

By: Swinford

H.B. No. 15

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

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

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

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

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

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

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

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

24 (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 December 1, 2003.