

By: Ogden

S.B. No. 1724

A BILL TO BE ENTITLED

AN ACT

relating to abolishing the Texas Military Facilities Commission and transferring its functions to the adjutant general.

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

SECTION 1. Section 431.018, Government Code, is amended to read as follows:

Sec. 431.018. MILITARY FACILITIES PROJECTS: MATCHING FEDERAL FUNDS. If the governor, after consulting with the adjutant general ~~[and the executive director of the Texas Military Facilities Commission]~~, finds that the state is eligible for federal matching funds for projects at military facilities in this state, the governor may direct that money appropriated for the purpose be used to obtain the federal matching funds.

SECTION 2. Section 431.021, Government Code, is amended to read as follows:

Sec. 431.021. DEFINITIONS ~~[DEFINITION]~~. In this subchapter:

(1) "Bond" includes a debenture or other evidence of indebtedness.

(2) "Department" ~~[, "department"]~~ means the adjutant general's department.

SECTION 3. Section 431.023, Government Code, is amended to read as follows:

Sec. 431.023. SUNSET PROVISION. The adjutant general's

1 department is subject to Chapter 325 (Texas Sunset Act). Unless  
2 continued in existence as provided by that chapter, the department  
3 is abolished and this subchapter expires September 1, 2015 [~~2009~~].

4 SECTION 4. Section 431.030, Government Code, is amended to  
5 read as follows:

6 Sec. 431.030. REPORT OF MILITARY USE OF PROPERTY.

7 ~~(a) [Except as provided by Subsection (b), the adjutant general,~~  
8 ~~for and on behalf of the state, may lease from the Texas Military~~  
9 ~~Facilities Commission a building, its site, and the equipment in~~  
10 ~~it, as provided by Section 435.023, for use as an armory or for~~  
11 ~~another proper purpose. The adjutant general may renew the lease.~~

12 ~~[(b) If adequate facilities for armory purposes are~~  
13 ~~available for rental from the Texas Military Facilities Commission~~  
14 ~~in or about a municipality, the adjutant general may not lease~~  
15 ~~property in or about the municipality for those purposes from a~~  
16 ~~person other than the commission.~~

17 ~~[(c) If all or part of a state-owned Texas National Guard~~  
18 ~~camp and the land, improvements, buildings, facilities,~~  
19 ~~installations, and personal property connected with the camp are~~  
20 ~~designated by the adjutant general as surplus or are in excess of~~  
21 ~~the needs of the Texas National Guard or its successors or~~  
22 ~~components, the adjutant general, for and on behalf of the state,~~  
23 ~~may transfer the property to the Texas Military Facilities~~  
24 ~~Commission for administration, sale, or other proper disposal.~~  
25 ~~Before declaring property as surplus and transferring it to the~~  
26 ~~commission, the adjutant general may remove, sever, dismantle, or~~  
27 ~~exchange all or part of the property for the use and benefit of the~~

1 ~~Texas National Guard or its successors.~~

2 ~~[(d) For the purposes of this section, "lease" includes~~  
3 ~~"sublease."~~

4 ~~[(e)]~~ If the adjutant general receives notice from the asset  
5 management division of the General Land Office as provided by  
6 Section 31.156, Natural Resources Code, the adjutant general shall  
7 produce a report evaluating the military use of any real property  
8 under the management and control of the department ~~[or the Texas~~  
9 ~~National Guard Armory Board]~~. The adjutant general shall evaluate  
10 the use of the property as required by this subsection according to  
11 military criteria for use of real property.

12 (b) ~~[(f)]~~ Not later than August 1 of the year in which the  
13 Commissioner of the General Land Office submits a report as  
14 provided by Section 31.157, Natural Resources Code, the adjutant  
15 general shall submit a preliminary report of the report required  
16 under Subsection (a) ~~[(e)]~~ to the Commissioner of the General Land  
17 Office identifying the real property used for military purposes.  
18 Not later than September 1 of the year in which the Commissioner of  
19 the General Land Office submits a report as provided by Section  
20 31.157, Natural Resources Code, the adjutant general shall submit  
21 the report as required by Subsection (a) ~~[(e)]~~ to:

- 22 (1) the governor;
- 23 (2) the presiding officer of each house of the  
24 legislature;
- 25 (3) the Legislative Budget Board; and
- 26 (4) the governor's budget office.

