ needs are increasing. However, due to the significant reduction in the agency’s general revenue funding, SPB may not be able to maintain a balance in the Capital Renewal Fund sufficient to cover all identified needs, particularly since the Legislature may or may not restore this funding in future years. If the Legislature requires SPB to continue relying on the Capitol Fund to fund its operations, SPB may not have funding available to replenish the Capital Renewal Fund, limiting the agency’s ability to fund needed capital improvement projects.

**Capital Renewal Fund
Actual and Projected Expenditures
FYs 2006–2016**



- Bob Bullock Texas State History Museum.** The agency's ability to set aside funding from Museum operating revenues for major repair and replacement costs has been limited, as discussed further in Issue 3. As a result, SPB has to rely on general revenue appropriations to supplement earned revenues and help fund growing repair and replacement needs, in addition to other operational costs, such as staff salaries. The agency received \$500,000 in general revenue for the 2010–2011 biennium, and \$1 million for 2012–2013. The Museum is over 10 years old, and building systems and equipment are aging and will need replacement.³ As such, SPB needs a process to identify, prioritize, and budget for capital improvement projects to request additional state appropriations if needed, and match available resources with the most critical needs.
- Governor's Mansion.** The agency must rely exclusively on general revenue to fund preservation and maintenance of the Governor's Mansion, as it has no sources of earned revenue to support this function. Though the Governor's Mansion will be newly restored in June 2012, the building will eventually require capital repairs and replacement. The agency should include the Mansion in its process to define and articulate these needs and plan for future funding requirements.

The Museum's systems and equipment are aging and will soon need replacement.

The State Preservation Board's capital planning and budgeting process varies from standard state agency practices.

Several state agencies with building management functions, such as the Department of Criminal Justice, Parks and Wildlife Department, and Texas Department of Transportation, have well-documented capital planning and budgeting processes in place to identify and prioritize needs, and link them to their agencies' overall budgets.

These agencies differ from SPB in that they must adopt a capital budget because they depend entirely on legislative appropriations to pay for projects, and must clearly articulate their priorities to the Legislature as part of the

Common Features of State Agency Capital Planning Processes

- Standard agency operating procedures that articulate the process
- Prioritization process with criteria
- Preparation of capital spending plan based on prioritization of projects
- Plans and budgets approved by governing boards, typically as part of the agency's Legislative Appropriations Request

appropriations process. The textbox describes some of the *Common Features of State Agency Capital Planning Processes*. These other agencies manage buildings on a much larger scale than SPB and do not have historic preservation responsibilities, but they are similar to SPB in that they all have limited resources when it comes to funding their capital needs. These formal processes help agencies better evaluate and prioritize which projects should receive more immediate attention and funding, and communicate this to their boards and the Legislature.

The agency does not regularly assess its enterprise operations to help guide financial decision making.

As a result of the agency's growing reliance on its earned income, SPB would benefit from a regular assessment of its various enterprise operations to identify measurable goals and strategies to maximize revenue, and in turn generate additional resources to fulfill its mission. SPB staff recently created

Retail Plan Strategies

- Upgrade website
- Upgrade point-of-sale system
- Increase overall marketing efforts
- Implement marketing strategy to increase Capitol Ornament sales
- Develop new products

a plan to implement new revenue-generating initiatives. A major component of these initiatives consists of strategies to increase gift shop sales, as described in the textbox *Retail Plan Strategies*. With about \$2.2 million in fiscal year 2011 sales, gift shops are the agency's primary source of earned income to support Capitol-related programs and projects. Following a regular, proactive approach in assessing its enterprise operations would better ensure SPB identifies and takes advantage of opportunities to earn additional revenues needed to support its mission.

Recommendations

Management Action

2.1 Direct SPB to create a comprehensive five-year capital improvement plan across all properties it manages and an annual project schedule.

This recommendation would direct SPB to develop a formal, documented approach to capital improvement planning and budgeting that would articulate needs across all the properties it manages, including estimated costs, justification, prioritization, and funding sources. As part of this process, SPB should carry out the following activities.

- Identify and provide a description of each project and its estimated cost.
- Formalize a process for documenting and keeping condition information on building components up to date.
- Adopt and document prioritization criteria for use in ranking projects for each building.

- Formalize project prioritization and provide justification for each project.
- Identify projected source(s) of funding.

The agency should use this information to create a five-year capital improvement plan, updated at least annually, and use the plan as the basis for an annual project schedule that includes all properties the agency manages. The Board should approve both the five-year plan and the annual schedule. For the Museum and the Governor's Mansion, the agency should base its Legislative Appropriations Request off the five-year plan. The recommendation is not intended to limit SPB's flexibility in addressing unexpected needs and deferring projects as conditions warrant. In these cases, SPB should reflect these changes in annual updates of the five-year plan and annual project schedule. As a result of this recommendation, SPB would develop a clear, consistent process to justify and prioritize these projects to meet the most critical needs within limited resources.

2.2 Direct SPB to create and maintain an agency operating budget that includes all areas of expenditure and funding.

Under this recommendation SPB should develop and maintain a comprehensive operating budget that incorporates all of its revenues and expenditures, including those from its funds held outside the Treasury. The operating budget should be presented as a single, summarized document and should be used in addition to the agency's more detailed, internal budget documents and spreadsheets. Maintaining a comprehensive and more understandable operating budget would provide a complete and more transparent financial picture of the agency for the Board, agency staff, Legislature, and the public.

2.3 SPB should conduct a regular, comprehensive assessment of the agency's enterprise functions to evaluate potential for optimizing revenue.

This recommendation should direct SPB to implement a process by which it regularly evaluates its enterprise operations. As part of this process, SPB should carry out the following activities.

- Develop overall goals, such as increasing sales, and strategies needed to achieve them, such as future marketing campaigns.
- Identify specific performance measures to track progress, such as estimates of expected revenues and return on investment.

Through a regular assessment and planning process, SPB would have an ongoing opportunity to evaluate its enterprise activities and determine if they are generating desired income and develop strategies for maximizing income.

Fiscal Implication

These recommendations would not have a fiscal impact to the State. However, these recommendations would help provide the agency, Board, and Legislature with more complete and understandable information on which to base financial decisions, and could result in additional enterprise revenues. These recommendations would also assist SPB in providing the Board and Legislature with more comprehensive information on the capital improvement needs of the buildings under its care.

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¹ Article I (H.B. 1), Acts of the 82nd Legislature, Regular Session (the General Appropriations Act).

² State Preservation Board, *Strategic Plan 2011–2015* (Austin: State Preservation Board, 2010), p. 18.

³ *Ibid.*, p. 13.

RESPONSES TO ISSUE 2

Recommendation 2.1

Direct SPB to create a comprehensive five-year capital improvement plan across all properties it manages and an annual project schedule.

Agency Response to 2.1

The State Preservation Board is in agreement with this recommendation. (John Sneed, Executive Director – State Preservation Board)

For 2.1

None received.

Against 2.1

None received.

Recommendation 2.2

Direct SPB to create and maintain an agency operating budget that includes all areas of expenditure and funding.

Agency Response to 2.2

The State Preservation Board is in agreement with this recommendation. (John Sneed, Executive Director – State Preservation Board)

For 2.2

None received.

Against 2.2

None received.

Recommendation 2.3

SPB should conduct a regular, comprehensive assessment of the agency's enterprise functions to evaluate potential for optimizing revenue.

