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Sunset as oversight : establishing realistic objectives

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ESTABLISHING REALISTIC OBJECTIVES

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ABSTRACT

After an auspicious beginning, sunset reform remains an institutionalized form of legislative oversight in 26 states. This institutionalization is likely to continue only if more realistic objectives for sunset are clarified. Using survey methodology, this study confirms theories concerning more realistic objectives for sunset review. These theories posit that sunset: (1) enhances system reliability by providing an independent perspective to detect organizational goal displacement, (2) allows overseers a more comprehensive and in-depth review of administrative problems because of the time devoted to the process, (3) coordinates administrative procedures and oversight efforts, (4) increases the legitimacy of political decision-making by allowing interests greater access and influence, and (5) may increase political gamesmanship that has nothing to do with the substance of agency politics and procedure.

The purpose of this study is to test the theories laid out by Curry and others concerning more realistic objectives for sunset review. These theories posit that sunset: (1) enhances system reliability by providing an independent perspective to detect organizational goal displacement, (2) allows overseers a more comprehensive review of administrative problems because of the time devoted to the process, (3) standardizes and systemizes administrative procedures and oversight efforts, (4) increases the legitimacy of political decision-making by allowing interests greater access and influence, and (5) may increase political gamesmanship that has nothing to do with the substance of agency politics and procedure.

These theories are examined empirically by using survey data derived from samples of two extremely relevant sets of actors in the sunset review process: (1) professional staffers directly responsible for the review of state agencies and (2) public administrators who have been subject to the sunset review process. Although previous studies make substantial contributions to our understanding of the practical and theoretical implications of sunset, ours is the first to systematically study the subjective orientations of important actors in the sunset process.

From 1976 through 1982, 36 states passed and implemented some sort of sunset review. The premise of sunset was simple and appealing: certain state agencies would be scheduled for termination each year and would be subjected to an audit or performance review to determine whether they should be continued or modified. Sunset laws were distinguished by the "automatic termination" function which mandated that agencies not specifically reauthorized by statute or resolution before the scheduled "Sunset" deadline would simply cease to exist.

sunset review are forced to reexamine organizational goals that may have been displaced by the individual procedural goals of members. Sunset review provides the outside intervention that is frequently necessary for an agency to determine the value of its procedures relative to its goals (pp. ??).

In addition, Curry states that Sunset helps to deal with the problem of political goal displacement. Public organizations tend to institutionalize the path of least political resistance, often at the expense of broad public accountability. The so-called capture of regulatory agencies by the industries they seek to regulate is only one example of political goal displacement. Independent review of an agency, such as that afforded through the sunset process provides an opportunity to examine the problems of political goal displacement. Sunset's unique threat of automatic termination of an agency gives political muscle to the sunset review process--it allows sunset bills to bypass the legislative barriers that make passing legislation difficult. Often the scope of political conflict expands and the level of political involvement by interest groups, legislators, the press, and the agencies involved is noticeably heightened. Hence, sunset review may increase the legitimacy of political decision-making as interests which, for a variety of reasons, have been thwarted by the normal routine of incremental policy-making can make a positive contribution to the character of administrative behavior.

There is, of course, a down side to sunset's automatic termination feature, one that may have to be dealt with in subsequent procedural reforms. The threat of agency abolition can produce a plethora of political games which may have little or nothing to do with the substance of agency politics or procedures. Interests groups may use reauthorizing legislation as a vehicle to introduce or expand their own agendas in a way that is inappropriate and that ignores the administrative or political issues that surround the agency. Still

one to four staff members are assigned to review the various agencies. The SAC staff is composed of generalists in program analysis with backgrounds and advanced training in law, political science, public administration, education, business, accounting, economics and social work (Crawford, 1986; Slaughter, 1984).

The Process of Sunset Review in Texas

The sunset review process takes place in a 22 month cycle and involves five general steps:

(1) agency self-evaluations: To initiate the sunset review process, the sunset staff mails out the instructions for the two-part agency self-evaluation report (SER) in June. This report is a statutory requirement of the process. The statute also specifies the criteria to be used in evaluating an agency, department, commission, board; the self-evaluation report must address each of the criteria (Texas Sunset Advisory Commission, Sunset Review in Texas 1985). The first part of the report consists of the administrator's general statement, which must be returned to the commission in August of the same year. The second, and much longer part of the self-evaluation report, must be returned to the sunset commission by the end of September of the same year. Administrators must address five sections: policymaking structure, overall administration, evaluation of programs, other sunset criteria, and sunset across-the-board recommendations (Texas Sunset Advisory Commission, Instructions for Preparing the Self-evaluation II, 1985).