27 SECTION 5. Subsection (c), Section 431.045, Government

1 Code, is amended to read as follows:

2 (c) The governing body of a county or municipality, on  
3 behalf of the county or municipality, may donate to the adjutant  
4 general [~~Texas Military Facilities Commission~~], or to a unit for  
5 transfer to the adjutant general [~~that commission~~], land for use as  
6 a state military forces facility [~~site for an armory or other~~  
7 ~~building suitable for use by a unit~~]. The donation may be in fee  
8 simple or otherwise.

9 SECTION 6. Sections 435.013, 435.014, 435.021, 435.022,  
10 435.023, 435.024, 435.025, 435.026, and 435.027, Government Code,  
11 are transferred to Subchapter B, Chapter 431, Government Code,  
12 redesignated respectively as Sections 431.0291, 431.0293,  
13 431.0301, 431.0302, 431.0303, 431.0304, 431.0305, 431.0306, and  
14 431.0361, Government Code, and amended to read as follows:

15 Sec. 431.0291 [~~435.013~~]. GENERAL POWERS. (a) The  
16 adjutant general [~~commission~~] is the exclusive authority for the  
17 construction, repair, and maintenance of state military forces  
18 [~~National Guard~~] armories, facilities, and improvements owned by  
19 the state located on department [~~commission~~] property. The  
20 adjutant general in this capacity [~~commission~~] is a public  
21 authority and a body politic and corporate and has all powers  
22 necessary for the acquisition, construction, rental, control,  
23 maintenance, operation, and disposition of state military forces  
24 [~~Texas National Guard or Texas State Guard~~] facilities and real  
25 property, including all property and equipment necessary or useful  
26 in connection with the facilities.

27 (b) The adjutant general in this capacity [~~commission~~] may:

1 (1) sue and be sued;

2 (2) enter into contracts in connection with any matter  
3 within the adjutant general's [~~its~~] purposes or duties in this  
4 capacity; and

5 (3) have and use a corporate seal.

6 Sec. 431.0293 [~~435.014~~]. PUBLIC COMMENT [~~HEARINGS~~]. The  
7 adjutant general [~~commission~~] shall develop and implement policies  
8 that provide the public with a reasonable opportunity to appear  
9 before the adjutant general [~~commission~~] and to speak on any issue  
10 related to the construction, repair, and maintenance of state  
11 military forces armories, facilities, and improvements under the  
12 jurisdiction of the adjutant general [~~commission~~].

13 Sec. 431.0301 [~~435.021~~]. ACQUISITION; MANAGEMENT; PLEDGE  
14 OF RENTS, ISSUES, AND PROFITS. (a) The adjutant general  
15 [~~commission~~] by gift, lease, or purchase may acquire real and  
16 personal property, including leasehold estates in real property,  
17 for use for any purpose the adjutant general [~~commission~~] considers  
18 necessary in connection with the state military forces [~~Texas~~  
19 ~~National Guard~~] or for the use of units of the state military forces  
20 [~~Texas National Guard~~].

21 (b) The adjutant general [~~commission~~] by gift, purchase, or  
22 construction may acquire furniture and equipment suitable for  
23 facility purposes.

24 (c) The adjutant general [~~commission~~] may hold, manage,  
25 maintain, lease, or sell the [~~its~~] property and may pledge all or  
26 part of the rents, issues, and profits of the property.

27 Sec. 431.0302 [~~435.022~~]. CONSTRUCTION; FURNISHING AND

1 EQUIPMENT. (a) The adjutant general [~~commission~~] may construct  
2 buildings on department [~~its~~] real property, whether held in fee  
3 simple or otherwise. The adjutant general [~~commission~~] may furnish  
4 and equip the buildings.