Agency Response to 2.3

The State Preservation Board is in agreement with this recommendation. (John Sneed, Executive Director – State Preservation Board)

For 2.3

None received.

Against 2.3

None received.

COMMISSION DECISION ON ISSUE 2

(JUNE 2012)

Adopted Recommendations 2.1 through 2.3.

FINAL RESULTS ON ISSUE 2

(JULY 2013)

Management Action

Recommendation 2.1 — Direct SPB to create a comprehensive five-year capital improvement plan across all properties it manages and an annual project schedule.

Recommendation 2.2 — Direct SPB to create and maintain an agency operating budget that includes all areas of expenditure and funding.

Recommendation 2.3 — SPB should conduct a regular, comprehensive assessment of the agency's enterprise functions to evaluate potential for optimizing revenue.

ISSUE 3

The Bob Bullock Texas State History Museum Needs Planning Tools and a Clear Management Structure to Best Ensure Its Success.

Background

In 1999, the 75th Legislature authorized the State Preservation Board (SPB) to develop and construct a state history museum.¹ The Bob Bullock Texas State History Museum (Museum) opened in 2001 for the purposes of educating and engaging visitors in the unique history and story of Texas. The State invested about \$80 million in Museum construction, interior design, and initial exhibits. In fiscal year 2011, about 465,000 visitors came to the Museum, including about 75,300 school children that visited for free. The textbox, *Museum Attractions and Amenities*, shows key elements of the Museum.

Statute requires SPB to govern and provide for the Museum's operations.² The Museum is a division of the agency and the executive director hires the museum director to direct and oversee the Museum's daily operations. In fiscal year 2011, the Museum had 55 full-time and 27 part-time employees in visitor services, exhibits, education, marketing, theaters, gift shop, and maintenance. In addition, SPB provides facilities, housekeeping, grounds keeping, human resources, accounting, and other support services to the Museum.

In fiscal year 2011, the Museum spent about \$6.2 million on its operations and about \$228,300 on infrastructure needs.³ The textbox, *Key Museum Earned Revenues*, shows the Museum's largest sources of revenues. The Legislature also appropriates about \$6 million to SPB annually in general revenue to pay for debt service on the \$79.2 million in bonds issued to finance the Museum's construction.⁴

The Museum also receives funding from the Texas State History Museum Foundation (Foundation), a private nonprofit established in 1999 to support the Museum. Since the opening of the Museum in 2001, the Foundation has provided approximately \$2.8 million and other non-cash donations to the Museum. In the past, the Foundation has provided a part of the proceeds from its annual gala (up to \$250,000 annually) to the Museum, as well as grants from its endowment. Recently, however, the Foundation agreed to take on a significantly larger role in supporting the Museum by committing to raise about \$10 million to support the Museum's new Strategic Plan. The Foundation's Board has 31 members, including the SPB executive director and museum director who serve as nonvoting ex officio members.

Museum Attractions and Amenities

The Museum tells the "Story of Texas," through three floors of permanent exhibits focused on the themes of land, opportunity, and identity. The Museum also offers the following:

- one or two special exhibits per year;
- 400 seat IMAX theater showing documentary and feature films;
- 200 seat Texas Spirit Theater showing Texas-themed films;
- gift shop;
- café and catering services; and
- rental space for events.

Key Museum Earned Revenues FY 2011

- IMAX theater – \$1.8 million
- Gift shop sales – \$1 million
- Exhibit admissions – \$829,640
- Facility rentals – \$502,300
- Parking fees – \$376,090
- Membership fees – \$360,480
- Texas Spirit Theater – \$333,670
- Exhibit rentals – \$105,000

Findings

The Museum does not have operational independence, unlike standard practice in the industry.

When examining the structure and operations of the Museum, several problems stand out.

- **Unclear roles.** The roles and responsibilities for the management of the Museum are not clearly defined. Under the agency’s current structure, the executive director is ultimately accountable and makes final decisions for most of SPB’s operations, including the Museum. As a result, the executive director devotes a significant amount of time to Museum-related business that can include daily involvement in Museum activities, attending weekly staff meetings, reviewing and approving exhibits, and making programmatic and business decisions. Meanwhile, SPB employs a museum director with extensive museum operations experience who has limited authority over Museum operations. For example, the museum director can recommend changes to help maximize Museum revenues, such as programming a blend of documentary and feature films for the IMAX theater, but ultimately such decisions rest with the executive director.

While SPB employs a qualified museum director, the agency’s executive director makes most key decisions.

- **Lack of accreditation.** The lack of a clear delineation of authority between the executive director and museum director may hinder accreditation by the American Association of Museums which the Museum is currently seeking. Achieving accreditation is one of the goals in the Museum’s Strategic Plan and would ensure that the Museum adheres to best practices for governance, accountability, planning, financial stability, and risk management.

For accreditation, the American Association of Museums requires a museum’s governing entity to formally authorize full responsibility for museum operations to the museum director, and to ensure clarity of roles and responsibilities between the governing entity and staff.⁵ The museum director does not have formal authority to operate and manage key aspects of Museum operations, such as hiring and firing staff, executing the budget, and authorizing exhibits. Instead, the executive director has final authority over the Museum’s operations. For example, the museum director can propose and develop exhibits, but the authority to approve them rests with the executive director.

Clear delegation of authority to the museum director is a key requirement for national accreditation.

- **Other state museums.** Research conducted on the governing structures of five other accredited state history museums in Arizona, New Mexico, North Carolina, South Carolina, and Washington, as well as the Institute of Texan Cultures in San Antonio shows these museum directors have clear roles and accountability to effectively manage their museums. These directors are accountable to a governing entity or individual, such as a board, Secretary, or University Vice President. For example, the Director

of the Washington State History Museum has full authority to operate the Museum, and reports to a Board of Trustees whose composition includes the Governor, Secretary of State, and four members of the Legislature.

The Museum lacks important planning and reporting requirements to best monitor and evaluate the Museum's operations, performance, and long-term success.

The Museum is not required to produce important planning and budgeting documents needed to provide direction and evaluate the effectiveness and success of an organization. Instead, information about the Museum is typically presented in general agencywide reports, such as SPB's Strategic Plan, that provide information about all of the agency's divisions and their functions and responsibilities. Without its own planning and reporting requirements, the Museum, SPB and its Board, and the Legislature do not have a complete picture of the Museum's overall activities and financial viability to help make fully informed decisions about the Museum's future.

- **Annual Report.** The Museum does not produce an annual report that provides information on the Museum's goals, achievements, performance, and budget. Without this, the Museum and the Board lack an important management and oversight tool. While the Museum provides some information on its activities and finances through agencywide reports, these reports do not provide a full picture of the Museum's funding, such as its general revenue and contributed income support.
- **Strategic Plan.** While not statutorily required, the Museum recently completed a five-year Strategic Plan for 2011–2016, with the goal of making the Museum one of the leading history museums in the country.⁶ The textbox, *Museum Strategic Plan Priorities*, provides additional details from the Plan. Previously, Museum planning efforts focused more on operational issues such as building infrastructure and meeting annual budget needs, rather than performance objectives such as engaging a broader audience to increase attendance and support to help ensure success.⁷ However, no requirement exists to ensure the Museum monitors the Strategic Plan's outcomes and regularly updates it.
- **Annual Museum Fund Report.** The Texas Sunset Act requires the Sunset Commission to make recommendations on the continuation or abolition of each reporting requirement imposed on an

A complete picture of the Museum's overall activities and financial viability does not currently exist.

