

By: Casteel

H.B. No. 58

A BILL TO BE ENTITLED

AN ACT

relating to the oversight of regional planning commissions by the governor and the state auditor.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Section 391.009, Local Government Code, is amended to read as follows:

Sec. 391.009. ROLE OF STATE AUDITOR, GOVERNOR, AND STATE AGENCIES.

SECTION 2. Section 391.009, Local Government Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (a-2) to read as follows:

(a) To protect the public interest and ~~or~~ promote the efficient use of public funds, the governor, with the technical assistance of the state auditor, may draft and ~~shall~~ adopt:

(1) rules relating to the operation and oversight of a commission;

(2) rules relating to the receipt or expenditure of funds by a commission, including:

(A) restrictions on the expenditure of any portion of commission funds for certain classes of expenses; and

(B) restrictions on the maximum amount of or percentage of commission funds that may be expended on a class of expenses, including indirect costs or travel expenses;

(3) annual reporting requirements for a commission;

1 (4) annual audit requirements on funds received or
2 expended by a commission from any source;

3 (5) rules relating to the establishment and use of
4 standards by which the productivity and performance of each
5 commission can be evaluated; and

6 (6) guidelines that commissions and governmental
7 units shall follow in carrying out the provisions of this chapter
8 relating to review and comment procedures.

9 (a-1) The governor may draft and adopt rules under
10 Subsection (a) using negotiated rulemaking procedures under
11 Chapter 2008, Government Code.

12 (a-2) Based on a risk assessment performed by the state
13 auditor and subject to the legislative audit committee's approval
14 for inclusion in the audit plan under Section 321.013, Government
15 Code, the state auditor's office shall assist the governor as
16 provided by Subsection (a).

17 SECTION 3. Section 391.0095, Local Government Code, as
18 amended by Senate Bill No. 19, Acts of the 78th Legislature, Regular
19 Session, 2003, is amended to read as follows:

20 Sec. 391.0095. AUDIT AND REPORTING REQUIREMENTS. (a) The
21 audit and reporting requirements under Section 391.009(a) shall
22 include a requirement that a commission annually report to the
23 state auditor [~~governor~~]:

24 (1) the amount and source of funds received by the
25 commission;

26 (2) the amount and source of funds expended by the
27 commission;

1 (3) an explanation of any method used by the
2 commission to compute an expense of the commission, including
3 computation of any indirect cost of the commission;

4 (4) a report of the commission's productivity and
5 performance during the annual reporting period;

6 (5) a projection of the commission's productivity and
7 performance during the next annual reporting period;

8 (6) the results of an audit of the commission's affairs
9 prepared by an independent certified public accountant; and

10 (7) a report of any assets disposed of by the
11 commission.

12 (b) The annual audit of a commission may be commissioned [~~by~~
13 ~~the governor's office or~~] by the commission or at the direction of
14 the governor's office, as determined by the governor's office, and
15 shall be paid for from the commission's funds.

16 (c) A commission shall submit any other report or an audit
17 to the state auditor and [~~required by~~] the governor.

18 (d) If a commission fails to submit a report or audit
19 required under this section or is determined by the state auditor
20 [~~governor~~] to have failed to comply with a rule, requirement, or
21 guideline adopted under Section 391.009, the state auditor shall
22 report the failure to the governor's office. The governor may,
23 until the failure is corrected:

24 (1) appoint a receiver to operate or oversee the
25 commission; or

26 (2) withhold any appropriated funds of the commission.

27 (e) A commission shall send to the governor, the state

1 auditor, the comptroller, and the Legislative Budget Board a copy
2 of each report and audit required under this section or under
3 Section 391.009. The state auditor may review each audit and
4 report, subject to a risk assessment performed by the state auditor
5 and to the legislative audit committee's approval of including the
6 review in the audit plan under Section 321.013, Government Code. If
7 the state auditor reviews the audit or report, the state auditor
8 must be given access to working papers and other supporting
9 documentation that the state auditor determines is necessary to
10 perform the review. If the state auditor finds significant issues
11 involving the administration or operation of a commission or its
12 programs, the state auditor shall report its findings and related
13 recommendations to the legislative audit committee, the governor,
14 and the commission. The governor and the legislative audit
15 committee may direct the commission to prepare a corrective action
16 plan or other response to the state auditor's findings or
17 recommendations. The legislative audit committee may direct the
18 state auditor to perform any additional audit or investigative work
19 that the committee determines is necessary.

20 SECTION 4. Section 391.0117(e), Local Government Code, is
21 amended to read as follows:

22 (e) A commission shall submit to the state auditor
23 [~~governor~~] the commission's salary schedule, including the
24 salaries of all exempt positions, not later than the 45th day before
25 the date of the beginning of the commission's fiscal year. If the
26 state auditor, subject to the legislative audit committee's
27 approval for inclusion in the audit plan under Section 321.013,

1 Government Code, has recommendations to improve [~~governor objects~~
2 ~~to~~] a commission's salary schedule or a portion of the schedule, the
3 state auditor shall report the recommendations to the governor's
4 office. The governor's office may not allow the portion of the
5 schedule for which [~~that~~] the state auditor has recommendations to
6 [~~governor objects to may not~~] go into effect until revisions or
7 explanations are given that are satisfactory to the governor based
8 on recommendations from the state auditor [~~and the governor~~
9 ~~approves that portion of the schedule~~].

10 SECTION 5. On the effective date of this Act, a rule,
11 requirement, or guideline adopted by the governor relating to the
12 oversight of regional planning commissions remains in effect until
13 amended or repealed by the governor.

14 SECTION 6. This Act takes effect November 1, 2003.