

BILL ANALYSIS

C.S.S.B. 1724

By: Ogden

Defense Affairs & State-Federal Relations
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law gives the Texas Military Facilities Commission (commission) express authority to buy and sell land and to construct, maintain, and repair National Guard armories, facilities, and improvements.

As proposed, CSSB 1724 abolishes the commission and transfers its functions to the adjutant general.

RULEMAKING AUTHORITY

ANALYSIS

SECTION 1. Amends Section 431.018, Government Code, to delete existing text referring to the executive director of the Texas Military Facilities Commission (commission).

SECTION 2. Amends Section 431.021, Government Code, define “bond.” Makes nonsubstantive changes.

SECTION 3. Amends Section 431.023, Government Code, to extend the Sunset date of the adjutant general’s department to September 1, 2015, rather than 2009.

SECTION 4. Amends Section 431.030, Government Code, as follows:

Sec. 418.030. New heading: REPORT OF MILITARY USE OF PROPERTY. (a) Redesignated from existing Subsection (e). Deletes existing text of Subsections (a), (b), (c), and (d). Makes a conforming change.

(b) Redesignated from existing Subsection (f). Makes conforming changes.

SECTION 5. Amends Section 431.045(c), Government Code, to make conforming and nonsubstantive changes.

SECTION 6. Transfers Sections 435.013, 435.014, 435.021, 435.022, 435.023, 435.024, 435.025, 435.026, and 435.027, Government Code, to Subchapter B, Chapter 431, Government Code, redesignates and amends those sections, respectively, as Sections 431.0291, 431.0293, 431.0301, 431.0302, 431.0303, 431.0304, 431.0305, 431.0306, and 431.0361, as follows:

Sec. 431.0291. GENERAL POWERS. (a) Provides that the adjutant general, rather than the commission, is the exclusive authority for the construction, repair, and maintenance of state military forces armories, facilities, and improvements owned by the state located on department property. Provides that the adjutant general in this capacity, rather than the commission, is a public authority, body politic, and corporate, and has all powers necessary for the acquisition, construction, rental, control, maintenance, operation, and disposition of state military forces, rather than the Texas National Guard or Texas State Guard, facilities and real property, including all property and equipment necessary or useful in connection with the facilities.

(b) Authorizes the adjutant general in this capacity to sue and be sued, enter into contracts in connection with any matter within the adjutant general's purposes or duties in this capacity, and have and use a corporate seal.

Sec. 431.0293. New heading: PUBLIC COMMENT. Requires the adjutant general, rather than the commission, to develop and implement policies providing the public with a reasonable opportunity to appear before the adjutant general's department and to speak on any issue related to the construction, repair, and maintenance of state military forces armories, facilities, and improvements under the adjutant general's jurisdiction. Makes conforming changes.

Sec. 431.0301. ACQUISITION; MANAGEMENT; PLEDGE OF RENTS, ISSUES, AND PROFITS. Makes conforming and nonsubstantive changes.

Sec. 431.0302. CONSTRUCTION; FURNISHING AND EQUIPMENT. (a) Makes conforming changes.

(b) Makes conforming changes. Strikes that the site may not exceed 200,000 square feet, removing site size limitations.

(c) Requires the adjutant general to request the Texas Public Finance Authority (authority) to issue revenue bonds to pay for the construction of a building if the construction will be financed by the issuance of revenue bonds.

Sec. 431.0303. LEASE OF PROPERTY. (a) Redesignated from Subsection (c). Authorizes the adjutant general to lease property to any person under terms determined by the adjutant general, rather than as previously provided for. Makes conforming changes. Deletes existing Subsections (a) and (b).

(b) Redesignated from Subsection (d).

(c) Redesignated from Subsection (e).

Sec. 431.0304. TRANSFER TO STATE. Authorizes the authority, rather than the commission, to donate and transfer property to the state by appropriate instruments of transfer, when such property owned in accordance with Section 431.0307 is fully paid for and free of liens and all obligations incurred in connection with the acquisition and construction of said property have been fully paid. Requires the instruments of transfer to be kept in the custody of the adjutant general's department.

Sec. 431.0305. New heading: DISPOSAL OF CERTAIN SURPLUS PROPERTY. Makes conforming and nonsubstantive changes.

Sec. 431.0306. TAX STATUS OF PROPERTY. Makes conforming changes.

Sec. 431.0361. GRONER A. PITTS NATIONAL GUARD ARMORY. Makes a conforming change.

SECTION 7. Transfers Section 435.041, Government Code, to Subchapter B, Chapter 431, Government Code and redesignates and amends that Section as 431.0292, Government Code, as follows:

Sec. 431.0292 (a) The department, rather than the commission, from time to time may borrow money under circumstances allowed by the Texas Constitution and may request the authority, on behalf of the department, rather than the commission, to issue and sell fully negotiable bonds to acquire one or more building sites or buildings or to construct, remodel, repair, or equip one or more buildings.