The completion of these two self-evaluation reports by agencies is a length and time-consuming process. To assist in this task, some agencies hire consultants. Other agencies use in-house staff to gather information and

(5) Legislative action on the bill or alternatives to it sponsored by others: The SAC bill is submitted, along with a report containing all commission decisions, to the legislature and governor as required by law. A member of the SAC usually sponsors an agency's bill, but there are occasions when an alternate bill is sponsored by another legislator. Failure to approve by either house or the unwillingness of the governor to sign an approved bill means the agency will be abolished.

Throughout the first 12 year cycle in Texas, a majority of the SAC's recommendations were adopted by the legislature. However, there may be differences in the SAC recommendations and the final bill. In general, legislative changes have been more substantial than the commission's recommendations (Regulation in Texas, 1986). For example, closing the Texas Health Facilities Commission (THFC) was discussed by the SAC, but since a majority did not support the proposals, they were not recommended. Once taken to the legislature, however, the issues were raised and more support was present for these actions.

SURVEY METHODOLOGY

This study targets administrators and SAC staff members who have participated in sunset reviews over the past twelve years. Sixteen SAC staff members, roughly 95 percent of the current non-clerical staff, responded. Data from administrators was also generated. The latter were contacted to ascertain their willingness to participate. This resulted in a response rate in excess of 85 percent. It is important to recognize that the universe of participants is roughly 150, making the sample size a rather large proportion of the universe. The questionnaire involved a range of issues related to the

Hence, the attitudes of major participants in the sunset process provide powerful support or opposition for abstract theories posed by scholars. These participants are closest to the process and thus are in the best position to confirm or reject our presuppositions.

FINDINGS

As anticipated, means on all indices were significantly greater than zero. In an overall sense, the respondents indicated a positive level of support. Descriptively, the results can be interpreted as attitudes toward aspects of the sunset process (See Table 1). For example, the respondents found the self-study and staff review process to be useful. They also believed that there was sufficient time allotted each part of the process. They believe that sunset is an effect mechanism to coordinate administrative procedures and oversight. In addition, they felt that sunset added legitimacy to political decision-making by enhancing access and influence and balancing conflicting interests. Finally, they believed that sunset was a vehicle for political gamesmanship.

(1) The first hypothesis addressed is that sunset enhances system reliability by providing an independent perspective to detect organizational goal displacement. The independence of the sunset process provides the opportunity for in-bred relationships to be disturbed, at least for the sunset review. This disturbance allows for legislators, public administrators, interest groups, and the general public to have a fresh look at the purposes and processes closely guarded by the agency. In the hectic biennial legislative session, oversight often becomes perfunctory. In contrast, the sunset process periodically breathes a bit of life into the oversight process by providing an in-

legislature to review the implications of its actions in a comprehensive fashion. Other agencies that provide oversight information to the legislature typically are understaffed and must review all agencies for each legislative session. Perhaps an hour's time will be devoted to any information related to any given agency's operations in the typical legislative process (Curry, 1990). Conversely, sunset review allows for approximately 25 agencies to be reviewed over a 22 month period. The SAC staff carefully evaluates the agency even staying on site over a period of weeks.

Both administrators and staff felt that those responsible for review at each step of the sunset process were given sufficient time. The mean of 2.22 was greater than zero at $p < .001$. Examination of the frequencies of the time index revealed that no staffers responded negatively and only 13 percent of administrators responded that they had too little time in any of the four stages.

(3) The third hypothesis tested is that sunset helps to coordinate both administrative procedures and oversight efforts. Sunset reviews can result in more coordination or even the combination of agencies performing related functions so that oversight is easier to conduct. Because of its breadth of focus, sunset can draw together oversight efforts among more narrowly focused agents such as auditors, performance review boards, budget officials and staff, and legislative committees. As Table 1 indicates, there is some support for this assumption; the mean of the coordination index is .85 with a standard deviation of .94.

(4) A fourth hypothesis poses that sunset increases the legitimacy of political decision-making by allowing diverse interests greater access and influence. Sunset review may help to balance conflicting constituency pressures on an agency giving it a new political perspective and a more

Differences in Staff and Administrators

Separate indices computed for staff and administrators showed support for our hypotheses from both set of respondents, that is, the mean for staff and administrator indices is significantly greater than zero in all cases. However, some significant differences between these two sets of respondents do exist (See Table 2). T-values show that SAC staff were significantly more supportive in four cases: self-study, staff review, coordination, and balance of constituency pressures. Staffers were much more supportive of the self-study and, not surprisingly, the staff reviews. The t-value for the coordination index indicates that staffers were more likely to feel that sunset helps improve coordination of agency oversight and inter-agency activities ($p < .05$). Finally, staffers differed significantly from administrators in their opinion that sunset helped to balance an agency's constituency pressures.