Museum Strategic Plan Priorities

1. Become the leading authority on Texas history by offering high quality and innovative exhibitions.
2. Significantly expand public programming to engage a broader, more diverse statewide audience.
3. Become a key partner in K-12 education and a resource for lifelong learning to meet the needs of the state and the local community.
4. Reinforce the Museum's brand and identity to affirm excellence and to increase visibility and attendance.
5. Secure the Museum's long-term sustainability and success by expanding public and private sector support.

Source: The Bob Bullock Texas State History Museum Strategic Plan, 2011–2016.

agency by law. The only report the Museum must prepare is a detailed annual report on the Bob Bullock Texas State History Museum Fund (Museum Fund).⁸ The annual report is the Legislature’s primary source of information about the financial status of the Museum Fund, and continues to serve a useful purpose.

The Museum struggles to be self-sufficient, creating a risk to the State if the Museum continues to operate at a loss and deplete the Museum Fund.

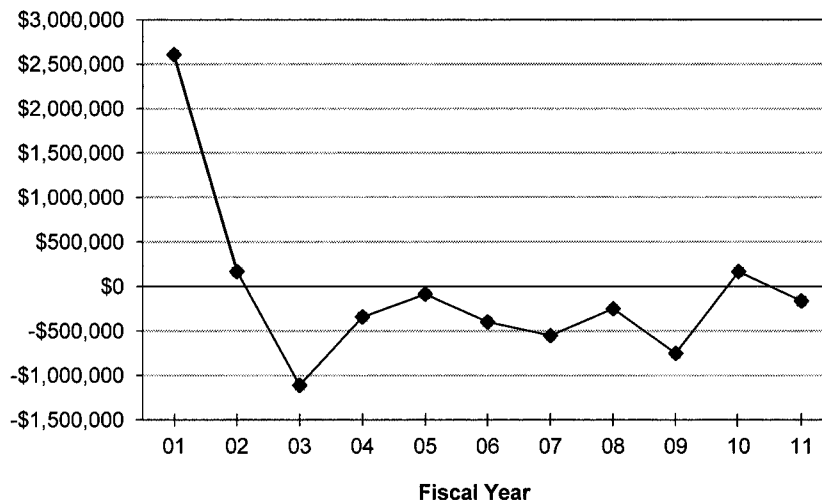
When the Legislature established the Museum, it intended the Museum’s operational costs to be paid from earned revenues, but also authorized the Legislature to provide funding to support the Museum if needed.⁹ Currently, the Museum does not receive a regular appropriation for its operations and relies almost exclusively on earned income to support its operations. The Legislature also appropriates about \$6 million a year to pay the bonds for construction of the Museum.

However, the Museum has difficulty earning enough operating revenues to cover its costs. The State Auditor’s Office reported that with the exception of fiscal year 2010, the Museum’s operating revenues have been on a relative decline, and during the last three fiscal years the Museum has operated at an average annual deficit of \$250,726.¹⁰ The chart, *Museum Operating Revenue Losses/Gains*, shows the Museum’s earned revenues did not cover operating costs in eight out of 11 years.¹¹

The Museum’s earned revenues did not cover operating costs in eight out of 11 years.

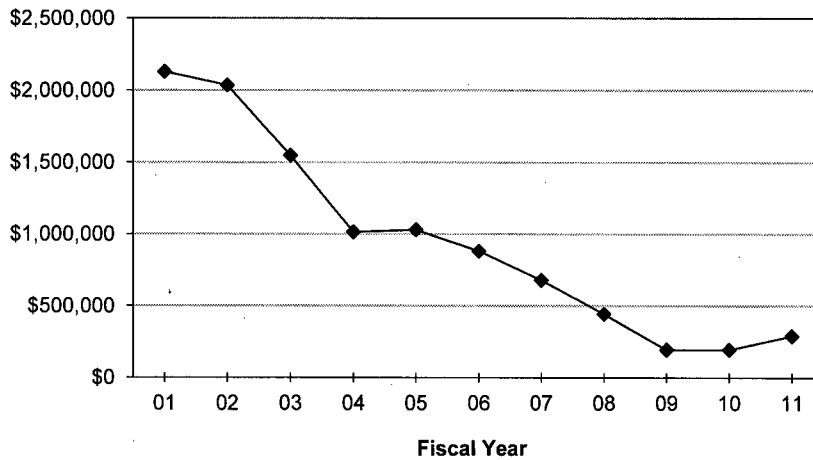
The Museum’s largest operating loss was \$1.1 million in FY 2003.

**Museum Operating Revenue Losses/Gains
FYs 2001–2011**



The Museum Fund, established in 2001 to serve as a two- to three-month emergency reserve, was rapidly depleted to cover these operating losses, as shown in the chart, *Museum Fund Balances*.¹² As a result, the Legislature, over the last two biennia, appropriated \$500,000 for deferred Museum maintenance and repair, and \$1 million for Museum operations, which can include deferred repair and replacement costs previously covered by the Museum Fund.

**Museum Fund Balances
FYs 2001–2011**



The Museum has rapidly depleted its reserves to make up for operating losses.

While not all financial losses can be fully predicted and mitigated, neither the Museum nor SPB has established a policy or priorities for spending and replenishing the Museum Fund balance, creating the risk the Fund may not be able to cover future needs such as emergency repairs, unanticipated exhibit expenses, or additional revenue shortfalls. Absent significant and consistent increases in earned revenues, grants, or contributions, the Museum will soon need additional funds to cover the costs of its operations and maintenance.

The Museum recognizes the need to further develop and improve its operations, but has no mechanism to obtain regular stakeholder input and expert advice.

As identified in its Strategic Plan, the Museum does not have a regular, formal means of receiving input and outside expertise on its exhibits, educational programs, and operations.¹³ While the Museum creates committees to advise on exhibits and sometimes contracts for needed expertise, these activities are short-term and typically limited to a specific exhibit. Without a consistent and reliable means to more broadly engage museum experts, historians, educators, and others, the Museum misses an opportunity to ensure it is best meeting its goals and fulfilling its mission.

Absent increased revenues, the State will have to pay more to support the Museum.

Recommendations

Change in Statute

3.1 Establish the museum director position in statute.

This recommendation would statutorily require the executive director to employ a museum director to manage and operate the Museum. This recommendation would help elevate the stature of the museum director, providing this position a greater voice in the agency, much like the Curator of the Capitol who is statutorily authorized to develop curatorial policies and programs.¹⁴

Management Action

3.2 Direct the Board to adopt a policy that clearly defines the roles and responsibilities of the museum director and the executive director.

Under this recommendation, the Board should adopt a policy to more clearly define the roles and responsibilities between the executive director and museum director in the management of the Museum. In adopting this policy, the Board should consider specifically delegating the following duties to the museum director:

- developing, managing, and approving Museum programming;
- managing the Museum's business operations, such as the theaters;
- developing and administering the Museum's annual operating budget;
- negotiating and signing any needed memoranda of understanding for the Museum; and
- hiring and managing Museum employees.