(b) Allows the authority to sell bonds in any manner it determines to be in the best interest of the department, rather than the commission, except that it may not sell a bond that has not been approved by the comptroller. Strikes that the authority is subject to all rights,

duties, and conditions set forth in this subchapter with respect to the issuance of bonds by the commission, including the issuance of refunding bonds under Section 435.048.

SECTION 8. Amends Subchapter B, Chapter 431, Government Code, by adding Section 431.0294, as follows:

Sec. 431.0294. REAL PROPERTY ADVISORY COMMITTEE. (a) Sets forth the composition of the real property advisory committee (committee).

(b) Provides that members of the committee are appointed by and serve at the will of the adjutant general.

(c) Requires the adjutant general to designate a public member of the committee as its presiding officer to serve in that capacity at the pleasure of the adjutant general.

(d) Requires the committee to meet at least two times each fiscal year to advise the adjutant general on issues set forth in this subsection.

(e) Entitles each member of the advisory committee to a per diem, as provided by the General Appropriations Act, for each day the member is engaged in committee business.

(f) Entitles each committee member to reimbursement for meals, lodging, transportation, and incidental expenses as set forth in this subsection.

(g) Provides that the advisory committee is not subject to Chapter 2110 (State Agency Advisory Committees).

SECTION 9. Amends Subchapter B, Chapter 431, Government Code, by adding Section 431.0307, as follows:

Sec. 431.0307. PROPERTY FINANCED BY REVENUE BONDS. Provides that, notwithstanding any other provision of this chapter, property, including a building site or building, used by the state for military purposes that has not yet been transferred under Section 431.0304 and was acquired, constructed, remodeled, or repaired using money from revenue bonds issued by the authority, or by the commission, or its predecessor in function, is owned by the authority, and that a reference to the adjutant general in this chapter in relation to that ownership means the authority.

SECTION 10. Amends Sections 109.47(a) and (c), Education Code, to make conforming changes.

SECTION 11. Amends Section 31.156(e), Natural Resources Code, to make conforming changes.

SECTION 12. Amends Section 31.157(d), Natural Resources Code, to make a conforming change.

SECTION 13. Amends Section 1232.101, Government Code, to make a conforming change.

SECTION 14. Amends Subchapter C, Chapter 1232, Government Code, by adding Section 1232.1025, as follows:

Sec. 1232.1025. ISSUANCE OF BONDS FOR MILITARY FACILITIES. (a) Authorizes the authority's board of directors (board) to issue and sell bonds in the name of the authority to finance the acquisition or construction of buildings to be used as state military forces facilities.

(b) Requires the board, after receiving a request under Section 431.0292 or 431.0302(c), to promptly issue and sell bonds in the name of the authority under this chapter to provide requested financing.

(c) Requires the adjutant general to accomplish its statutory authority as if the property or building were financed by legislative appropriation. Requires the board and the adjutant general to adopt a memorandum of understanding defining the division of authority between the board and the adjutant general.

(d) Requires the adjutant general to lease the building from the authority on completion of the acquisition or construction.

SECTION 15. Repealer: Sections 435.001, 435.002, 435.003, 435.004, 435.0043, 435.0044, 435.0045, 435.005, 435.006, 435.007, 435.008, 435.009, 435.0095, 435.010, 435.011; 435.012, 435.015, 435.016, 435.017, 435.042, 435.043, 435.044, 435.045, 435.046, 435.047, and 435.048, Government Code.

SECTION 16. Repealer: The headings to Subchapters A, B, and C Chapter 435, Government Code.

SECTION 17. (a) Provides that the commission is abolished and that, subject to Section 431.0307, Government Code, as added by this Act, all powers, duties, obligations, rights, contracts, bonds, appropriations, records, real or personal property, and personnel of the commission are transferred to the adjutant general.

(b) Provides that a commission rule, policy, procedure, or decision continues in effect as a rule, policy, procedure, or decision of the adjutant general until superseded by an act of the adjutant general.

(c) Provides that a reference in law to the commission means the adjutant general.

(d) Requires the adjutant general and the authority, if necessary, to adopt a memorandum of understanding under which an item or matter transferred under Subsection (a) of this section is transferred to the authority.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

Amends Sec. 431.0293 of the original bill to state that public comment regarding the department's policies related to the construction, repair or maintenance of properties under the jurisdiction of the adjutant general may be directed to the department, rather than the adjutant general, himself.

Amends Sec. 431.0302 of the original bill to remove the limitation on size of facility site in order to give the department flexibility to meet the needs of the state military forces.