5 (b) The adjutant general [~~commission~~] may construct a  
6 building on land comprising a state camp only on a site selected and  
7 described by a board of officers. The adjutant general shall select  
8 the officers from time to time for that purpose. The officers shall  
9 select and describe the site promptly after request by the  
10 [~~commission to the~~] adjutant general. The site may not exceed  
11 200,000 square feet. The officers shall certify the description  
12 [~~to the commission~~] and furnish a copy of it to the adjutant  
13 general, who shall preserve it in the adjutant general's office. If  
14 the adjutant general [~~commission~~] constructs a building on the site  
15 selected and described, the site becomes the property of the  
16 adjutant general [~~commission~~] for all purposes of this chapter as  
17 if the site had been acquired by gift to or purchase by the adjutant  
18 general [~~commission~~].

19 (c) If the construction is going to be financed by the  
20 issuance of revenue bonds, the adjutant general shall request the  
21 Texas Public Finance Authority to issue revenue bonds to pay for the  
22 construction.

23 Sec. 431.0303 [~~435.023~~]. LEASE OF PROPERTY. (a) [~~The~~  
24 ~~commission may execute and deliver a lease that leases to the state~~  
25 ~~a building, its site, and the equipment in it. The adjutant general~~  
26 ~~shall execute the lease for the state as provided by Section~~  
27 ~~431.030. The commission shall determine a lawful term of the lease~~

1 ~~and may renew the lease from time to time.~~

2 ~~[(b) The commission may make the annual rent charged the~~  
3 ~~state under the lease payable in installments. The amount of the~~  
4 ~~rent must be sufficient to:~~

5 ~~[(1) provide for the operation and maintenance of the~~  
6 ~~property;~~

7 ~~[(2) pay the interest on, provide for the retirement~~  
8 ~~of, and pay the expenses related to the issuance of, any bonds~~  
9 ~~issued to acquire, construct, or equip the property; and~~

10 ~~[(3) pay the commission's necessary expenses not~~  
11 ~~otherwise provided for.~~

12 ~~[(c)] The adjutant general [~~commission~~] may lease [~~the~~~~  
13 ~~property to any person under terms the adjutant general~~  
14 ~~[~~commission~~] determines [~~if the state fails or refuses to:~~~~

15 ~~[(1) lease the property;~~

16 ~~[(2) renew an existing lease at the rent provided to be~~  
17 ~~paid; or~~

18 ~~[(3) pay the rent required in the lease].~~

19 (b) ~~[(d)]~~ The law requiring notice and competitive bids  
20 does not apply to a lease under this section.

21 (c) ~~[(e)]~~ For the purposes of this section the term "lease"  
22 includes "sublease."

23 Sec. 431.0304 [~~435.024~~]. TRANSFER TO STATE. When property  
24 that the Texas Public Finance Authority [~~commission~~] owns in  
25 accordance with Section 431.0307 is fully paid for and free of  
26 liens, and all obligations incurred in connection with the  
27 acquisition and construction of the property have been fully paid,

1 the Texas Public Finance Authority [~~commission~~] may donate and  
2 transfer the property to the state by appropriate instruments of  
3 transfer. The instruments of transfer shall be kept in the custody  
4 of the adjutant general's department.

5 Sec. 431.0305 [~~435.025~~]. DISPOSAL OF CERTAIN SURPLUS  
6 [~~COMMISSION~~] PROPERTY. (a) When property that the adjutant  
7 general [~~commission~~] owns or that is transferred to the state under  
8 Section 431.0304 is fully paid for and free of liens, and all  
9 obligations incurred in connection with the acquisition and  
10 construction of the property have been fully paid, the adjutant  
11 general [~~commission~~] may properly dispose of the property if:

12 (1) the property is designated by [~~the commission and~~]  
13 the adjutant general as surplus; and

14 (2) the disposal is in the best interests of the  
15 adjutant general [~~commission~~] and the state military forces [~~Texas~~  
16 ~~National Guard~~] and its components or successors.