With the adoption of this policy, the job descriptions of the museum director and executive director would need revision to reflect their updated roles and responsibilities. This recommendation would better use the museum director's experience and expertise to best manage the Museum, and allow the executive director to focus on the growing demands of preserving SPB's historic buildings and grounds rather than Museum operations. The museum director should be integrally involved in café and gift shop decisions, but not necessarily be fully responsible for these operations. This recommendation could also help the Museum in its efforts to gain national accreditation by clearly delineating authority between the executive director and museum director, and ensuring that the organizational structure works effectively to advance the Museum's mission.

Change in Statute

3.3 Require the agency to develop a separate strategic plan and annual report for the Museum, and continue to provide the Museum Fund Annual Report.

Under this recommendation, the agency would develop and regularly update a strategic plan to guide the mission, goals, and activities of the Museum. While the Museum's current strategic plan meets this requirement, the recommendation would ensure this important activity continues in the future. The agency would also produce an annual report on the Museum. This annual report could include the following elements:

- program accomplishments and future plans;
- organizational, staffing, and volunteer needs and accomplishments;

- a comprehensive budget, including all revenues and expenditures;
- performance measures;
- fundraising and membership information; and
- recognition of foundations, sponsors, and donors.

The agency would develop and update both the strategic plan and annual report, to be submitted to the Board for review and approval each fiscal year. As a result of this recommendation, the agency would provide needed information to the Board to keep it apprised of the Museum's activities and financial status. This recommendation would also authorize continued production of the Museum Fund Annual Report to ensure the Legislature and others remain fully informed about the Fund.

3.4 Require the Board to develop a policy on the use of the Museum Fund that governs the Fund's balances.

Under this recommendation the Board would adopt a policy specifying the purpose and approved uses of the Museum Fund. The Board should consider requiring the Museum Fund to reach an operating reserve of two months or approximately \$1 million and that the Fund be used to cover unanticipated operating or capital costs, such as emergency repairs.¹⁵ The Board should also consider requiring expenditures from the Museum Fund be reimbursed as soon as funds become available to help the Museum achieve greater financial stability.

3.5 Authorize the museum director to create an advisory council to provide additional advice and expertise on Museum programming and operations.

This recommendation would statutorily allow, but not require, the museum director to appoint an advisory council, which could include persons with museum expertise, historians, academics, and others such as business and community members. The council would meet on an as-needed basis, and its composition would be determined by the museum director. This recommendation would provide a way for the Museum to draw upon needed expertise to provide input and advice on the Museum's mission, programming, and operations to ensure its continued success and sustainability.

Fiscal Implication

These recommendations would not have a fiscal impact to the State.

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- ¹ H.B. 1107, 75th Texas Legislature, Regular Session, 1997.
 - ² Section 445.002, Texas Government Code.
 - ³ State Preservation Board, *2011 Financial Reports* (Austin: State Preservation Board, 2011), p. 33.
 - ⁴ The Texas Public Finance Authority initially issued \$78.6 million in building revenue bonds to finance the Museum construction. A refunding of the revenue bonds in 2005 increased the principal amount by \$615,000, bringing this amount to \$79.2 million, resulting in an overall reduction of \$2.6 million in interest due.
 - ⁵ The American Association of Museums, *The Accreditation Commission's Expectations Regarding Delegation of Authority* (January 2005), accessed March 2, 2012, <http://www.aam-us.org/museumresources/accred/upload/Delegation%20of%20Authority%20ACE%20%282005%29.pdf>.
 - ⁶ State Preservation Board, *The Bob Bullock Texas State History Museum Strategic Plan 2011–2016* (Austin: State Preservation Board, 2011), p. 2.
 - ⁷ *Ibid.*, p. 9.
 - ⁸ Section 445.012(c), Texas Government Code.
 - ⁹ Section 445.011(a), Texas Government Code.
 - ¹⁰ State Auditor's Office, *An Audit Report on the Bob Bullock State History Museum* (Austin: State Auditor's Office, February 2012) Report No. 12-016, p. 2.
 - ¹¹ The agency covers operating losses by transferring funds from the Museum Fund to the Museum's operating account, so annual net losses would be less than those shown in the chart.
 - ¹² State Preservation Board, *Strategic Plan 2011–2015* (Austin: State Preservation Board, 2010), p. 18.
 - ¹³ State Preservation Board, *The Bob Bullock Texas State History Museum Strategic Plan 2011–2016*, p. 6.
 - ¹⁴ Section 443.006, Texas Government Code.
 - ¹⁵ Based on an annual operating budget of about \$7 million, a two-month operating reserve would be about \$1 million.

RESPONSES TO ISSUE 3

Recommendation 3.1

Establish the museum director position in statute.

Agency Response to 3.1

This recommendation has merit and will provide a beneficial management and planning tool for the Museum. (John Sneed, Executive Director – State Preservation Board)

For 3.1

None received.

Against 3.1

None received.

Recommendation 3.2

Direct the Board to adopt a policy that clearly defines the roles and responsibilities of the museum director and the executive director.

Agency Response to 3.2

This recommendation has merit and will provide a beneficial management and planning tool for the Museum. (John Sneed, Executive Director – State Preservation Board)

For 3.2

None received.

Against 3.2

None received.

Recommendation 3.3

Require the agency to develop a separate strategic plan and annual report for the Museum, and continue to provide the Museum Fund Annual Report.

Agency Response to 3.3

This recommendation has merit and will provide a beneficial management and planning tool for the Museum. However, the Museum is unlike most state agencies, or divisions of state agencies. The Museum is a dynamic institution that sometimes must quickly pivot to react to the marketplace or take advantage of opportunities.

Agency Modification

1. Change Recommendation 3.3 from a statutory to a management recommendation. This will provide sufficient flexibility to provide the Board with the most effective and useful management and planning tools possible.

(John Sneed, Executive Director – State Preservation Board)

For 3.3

None received.

Against 3.3

None received.

Recommendation 3.4

Require the Board to develop a policy on the use of the Museum Fund that governs the Fund's balances.

Agency Response to 3.4

This recommendation has merit and will provide a beneficial management and planning tool for the Museum. However, the Museum is unlike most state agencies, or divisions of state agencies. The Museum is a dynamic institution that sometimes must quickly pivot to react to the marketplace or take advantage of opportunities.

Agency Modification

2. Change Recommendation 3.4 from a statutory to a management recommendation. This will provide sufficient flexibility to provide the Board with the most effective and useful management and planning tools possible.

(John Sneed, Executive Director – State Preservation Board)

For 3.4

None received.

Against 3.4

None received.

Recommendation 3.5

Authorize the museum director to create an advisory council to provide additional advice and expertise on Museum programming and operations.

Agency Response to 3.5

This recommendation has merit and will provide a beneficial management and planning tool for the Museum. (John Sneed, Executive Director – State Preservation Board)

For 3.5

None received.

Against 3.5

None received.

COMMISSION DECISION ON ISSUE 3

(JUNE 2012)

Adopted Recommendations 3.1 and 3.2.

Modified Recommendations 3.3, 3.4, and 3.5 to make them management actions rather than statutory requirements, and directed SPB to complete these actions by January 2013.

FINAL RESULTS ON ISSUE 3

(JULY 2013)

Legislative Action — S.B. 201

Recommendation 3.1 — Senate Bill 201 requires the executive director of the State Preservation Board to employ a museum director to manage and operate the Museum.

Management Action

Recommendation 3.2 — Direct the Board to adopt a policy that clearly defines the roles and responsibilities of the museum director and the executive director in the management of the Museum.

