

By: Eltife, et al.

S.B. No. 1000

A BILL TO BE ENTITLED

AN ACT

relating to the self-directed and semi-independent status of the Texas Real Estate Commission; making an appropriation.

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

SECTION 1. Chapter 1101, Occupations Code, is amended by adding Subchapter B-1 to read as follows:

SUBCHAPTER B-1. SELF-DIRECTED AND SEMI-INDEPENDENT STATUS OF COMMISSION

Sec. 1101.081. SELF-DIRECTED AND SEMI-INDEPENDENT STATUS.

Notwithstanding any other provision of law, the commission is self-directed and semi-independent as specified by this subchapter. Any Act of the 82nd Legislature that relates to the commission and that is inconsistent with the commission being self-directed and semi-independent may be implemented by the administrator of the commission only on authorization by the commission.

Sec. 1101.082. BUDGET, REVENUES, AND EXPENSES.

(a) Notwithstanding any other provision of law, including the General Appropriations Act, the commission shall adopt a budget annually using generally accepted accounting principles.

(b) The commission shall be responsible for all direct and indirect costs of the commission's existence and operation. The commission may not directly or indirectly cause the general revenue fund to incur any cost.

1 (c) Notwithstanding any other provision of this chapter,
2 the commission may set the amounts of fees, penalties, charges, and
3 revenues required or permitted by statute or rule as necessary for
4 the purpose of carrying out the functions of the commission and
5 funding the budget adopted and approved under Subsection (a).

6 (d) Except as provided by Subsection (e) or (f), all fees
7 and funds collected by the commission and any funds appropriated to
8 the commission shall be deposited in interest-bearing deposit
9 accounts in the Texas Treasury Safekeeping Trust Company. The
10 comptroller shall contract with the commission for the maintenance
11 of the deposit accounts under terms comparable to a contract
12 between a commercial banking institution and the institution's
13 customers.

14 (e) Collected revenue and interest associated with one of
15 the following funds in the state treasury shall continue to be
16 deposited in the appropriate fund:

- 17 (1) Fund 0028, Appraiser Registry;
18 (2) Fund 0969, Real Estate Fee Trust Account;
19 (3) Fund 0971, Real Estate Recovery Trust Account; and
20 (4) Fund 0988, Real Estate Inspection Recovery Trust
21 Fund.

22 (f) A fee collected under Section 1101.152(a)(16),
23 1101.153, or 1101.154 or under an agreement authorized by Section
24 1101.3521(d) shall be remitted to the state and deposited in the
25 appropriate fund in the state treasury.

26 (g) Not later than August 31 of each fiscal year, the
27 commission shall remit \$750,000 to the general revenue fund.

1 (h) The fiscal year for the commission begins on September 1
2 and ends on August 31.

3 Sec. 1101.083. AUDITS. (a) This subchapter does not
4 affect the duty of the state auditor to audit the commission. The
5 state auditor shall enter into a contract and schedule with the
6 commission to conduct audits.

7 (b) Not later than August 31 of each fiscal year, the
8 commission shall remit a nonrefundable retainer to the state
9 auditor in an amount not less than \$10,000. The commission shall
10 reimburse the state auditor for all costs incurred, in excess of the
11 nonrefundable retainer amounts paid each fiscal year, in performing
12 the audits and shall provide to the governor a copy of any audit
13 performed.

14 Sec. 1101.084. RECORDS; REPORTING REQUIREMENTS. (a) The
15 commission shall keep financial and statistical information as
16 necessary to disclose completely and accurately the financial
17 condition and results of operations of the commission.

18 (b) Before the beginning of each regular session of the
19 legislature, the commission shall submit to the legislature and the
20 governor a report describing all of the agency's activities in the
21 previous biennium. The report must include:

22 (1) an audit as required by Section 1101.083;

23 (2) a financial report of the previous fiscal year,
24 including reports on the financial condition and results of
25 operations;

26 (3) a description of all changes in fees imposed on
27 regulated persons;

1 (4) a report on changes in the regulatory jurisdiction
2 of the commission; and

3 (5) a list of all new rules adopted or repealed.

4 (c) In addition to the reporting requirements of Subsection
5 (b), not later than November 1 of each year, the commission shall
6 submit to the governor, the committee of each house of the
7 legislature that has jurisdiction over appropriations, and the
8 Legislative Budget Board a report that contains:

9 (1) the salary for all commission personnel and the
10 total amount of per diem expenses and travel expenses paid for all
11 commission employees;

12 (2) the total amount of per diem expenses and travel
13 expenses paid for each member of the commission;

14 (3) the commission's operating plan and annual budget;
15 and

16 (4) a detailed report of all revenue received and all
17 expenses incurred by the commission in the previous 12 months.

18 Sec. 1101.085. ABILITY TO CONTRACT. (a) To carry out and
19 promote the objectives of this chapter, the commission may enter
20 into contracts and do all other acts incidental to those contracts
21 that are necessary for the administration of the commission's
22 affairs and for the attainment of the commission's purposes, except
23 as limited by Subsection (b).

24 (b) Any indebtedness, liability, or obligation of the
25 commission incurred under this section may not:

26 (1) create a debt or other liability of this state or
27 another entity other than the commission; or

1 (2) create any personal liability on the part of the
2 members or employees of the commission.