17 (b) [~~The commission may receive from the adjutant general a~~  
18 ~~state-owned national guard camp and all the land, improvements, and~~  
19 ~~personal property connected with it. The commission may:~~

20 [~~(1) administer the property with its other property,~~  
21 ~~or~~

22 [~~(2) properly dispose of the property if:~~

23 [~~(A) the property is designated by the commission~~  
24 ~~and adjutant general as surplus, and~~

25 [~~(B) the disposal is in the best interests of the~~  
26 ~~Texas National Guard and its components or successors.~~

27 [~~(c)~~] To accomplish the purposes of Subsection (a)



1 ~~[Subsections (a) and (b)]~~, the adjutant general ~~[commission]~~ may  
2 remove, dismantle, or sever any of the property or authorize its  
3 removal, dismantling, or severance.

4 (c) ~~[(d)]~~ If property under this section is designated for  
5 sale, the adjutant general ~~[commission]~~ shall sell it to the  
6 highest bidder for cash. The adjutant general ~~[commission]~~ may  
7 reject any or all bids.

8 (d) ~~[(e)]~~ If property under this section is designated for  
9 exchange, the adjutant general ~~[commission]~~ may exchange the  
10 property for one or more parcels of land equal to or exceeding the  
11 value of the ~~[commission-owned]~~ property to be exchanged by the  
12 adjutant general.

13 (e) A ~~[(f) Except as provided by Subsection (g)(1), a]~~  
14 sale, deed, or exchange made under this section must reserve to the  
15 state a one-sixteenth mineral interest free of cost of production.

16 (f) ~~[(g)]~~ The adjutant general ~~[commission]~~ may:

17 (1) reconvey to the original grantor or donor all  
18 rights, title, and interests, including mineral interests, to all  
19 or part of the land conveyed by that person; and

20 (2) convey to the original grantor or donor, on a  
21 negotiated basis at fair market value, improvements constructed on  
22 the land reconveyed.

23 (g) ~~[(h)]~~ The adjutant general ~~[commission]~~ shall deposit  
24 proceeds of sales under this section in the state treasury to the  
25 credit of the adjutant general ~~[commission]~~ for the use and benefit  
26 of the state military forces ~~[Texas National Guard or its~~  
27 ~~components or successors]~~.

1           Sec. 431.0306 [~~435.026~~]. TAX STATUS OF PROPERTY. Property  
2 held by the adjutant general [~~commission~~] and rents, issues, and  
3 profits of the property are exempt from taxation by the state, a  
4 municipality, a county or other political subdivision, or a taxing  
5 district of the state.

6           Sec. 431.0361 [~~435.027~~]. GRONER A. PITTS NATIONAL GUARD  
7 ARMORY. The Texas National Guard armory located in Brownwood,  
8 Texas, is named the Groner A. Pitts National Guard Armory in honor  
9 of Groner A. Pitts.

10           SECTION 7. Section 435.041, Government Code, is transferred  
11 to Subchapter B, Chapter 431, Government Code, redesignated as  
12 Section 431.0292, Government Code, and amended to read as follows:

13           Sec. 431.0292 [~~435.041~~]. BORROWING MONEY; ISSUING AND  
14 SELLING BONDS. (a) The department [~~commission~~] from time to time  
15 may borrow money under circumstances allowed by the Texas  
16 Constitution and may request the Texas Public Finance Authority, on  
17 behalf of the department [~~commission~~], to issue and sell fully  
18 negotiable bonds to acquire one or more building sites or buildings  
19 or to construct, remodel, repair, or equip one or more buildings.