Recommendation 3.3 — Direct the agency to develop a separate strategic plan and annual report for the Museum by January 2013, and continue to provide the Museum Fund Annual Report.

Recommendation 3.4 — Direct the Board to develop a policy on the use of the Museum Fund that governs the Fund's balances by January 2013.

Recommendation 3.5 — Provides the museum director with authority to create an advisory council to provide additional advice and expertise on Museum programming and operations by January 2013.

ISSUE 4

The State Preservation Board Benefits From the Support of Its Affiliated Nonprofit Organizations, but Additional Controls Are Needed.

Background

The State Preservation Board (SPB) has developed partnerships with private nonprofit organizations to further the agency's mission and goals. Established in 1999, the Texas State History Museum Foundation (Foundation) raises funds to help support the programs and activities of the Bob Bullock Texas State History Museum (Museum). In 2011, the Legislature gave SPB statutory authority to establish other organizations to raise funds or provide services or other benefits to SPB for the Capitol, Capitol Extension, and Capitol Visitors Center. The agency is currently in the planning stages of establishing another affiliated nonprofit organization, the Friends of the Capitol.

In addition to the Foundation and Friends of the Capitol, SPB has a relationship with the Friends of the Governor's Mansion due to the agency's responsibility for the restoration and ongoing preservation and maintenance of the Governor's Mansion. However, this relationship is much less direct since statute requires the Texas Historical Commission (THC), not SPB, to oversee the contents of the Governor's Mansion and to contract with the Friends of the Governor's Mansion for assistance in managing the collection. The chart, *SPB Affiliated Nonprofit Organizations*, provides additional information about each of these organizations.

SPB Affiliated Nonprofit Organizations

Organization	History and Purpose	Board Structure	Benefits	Statutory Reference
Texas State History Museum Foundation	Established in 1999 to raise funds to support the Bob Bullock Texas State History Museum.	31 members, including the SPB executive director and museum director who serve as nonvoting ex officio members.	Contributed approximately \$2.8 million and other non-cash donations to the Museum since its opening in 2001.	Section 445.013, Government Code authorizes the Museum to establish the Foundation.
Friends of the Capitol	Authorized by the Legislature in 2011 to raise private funds for the Capitol, Capitol Extension, and Capitol Visitors Center.	Not yet fully established. The SPB executive director will serve as a nonvoting ex officio member.	To be determined.	Section 443.030, Government Code authorizes SPB to establish Friends of the Capitol.
Friends of the Governor's Mansion	Established in 1979 to raise private funds for the Governor's Mansion.	24 voting members, including two THC members. The Governor, First Lady, and THC executive director serve as nonvoting advisory members.	Manages the Governor's Mansion Collection using private funds, not state appropriations. Contributed \$117,000 to SPB for Governor's Mansion restoration landscaping.	Section 442.0071, Government Code governs THC's relationship with Friends of the Governor's Mansion.

Findings

While partnerships between state agencies and affiliated nonprofit organizations can benefit the state, they also entail inherent risks.

Relationships between state agencies and closely affiliated nonprofit organizations can be beneficial to the state when both partners adhere to established best practices. While state agencies generally have good relationships with these organizations, such partnerships also entail inherent risks.

Because of the close relationships of affiliated nonprofits with state agencies under Sunset review over the years, Sunset staff has identified standards of conduct and best practices for such organizations. These best practices, described in the chart, *Best Practices of Nonprofits with Close Relationships to State Agencies*, may not apply in every situation, but serve as a general guide to help agencies interact effectively and appropriately with their affiliated nonprofit organizations.

Best Practices of Nonprofits with Close Relationships to State Agencies

Harmony of Mission	The mission of a closely related nonprofit should be identical to that of the agency it supports.
Expenditures	Retention of funds by nonprofit organizations should be limited to reasonable operating expenses or held in investments. All other funds should be spent to support agency-directed priorities. State employees should not be able to directly spend nonprofit funds — the nonprofit and its employees should control all nonprofit expenditures.
Salary Supplements	Statute should prohibit an associated nonprofit from providing any supplement, bonus, or benefit directly to a state employee. These benefits could be provided to agencies for their discretionary award.
Sponsorships	When appropriate to the mission of a state agency, nonprofit organizations may solicit and accept corporate sponsorships. Nonprofits should establish selection criteria and guidelines when seeking corporate sponsorships and ensure that sponsorships serve the public interest.
Accounting and Reporting	Closely related nonprofits should file an annual report documenting allocation and use of funds and an annual independent audit should be required.
Regular Review / Expiration Clause	Nonprofits should not be self-perpetuating, but should be periodically reviewed to assess whether the purpose for which the nonprofit was created still exists, the nonprofit continues to serve that purpose, and the nonprofit is still needed.
Statutory Authorization	Nonprofit organizations discussed in statute are accountable for public actions. Statutory provisions can specify the purposes of the organization, establish board composition, and require nonprofits to follow best practices.
Board Composition	The board members of a closely related nonprofit should represent diverse points of view. Appointments should be made by the Governor or the agency's governing body for set terms of office. Current state agency employees should be ineligible to serve as voting members.
Conflicts of Interest	Statute should clearly prohibit state employees from holding paid positions with agency-related nonprofits and receiving direct benefits from the nonprofits. Nonprofits may, however, reimburse state employees for legitimate expenses.

Best Practices of Nonprofits with Close Relationships to State Agencies (continued)

Public Input and Public Information	Closely related nonprofits that provide a public service and spend public funds should be accessible to members of the public under the terms of the Open Meetings Act, and their records should be accessible under the Public Information Act.
Asset Management and Investors	State funds held by foundations should be invested according to the State's Public Funds Investment Act. In most cases, these provisions already apply to closely related foundations.
Prohibition on Lobbying	Policies should ensure that state-derived funds cannot be used to influence legislative action either by nonprofit organizations or by others funded through grants by nonprofits.
Fundraising	Because of the high potential for conflicts of interest, state employees with regulatory responsibilities should not be involved in soliciting funds. Fundraising activities should be limited to nonprofit employees or specifically authorized state employees whose jobs do not include regulatory duties.

The proposed rules governing SPB's relationships with affiliated nonprofit organizations do not fully adhere to common best practices.

Statute requires agencies with affiliated nonprofit organizations to adopt rules governing their relationships with these organizations.¹ While SPB established its first affiliated nonprofit in 1999, the agency has relied solely on a detailed memorandum of understanding (MOU) to define its relationship with the Foundation. After receiving authorization from the Legislature in 2011 to establish other affiliated nonprofit organizations to provide support for the Capitol, the Board recently proposed rules to govern the agency's relationships with all of its affiliated nonprofit organizations. However, the proposed rules do not include some of the best practices described in the chart above, as described in the following material.

- **Expenditures.** The proposed rules generally require MOUs between SPB and its affiliated nonprofit organizations to define the appropriate use of funds. However, the proposed rules do not specifically provide that funds raised by affiliated nonprofits may be used only for agency-directed priorities, not priorities established by the nonprofits. The proposed rules also do not specifically prohibit SPB employees from directly spending the nonprofits' funds.
- **Salary Supplements.** While the proposed rules prohibit SPB employees from accepting paid employment with the agency's affiliated nonprofit organizations, they do not prohibit the nonprofits from providing salary supplements or other direct benefits to SPB employees. While these organizations can assist SPB by providing resources for staffing needs, SPB, not its affiliated nonprofits, should make the final decision on how to allocate these resources.
- **Sponsorships.** The proposed rules do not address SPB's affiliated nonprofits' solicitation and acceptance of corporate sponsorships. Corporate sponsorships can benefit SPB by providing additional

SPB should direct the use of funds raised, not its affiliated nonprofits.

resources, but the agency should have guidelines in place to ensure these sponsorships are appropriate and in alignment with its mission and serve the public interest.