Table 2 about here

Differences in the opinions of staff and administrators regarding the self-study, staff reviews, and balance of constituency pressures are attributed most obviously to the fact that administrators are the object of an often painful and threatening review process. Although administrators may recognize the utility of self-studies and outside reviews, the criteria for these exercises are externally imposed by unsympathetic or, at the very least, neutral parties. Administrators are also likely to be fearful of the involvement of constituencies that challenge those traditionally friendly with the agency. Thus they may be less likely to perceive (or admit to perceiving) sunset as a useful way to encourage political involvement of interest groups and conflicting constituencies.

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Appendix A-Questionnaire

Self-Study Index:

1. As presented by the Sunset Commission Staff, were the instruction for completing the self-study
 - a. very clear
 - b. sufficiently clear
 - c. vague
 - d. very vague
2. Overall, were the data required for the self-study
 - a. already available
 - b. generally easy to collect
 - c. generally difficult to collect
 - d. very difficult to collect
3. Were the data required for the self-study relevant to the operations of your agency?
 - a. very relevant
 - b. relevant
 - c. somewhat relevant
 - d. irrelevant
 - e. thoroughly irrelevant
4. Was the self-study a useful exercise in evaluating the operations of your agency?
 - a. very useful
 - b. useful
 - c. of little use
 - d. useless

Staff Review Index:

1. Assess the qualifications of the sunset commission staff members assigned to review the agency.
 - a. highly qualified
 - b. basically qualified
 - c. basically unqualified
 - d. highly unqualified
2. Assess the professionalism with which the sunset commission staff conducted the review of the agency.
 - a. highly professional
 - b. generally professional
 - c. generally unprofessional
 - d. highly unprofessional

2. Did the sunset commission staff devote sufficient time to the agency review?
 - a. far more time than was needed
 - b. more time than was needed
 - c. sufficient time
 - d. less time than was needed
 - e. far less time than was needed
3. Did the Sunset Commission devote sufficient time to decision-making concerning the agency review?
 - a. far more time than was needed
 - b. more time than was needed
 - c. sufficient time
 - d. less time than was needed
 - e. far less time than was needed
4. Did the legislature devote sufficient time to decision-making concerning sunset bills?
 - a. far more time than was needed
 - b. more time than was needed
 - c. sufficient time
 - d. less time than was needed
 - e. far less time than was needed

Coordination Index:

1. Have sunset reforms contributed to the coordination among agencies performing related functions?
 - a. vastly improved coordination
 - b. improved coordination
 - c. no appreciable effect on coordination
 - d. harmed coordination
 - e. vastly harmed coordination
2. Have sunset reforms contributed to the coordination among oversight agents such as LBB, state auditor, Budget and Planning, and legislative committees?
 - a. vastly improved coordination
 - b. improved coordination
 - c. no appreciable effect on coordination
 - d. harmed coordination
 - e. vastly harmed coordination

3. Assess the influence of interest groups during legislative consideration of sunset bills.
 - a. far too much influence
 - b. too much influence
 - c. sufficient influence
 - d. too little influence
 - e. far too little influence

Balance of Constituency Pressures Index:

1. Assess the effects of sunset reforms on the balance of conflicting constituency pressures on the agency.
 - a. significantly balanced conflicting pressures
 - b. partially balanced conflicting pressures
 - c. no appreciable effect
 - d. partially unbalanced conflicting pressures
 - e. significantly unbalanced conflicting pressures
2. Assess the effects of mandating public membership on state boards and commissions on the balance of conflicting constituency pressures on the agency.
 - a. significantly balanced conflicting pressures
 - b. partially balanced conflicting pressures
 - c. no appreciable effect
 - d. partially unbalanced conflicting pressures
 - e. significantly unbalanced conflicting pressures

Gamesmanship Index:

1. To what extent was the legislative action on sunset bills affected by political considerations which were unrelated to the review of the agency?
 - a. significant impact
 - b. marginal impact
 - c. no impact
2. Assess the extent to which sunset bills have served as a vehicle for passing other legislation.
 - a. always
 - b. frequently
 - c. occasionally
 - d. never

Table 1
Index Means and Standard Deviations

	Mean*	Stan Dev	Range**
(1) Enhances Reliability-Provides Outside Perspective Self-Study Index Staff Review Index	2.65 6.70	2.50 4.33	-8 to +8 -14 to +14
(2) Provides for Comprehensive Review-More Time Time Index	2.22	2.50	-8 to +8
(3) Coordinates Administrative Procedures and Oversight Coordination Index	.85	.94	-4 to 4
(4) Increases Legitimacy of Political Decision-Making Access Index Influence Index Balance of Conflicting Interests Index	1.61 1.60 .84	2.05 1.14 1.48	-6 to +6 0 to 3 -4 to 4
(5) Increases Political Gamesmanship Gamesmanship Index	2.69	1.16	0 to 4

*All means were significantly greater than zero at $p < .001$.

**Ranges were included because different numbers of questions were included in the indices. See Appendix A for a description of index construction.

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