20           (b) The Texas Public Finance Authority may sell the bonds in  
21 any manner it determines to be in the best interest of the  
22 department [~~commission~~], except that it may not sell a bond that has  
23 not been approved by the attorney general and registered with the  
24 comptroller. [~~The Texas Public Finance Authority is subject to all~~  
25 ~~rights, duties, and conditions set forth in this subchapter with~~  
26 ~~respect to the issuance of bonds by the commission, including the~~  
27 ~~issuance of refunding bonds under Section 435.048.~~]

1 SECTION 8. Subchapter B, Chapter 431, Government Code, is  
2 amended by adding Section 431.0294 to read as follows:

3 Sec. 431.0294. REAL PROPERTY ADVISORY COMMITTEE. (a) The  
4 real property advisory committee is composed of the following seven  
5 members:

6 (1) two assistant adjutants general; and

7 (2) five public members who are not actively serving  
8 in the Texas National Guard and who have experience in  
9 architecture, construction management, engineering, property  
10 management, real estate services, or real property law.

11 (b) Members of the advisory committee are appointed by and  
12 serve at the will of the adjutant general.

13 (c) The adjutant general shall designate one of the public  
14 members of the advisory committee as the presiding officer of the  
15 advisory committee to serve in that capacity at the pleasure of the  
16 adjutant general.

17 (d) The advisory committee shall meet at least two times  
18 each fiscal year to advise the adjutant general on:

19 (1) the facility master plan;

20 (2) the future year defense plan;

21 (3) the long-range construction plan;

22 (4) the selection of architecture and engineering  
23 firms;

24 (5) requests for bonding authority for state military  
25 facilities;

26 (6) the disposal or sale of department property;

27 (7) surface leases of department property;

1           (8) natural resources management plans; and

2           (9) environmental studies and agreements.

3           (e) Each public member of the advisory committee is entitled  
4 to a per diem as provided by the General Appropriations Act for each  
5 day that the member engages in the business of the committee.

6           (f) Each member of the advisory committee is entitled to  
7 reimbursement for meals, lodging, transportation, and incidental  
8 expenses:

9           (1) under the rules for reimbursement that apply to  
10 the member's office or employment, if the member is a state officer  
11 or employee; or

12           (2) as provided by the General Appropriations Act if  
13 the member is not a state officer or employee.

14           (g) The advisory committee is not subject to Chapter 2110.

15           SECTION 9. Subchapter B, Chapter 431, Government Code, is  
16 amended by adding Section 431.0307 to read as follows:

17           Sec. 431.0307. PROPERTY FINANCED BY REVENUE BONDS.  
18 Notwithstanding any other provision of this chapter, property used  
19 by the state for military purposes that was acquired, constructed,  
20 remodeled, or repaired using money from revenue bonds and that has  
21 not yet been transferred under Section 431.0304, is owned by the  
22 Texas Public Finance Authority and a reference to the adjutant  
23 general in this chapter in relation to that ownership means the  
24 Texas Public Finance Authority until the property is transferred.

25           SECTION 10. Subsections (a) and (c), Section 109.47,  
26 Education Code, are amended to read as follows:

27           (a) The board may select and lease a portion of the campus to

1 the Texas National Guard for the purpose of erecting an armory and  
2 other buildings suitable for use by the Texas National Guard. The  
3 board may enter into a lease contract with the adjutant general  
4 [~~Texas Military Facilities Commission~~] on terms which are suitable  
5 and satisfactory to the board for a term of not more than 99 years.

6 (c) The board may permit the adjutant general [~~Texas~~  
7 ~~National Guard Armory Board~~] and the Texas National Guard and any of  
8 its subdivisions ingress upon and egress from the campus for the  
9 purpose of going to and from the armory and other buildings and the  
10 drill ground.

11 SECTION 11. Subsection (e), Section 31.156, Natural  
12 Resources Code, is amended to read as follows:

13 (e) In any year that the division will evaluate real  
14 property under the management and control of the adjutant general's  
15 department [~~or the Texas Military Facilities Commission~~], the  
16 division shall notify the department [~~and the commission~~] before  
17 the division begins the evaluation.