- **Accounting and Reporting.** The proposed rules specify the MOUs between SPB and its affiliated nonprofit organizations will detail receipts and documentation of donations received and other records SPB may access. However, the proposed rules do not explicitly require an annual report, an annual audit, or other forms of reporting from affiliated nonprofits.
- **Regular Review.** The proposed rules do not provide for regular review of the purpose and continued need for SPB's affiliated nonprofit organizations. The MOU between SPB and the Foundation is for a term of two years, at which time SPB could review the purpose and need for the Foundation, but this review is not specifically required. The purpose for which the agency needs a nonprofit's assistance may evolve over time and requiring a regular review of this relationship can help ensure the organization continues to benefit the agency.

Recommendation

Management Action

4.1 The Board should modify its proposed rules governing SPB's relationships with its affiliated nonprofit organizations to specifically address the following standards and ensure adherence to accepted best practices.

The Board's rules governing the agency's relationships with affiliated nonprofit organizations should ensure SPB is in alignment with applicable accepted best practices and standards referenced in this report, including the following components.

- Prohibit SPB employees from directly spending or controlling affiliated nonprofits' funds, and clarify funds raised by the agency's affiliated nonprofit organizations be used only for SPB-directed priorities and legitimate operating expenses of the affiliated nonprofit organization.
- Prohibit SPB employees from accepting a salary supplement, bonus, or other direct benefit from affiliated nonprofit organizations. The rules should clarify, however, that affiliated nonprofits may provide financial or other benefits to SPB for discretionary award to employees. As such, SPB would make the final decision on awarding additional compensation or benefits to its employees, and not the affiliated nonprofit.
- Require the nonprofits to adopt criteria and guidelines for seeking corporate sponsorships to ensure any sponsorships obtained by the nonprofits serve the public interest and are in alignment with SPB's mission.
- Require, at a minimum, that affiliated nonprofit organizations provide SPB with an annual report and an annual audit. The rules may also require other forms of reporting between the agency and affiliated nonprofit organizations, such as regular reporting at board meetings of either the nonprofit or SPB.

- Require SPB and its affiliated nonprofits to review their relationships at regular intervals. This review should include consideration of the purpose and continued need for the affiliated nonprofit organization, and any changes needed given evolving conditions. This review could result in changes to SPB rules, changes to the MOU with the nonprofit, or both.

Fiscal Implication

This recommendation would not have a fiscal impact to the State. The Board could revise its rules with existing resources.

¹ Section 2255.001, Texas Government Code.



RESPONSES TO ISSUE 4

Recommendation 4.1

The Board should modify its proposed rules governing SPB's relationships with its affiliated nonprofit organizations to specifically address the following standards and ensure adherence to accepted best practices.

Agency Response to 4.1

The State Preservation Board is in agreement with this recommendation. (John Sneed, Executive Director – State Preservation Board)

For 4.1

None received.

Against 4.1

None received.

COMMISSION DECISION ON ISSUE 4

(JUNE 2012)

Adopted Recommendation 4.1.

FINAL RESULTS ON ISSUE 4

(JULY 2013)

Management Action

Recommendation 4.1 — The Board should modify its proposed rules governing SPB's relationships with its affiliated nonprofit organizations to specifically address the following standards and ensure adherence to accepted best practices. The rules should include the following components.

- Prohibit SPB employees from directly spending or controlling affiliated nonprofits' funds, and clarify funds raised by the agency's affiliated nonprofit organizations be used only for SPB-directed priorities and legitimate operating expenses of the nonprofit organization.

- Prohibit SPB employees from accepting a salary supplement, bonus, or other direct benefit from affiliated nonprofit organizations. Affiliated nonprofits may provide financial or other benefits to SPB for discretionary award to employees, but SPB would make the final decision on awarding its employees, not the affiliated nonprofit.
- Require the nonprofits to adopt criteria and guidelines for seeking corporate sponsorships to ensure any sponsorship serves the public interest and are aligned with SPB's mission.
- Require, at a minimum, that affiliated nonprofit organizations provide SPB with an annual report and an annual audit.
- Require SPB and its affiliated nonprofits to review their relationships at regular intervals, including consideration of the purpose and continued need for the affiliated nonprofit organization, and any changes needed.

ISSUE 5

Anticipated Changes in SPB's Workforce Could Leave the Agency Vulnerable to a Significant Loss of Institutional Knowledge Critical to Its Operations.

Background

The State Preservation Board (SPB) employs a highly skilled and experienced workforce. A majority of SPB's staff positions require a variety of special skills and training to carry out the agency's functions which include facilities maintenance and management; historic preservation; curating and preserving historical artifacts; retail management; and museum operations.¹

While SPB has retained personnel in key positions with a high degree of expertise, the majority of the agency's key management staff is nearing retirement, eligible for retirement, or return-to-work retirees. Currently, of SPB's eight divisions, two division directors are eligible to retire, and one has retired and been rehired. Also, as of fiscal year 2010, 38 percent of agency staff are 50 years old or older.²

Findings

The State Preservation Board is likely to experience a significant rise in staff turnover in the near future.

Impending retirements, compounded with turnover and attrition, will likely cause SPB to experience a significant loss of experienced staff in a short time frame. In just one year SPB experienced a 40 percent increase in staff eligible to retire by 2016, jumping from 36 employees to 59 employees, or 33 percent of the agency's workforce. Many of these retirement-eligible employees occupy key management positions within the agency. Nine out of 15 of SPB's key management staff will be eligible to retire by 2016, including five directors. Also, some current employees in key management positions have already retired from the State and been rehired, and may not remain with SPB for an extended period of time.

*By 2016,
one-third of
SPB staff will be
eligible to retire.*

The agency has not fully documented important staff policies and procedures.

The agency does not consistently document key staff functions and procedures in manuals or handbooks for the purpose of training new staff and ensuring retention of specialized knowledge developed by staff. For example, while SPB has agencywide policies related to standard training procedures on ethics, Equal Employment Opportunity, and employee benefits, SPB does not consistently identify and document more specialized functions related to its preservation, maintenance, special projects, and retail operations. Without documentation of these specialized functions, SPB cannot ensure consistent and competent performance in all of its divisions, and risks losing

valuable institutional knowledge. Because SPB has relied on its long-tenured employees to informally share institutional knowledge, it has not needed to formally document key policies and procedures. However, this is no longer the case in light of SPB's potential retirements along with its increased responsibilities.

Specialized aspects of maintaining and repairing the Capitol are not fully documented.

Existing policies and procedures are either not integrated into master documents or are not updated on a consistent basis throughout the agency. For example, specialized aspects of maintenance and repair, such as preserving the Capitol's vaulted brick ceilings, purchasing unique building fixtures, and sealing water leaks in the Capitol Extension, are not consistently documented in a readily usable format that could serve as a training resource. Rather, staff relies on a work order tracking system as well as an archive of emails and memos on how to carry out these various procedures and processes.