18 SECTION 12. Subsection (d), Section 31.157, Natural  
19 Resources Code, is amended to read as follows:

20 (d) If under the adjutant general's report submitted as  
21 provided by Section 431.030, Government Code, the adjutant general  
22 determines that real property under the management and control of  
23 the adjutant general's department [~~or the Texas Military Facilities~~  
24 ~~Commission~~] is used for military purposes, the commissioner may not  
25 recommend a real estate transaction involving that real property in  
26 the final report submitted as provided by Subsection (e).

27 SECTION 13. Section 1232.101, Government Code, is amended

1 to read as follows:

2           Sec. 1232.101. ISSUANCE OF BONDS FOR CERTAIN STATE  
3 AGENCIES. With respect to all bonds authorized to be issued by or  
4 on behalf of the adjutant general's department [~~Texas Military~~  
5 ~~Facilities Commission~~], Texas National Research Laboratory  
6 Commission, Parks and Wildlife Department, Texas Low-Level  
7 Radioactive Waste Disposal Authority, Stephen F. Austin State  
8 University, Midwestern State University, and Texas Southern  
9 University, the authority has the exclusive authority to act on  
10 behalf of those entities in issuing bonds on their behalf. In  
11 connection with those issuances and with the issuance of refunding  
12 bonds on behalf of those entities, the authority is subject to all  
13 rights, duties, and conditions surrounding issuance previously  
14 applicable to the issuing entity under the statute authorizing the  
15 issuance. A reference in an authorizing statute to the entity on  
16 whose behalf the bonds are being issued applies equally to the  
17 authority in its capacity as issuer on behalf of the entity.

18           SECTION 14. Subchapter C, Chapter 1232, Government Code, is  
19 amended by adding Section 1232.1025 to read as follows:

20           Sec. 1232.1025. ISSUANCE OF BONDS FOR MILITARY FACILITIES.

21 (a) The board may issue and sell bonds in the name of the authority  
22 to finance the acquisition or construction of buildings to be used  
23 as state military forces facilities.

24 (b) After receiving a request under Section 431.0292 or  
25 431.0302(c), the board shall promptly issue and sell bonds in the  
26 name of the authority to provide the requested financing.

27 (c) The adjutant general shall accomplish its statutory

1 authority as if the property or building were financed by  
2 legislative appropriation. The board and the adjutant general  
3 shall adopt a memorandum of understanding that defines the division  
4 of authority between the board and adjutant general.

5 (d) On completion of the acquisition or construction, the  
6 adjutant general shall lease the building from the authority.

7 SECTION 15. Sections 435.001, 435.002, 435.003, 435.004,  
8 435.0043, 435.0044, 435.0045, 435.005, 435.006, 435.007, 435.008,  
9 435.009, 435.0095, 435.010, 435.011, 435.012, 435.015, 435.016,  
10 435.017, 435.042, 435.043, 435.044, 435.045, 435.046, 435.047, and  
11 435.048, Government Code, are repealed.

12 SECTION 16. The headings to Subchapters A, B, and C, Chapter  
13 435, Government Code, are repealed.

14 SECTION 17. (a) The Texas Military Facilities Commission  
15 is abolished. Subject to Section 431.0307, Government Code, as  
16 added by this Act, all powers, duties, obligations, rights,  
17 contracts, bonds, appropriations, records, real or personal  
18 property, and personnel of the Texas Military Facilities Commission  
19 are transferred to the adjutant general.

20 (b) A rule, policy, procedure, or decision of the Texas  
21 Military Facilities Commission continues in effect as a rule,  
22 policy, procedure, or decision of the adjutant general until  
23 superseded by an act of the adjutant general.

24 (c) A reference in another law to the Texas Military  
25 Facilities Commission means the adjutant general.

26 (d) The adjutant general and the Texas Public Finance  
27 Authority shall if necessary adopt a memorandum of understanding

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1 under which an item or matter transferred under Subsection (a) of  
2 this section is transferred to the Texas Public Finance Authority.

3 SECTION 18. This Act takes effect September 1, 2007.