Some important institutional knowledge is not shared among SPB staff, such as the development, installation, and maintenance of wireless communications within the Capitol, Capitol Extension, and grounds. Key aspects of this communications system such as signal routing, identification of vendor equipment, protocols for vendors, solutions for "dead zones," and troubleshooting procedures lack formal documentation. Without formal documentation of the operations and maintenance of the wireless system, SPB could lose important information about the system, and troubleshooting procedures needed to ensure building occupants have uninterrupted wireless service.

The State Preservation Board recognizes the need for succession planning, but lacks a formal plan to deal with impending retirements and workforce changes.

Staff turnover will eventually result in a significant loss of institutional knowledge at SPB, especially at the management level. Because SPB performs such specialized duties, the loss of experienced staff will cause SPB to lose in-depth knowledge and valuable expertise regarding its preservation, curatorial, business enterprise, and other functions, leaving it with a less knowledgeable and experienced workforce. Although SPB recognizes the impending loss of key staff, it has not attempted to develop a formal plan to capture this institutional knowledge.

SPB is at risk of losing valuable staff expertise, leaving it with a less knowledgeable workforce.

The agency also lacks a formal program to train and develop employees to move into needed positions, including critical management positions. While SPB allows each of its divisions to allocate a portion of its funding to training opportunities, not all divisions do so. Training often occurs on an ad hoc and inconsistent basis throughout the agency. Also, SPB does not tie professional development to employees' evaluations to help identify training opportunities that could improve employee skills and performance. Without an agencywide professional development policy or program, staff

may not receive the training and skills needed to successfully advance up the career ladder. As a result, SPB may not be adequately preparing staff to move into positions vacated by retirements and other turnover.

Recommendations

Management Action

5.1 The State Preservation Board should develop and implement a succession plan to prepare for impending retirements and workforce changes.

The agency should develop a succession plan to prepare for both anticipated and unanticipated departures of key staff, including identifying positions critical to SPB's operations and establishing a comprehensive strategy for preparing new staff to assume these responsibilities. Also, SPB should identify critical vacant positions and positions at risk of becoming vacant in the near future, and provide training and development opportunities to employees eligible to move into these positions. The agency should develop and implement this plan as soon as possible, since several key staff have already reached or surpassed their retirement eligibility dates. A succession plan would reposition SPB to address future needs with current resources and ensure continuity of leadership.

5.2 Direct SPB to formally document and regularly update its key duties and procedures in writing, and make them available electronically.

This recommendation would help ensure SPB captures institutional knowledge and uses this information to develop and update employee manuals and other materials to reflect current job duties and procedures for all its programs. Documenting current practices would allow SPB to record valuable knowledge and expertise before staff leave, providing an effective tool to train new staff. The agency should make this information available to all staff electronically, such as through the agency's intranet site.

5.3 Direct SPB to develop and implement an agencywide staff training and development policy.

The agency should develop a policy that promotes agencywide access to training, to include setting division training budgets, as funding allows, and identifying training needs through the employee evaluation process. Developing and implementing such a policy would ensure SPB supports and provides training and development opportunities on a consistent and equitable basis throughout the agency. A more consistent approach towards training could help reduce turnover and ensure staff is prepared when it does.

Fiscal Implication

These recommendations would not have a fiscal impact to the State. Preparing for future staffing needs is an essential agency function and should be handled with existing resources. Providing training, including internal training for positions at risk of becoming vacant, can be accomplished within the agency's existing budget.

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¹ State Preservation Board, *Strategic Plan 2011–2015* (Austin: State Preservation Board, 2010), p. 61.

² *Ibid.*, p. 62.

RESPONSES TO ISSUE 5

Recommendation 5.1

The State Preservation Board should develop and implement a succession plan to prepare for impending retirements and workforce changes.

Agency Response to 5.1

The State Preservation Board is in agreement with this recommendation. (John Sneed, Executive Director – State Preservation Board)

For 5.1

None received.

Against 5.1

None received.

Recommendation 5.2

Direct SPB to formally document and regularly update its key duties and procedures in writing, and make them available electronically.

Agency Response to 5.2

The State Preservation Board is in agreement with this recommendation. (John Sneed, Executive Director – State Preservation Board)

For 5.2

None received.

Against 5.2

None received.

Recommendation 5.3

Direct SPB to develop and implement an agencywide staff training and development policy.

Agency Response to 5.3

The State Preservation Board is in agreement with this recommendation. (John Sneed, Executive Director – State Preservation Board)

For 5.3

None received.

Against 5.3

None received.

COMMISSION DECISION ON ISSUE 5 (JUNE 2012)

Adopted Recommendations 5.1 through 5.3.

FINAL RESULTS ON ISSUE 5 (JULY 2013)

Management Action

Recommendation 5.1 — The State Preservation Board should develop and implement a succession plan to prepare for impending retirements and workforce changes.

Recommendation 5.2 — Direct SPB to formally document and regularly update its key duties and procedures in writing, and make them available electronically.

Recommendation 5.3 — Direct SPB to develop and implement an agency wide staff training and development policy.



NEW ISSUES



NEW ISSUES

None received.

————— **PROVISIONS ADDED BY THE
LEGISLATURE**



PROVISIONS ADDED BY THE LEGISLATURE

Legislative Action — S.B. 201

- **Establish the Governor's Mansion Renewal Trust Fund for the maintenance and preservation of the Governor's Mansion.**

The Legislature added a provision to S.B. 201 that creates the Governor's Mansion Renewal Trust Fund as a fund outside the Treasury. The bill specifies the Fund consists of money transferred by the Legislature and money donated to the Board for the purposes of preserving and maintaining the Governor's Mansion, and any interest received from investment of money in the Fund shall be credited to the Fund. The bill requires the Board to administer the Fund and specifies money in the Fund may only be used for performing major repairs to or preserving the Governor's Mansion.

- **Require the State Preservation Board to adopt reasonable policies for naming areas within the Bob Bullock Texas State History Museum.**

The Legislature added a provision to S.B. 201 that allows for the naming of areas within the Museum, including rooms and exhibition halls, in honor of donors or other benefactors, if appropriate.

APPENDICES



APPENDIX A

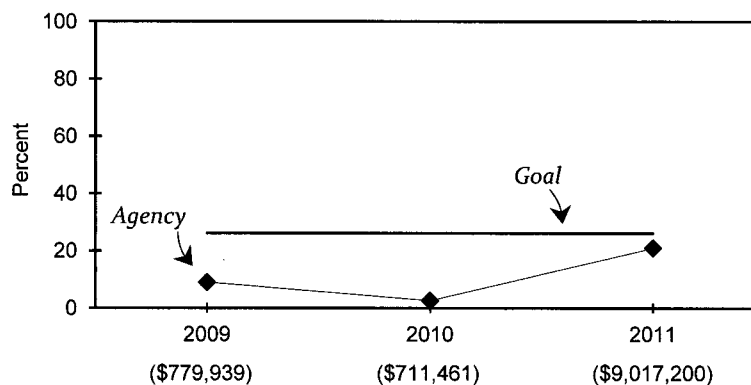
Historically Underutilized Businesses Statistics 2009 to 2011

The Legislature has encouraged state agencies to increase their use of Historically Underutilized Businesses (HUBs) to promote full and equal opportunities for all businesses in state procurement. The Legislature also requires the Sunset Commission to consider agencies' compliance with laws and rules regarding HUB use in its reviews.¹

The following material shows trend information for the State Preservation Board's (SPB's) use of HUBs in purchasing goods and services. The agency maintains and reports this information under guidelines in statute.² In the charts, the flat lines represent the goal for HUB purchasing in each category, as established by the Comptroller's Office. The diamond lines represent the percentage of agency spending with HUBs in each purchasing category from 2009 to 2011. Finally, the number in parentheses under each year shows the total amount the agency spent in each purchasing category.

The agency had difficulty meeting the State's HUB purchasing goals. From fiscal year 2009 to fiscal year 2011, SPB did not meet the HUB goals in any purchasing category in which it had expenditures. However, one of the difficulties the agency faces in meeting these goals is a low HUB response rate. In fiscal year 2011, SPB solicited 1,446 HUBs and received only 39 bids from HUBs, a 2.7 percent response rate. This is the highest response rate SPB has received in the past three fiscal years. In addition, SPB indicates some of these categories include purchases where no opportunity for HUB participation exists, such as for the lease of the IMAX projection system at the Museum. The agency has met other HUB-related requirements, such as appointing a HUB coordinator, establishing a HUB policy, and developing a mentor-protégé program.

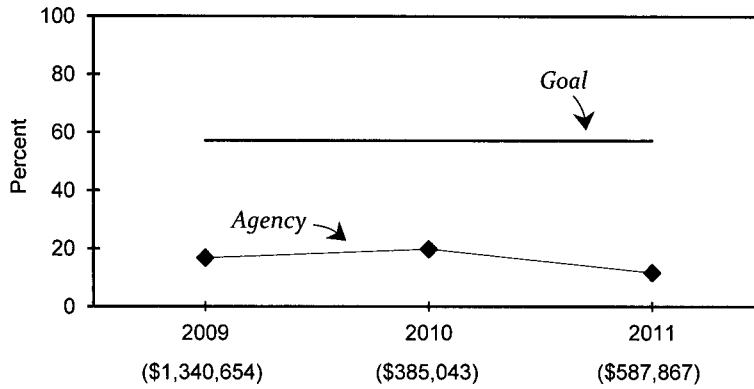
Building Construction



Although SPB fell below the State purchasing goal for building construction for all three fiscal years, the agency significantly increased its spending in this category in 2011, nearly meeting the goal primarily due to HUB subcontracting on the Capitol dome repainting project and Governor's Mansion Restoration Project.

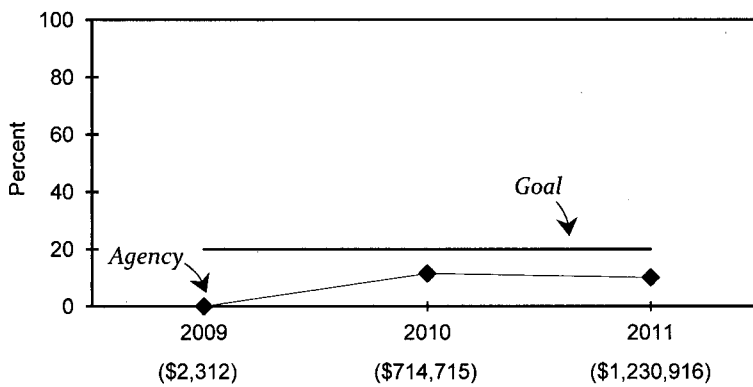
Appendix A

Special Trade



Purchases for the special trade category fell below the State purchasing goal each fiscal year.

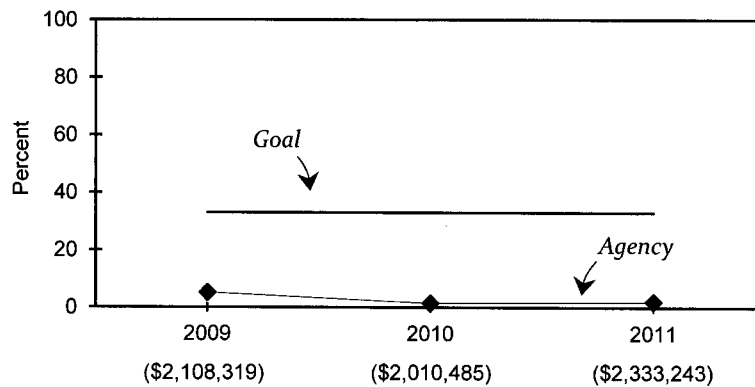
Professional Services



The agency fell below the State purchasing goal for professional services each fiscal year.

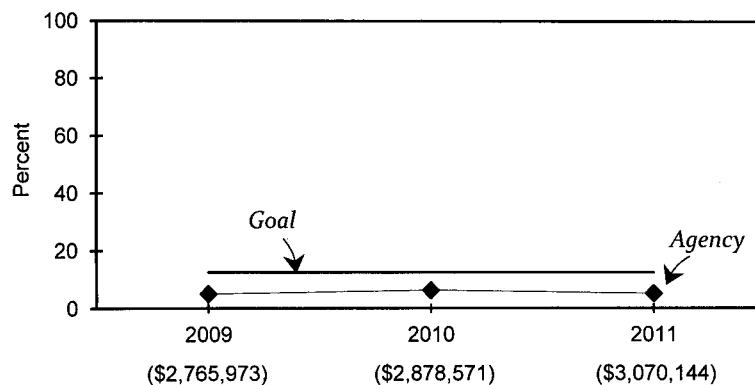
Appendix A

Other Services



The agency fell significantly below the State purchasing goal for other services for all three fiscal years. However, SPB will significantly increase its HUB spending in this category in fiscal year 2012, having already secured two large HUB contracts for housekeeping for all of its buildings and grounds keeping services for the Capitol.

Commodities



Purchases for the commodities category fell below the State purchasing goal each fiscal year. However, this category includes expenditures where there is no opportunity for HUB participation, such as for the lease of the IMAX projection system and the lease of exhibits from other museums. These lease expenditures totaled \$726,107 for fiscal years 2009–2011.

¹ Section 325.011(9)(B), Texas Government Code.

² Chapter 2161, Texas Government Code.

APPENDIX B

Staff Review Activities

During the review of State Preservation Board, Sunset staff engaged in the following activities that are standard to all Sunset reviews. Sunset staff worked extensively with agency personnel; attended a Board meeting; met with staff from key legislative offices; conducted interviews and solicited written comments from interest groups and the public; reviewed agency documents and reports, state statutes, legislative reports, previous legislation, and literature; researched the organization and functions of similar state agencies in other states; and performed background and comparative research using the Internet.

In addition, Sunset staff also performed the following activities unique to this agency.

- Toured the Capitol, Capitol Extension, Capitol Visitors Center, Governor's Mansion, and Bob Bullock Texas State History Museum, including their structural and mechanical components. Also toured the Capitol Visitors Parking Garage, including its retail fulfillment center and curatorial warehouse.
- Interviewed staff representatives from the Texas Bond Review Board, Department of Criminal Justice, Department of Public Safety, Department of Transportation, Facilities Commission, Historical Commission, and Parks and Wildlife Department.
- Interviewed representatives of the Friends of the Governor's Mansion and Texas State History Museum Foundation.
- Researched and interviewed staff from history museums in Arizona, New Mexico, North Carolina, South Carolina, Texas, and Washington, and others with museum expertise.



Sunset Staff Review of the *State Preservation Board*

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