3 Sec. 1101.086. PROPERTY. The commission may:

4 (1) acquire by purchase, lease, gift, or any other
5 manner provided by law and maintain, use, and operate any real,
6 personal, or mixed property, or any interest in property, necessary
7 or convenient to the exercise of the powers, rights, privileges, or
8 functions of the commission;

9 (2) sell or otherwise dispose of any real, personal,
10 or mixed property, or any interest in property, that the commission
11 determines is not necessary or convenient to the exercise of the
12 commission's powers, rights, privileges, or functions;

13 (3) construct, extend, improve, maintain, and
14 reconstruct, or cause to construct, extend, improve, maintain, and
15 reconstruct, and use and operate all facilities necessary or
16 convenient to the exercise of the powers, rights, privileges, or
17 functions of the commission; and

18 (4) borrow money, as may be authorized from time to
19 time by an affirmative vote of a two-thirds majority of the
20 commission, for a period not to exceed five years if necessary or
21 convenient to the exercise of the commission's powers, rights,
22 privileges, or functions.

23 Sec. 1101.087. SUITS. (a) The office of the attorney
24 general shall represent the commission in any litigation.

25 (b) Not later than August 31 of each fiscal year, the
26 commission shall remit a nonrefundable retainer to the office of
27 the attorney general in an amount not less than \$75,000. The

1 nonrefundable retainer shall be applied to any services provided to
2 the commission. If additional litigation services are required,
3 the attorney general may assess and collect from the commission
4 reasonable attorney's fees, in excess of the nonrefundable retainer
5 amount paid each fiscal year, associated with any litigation under
6 this section.

7 Sec. 1101.088. ADMINISTRATIVE HEARINGS. (a) Not later
8 than August 31 of each fiscal year, the commission shall remit a
9 nonrefundable retainer to the State Office of Administrative
10 Hearings in an amount of not less than \$75,000 for hearings
11 conducted under Section 1101.657 or 1101.705.

12 (b) The nonrefundable retainer shall be applied to the costs
13 associated with conducting the hearings. If additional costs are
14 incurred, the State Office of Administrative Hearings may assess
15 and collect from the commission reasonable fees, in excess of the
16 nonrefundable retainer amount paid each fiscal year, associated
17 with conducting a hearing under Section 1101.657 or 1101.705.

18 Sec. 1101.089. POST-PARTICIPATION LIABILITY. (a) If the
19 commission no longer has status under this subchapter as a
20 self-directed, semi-independent agency for any reason, the
21 commission shall be liable for any expenses or debts incurred by the
22 commission during the time the commission was a self-directed,
23 semi-independent agency. The commission's liability under this
24 section includes liability for any lease entered into by the
25 commission. This state is not liable for any expense or debt
26 covered by this subsection, and money from the general revenue fund
27 may not be used to repay the expense or debt.

1 (b) If the commission no longer has status under this
2 subchapter as a self-directed, semi-independent agency for any
3 reason, ownership of any property or other asset acquired by the
4 commission during the time the commission was a self-directed,
5 semi-independent agency, including unexpended fees in a deposit
6 account in the Texas Treasury Safekeeping Trust Company, shall be
7 transferred to this state.

8 Sec. 1101.090. DUE PROCESS; OPEN GOVERNMENT. The
9 commission is:

10 (1) a governmental body for purposes of Chapters 551
11 and 552, Government Code; and

12 (2) a state agency for purposes of Chapters 2001 and
13 2005, Government Code.

14 Sec. 1101.091. MEMBERSHIP IN EMPLOYEES RETIREMENT SYSTEM.
15 Employees of the commission are members of the Employees Retirement
16 System of Texas under Chapter 812, Government Code, and the
17 commission's transition to independent status as provided by this
18 chapter has no effect on their membership or any benefits under that
19 system.

20 SECTION 2. Subsection (c), Section 1101.059, Occupations
21 Code, is amended to read as follows:

22 (c) A person appointed to the commission is entitled to
23 reimbursement~~[, as provided by the General Appropriations Act,]~~ for
24 the travel expenses incurred in attending the training program
25 regardless of whether the attendance at the program occurs before
26 or after the person qualifies for office.

27 SECTION 3. Subsection (d), Section 1101.101, Occupations

1 Code, is amended to read as follows:

2 (d) The commission shall determine the salaries of the
3 administrator, officers, and employees of the commission. [~~The~~
4 ~~amounts of the salaries may not exceed the amounts specified by the~~
5 ~~General Appropriations Act.~~]

6 SECTION 4. (a) To provide a reasonable period for the
7 Texas Real Estate Commission to establish itself as a self-directed
8 and semi-independent agency under Subchapter B-1, Chapter 1101,
9 Occupations Code, as added by this Act, the following amounts are
10 appropriated out of the general revenue fund:

11 (1) for the state fiscal year ending August 31, 2012,
12 an amount equal to 50 percent of the amount of general revenue
13 appropriated to the agency for the state fiscal year ending August
14 31, 2011; and

15 (2) for the state fiscal year ending August 31, 2013,
16 an amount equal to 50 percent of the amount of general revenue
17 appropriated to the agency for the state fiscal year ending August
18 31, 2011.

19 (b) Subject to Subchapter B-1, Chapter 1101, Occupations
20 Code, as added by this Act, the appropriations made by Subsection
21 (a) of this section may be spent by the Texas Real Estate Commission
22 as the commission directs. The Texas Real Estate Commission shall
23 repay to the general revenue fund the appropriation made to the
24 commission for the state fiscal year ending August 31, 2012, not
25 later than that date and as funds become available. The Texas Real
26 Estate Commission shall repay to the general revenue fund the
27 appropriation made to the commission for the state fiscal year

1 ending August 31, 2013, not later than that date and as funds become
2 available.

3 SECTION 5. The transfer of the Texas Real Estate Commission
4 to self-directed and semi-independent status under Subchapter B-1,
5 Chapter 1101, Occupations Code, as added by this Act, and the
6 expiration of self-directed and semi-independent status may not act
7 to cancel, suspend, or prevent:

8 (1) any debt owed to or by the commission;

9 (2) any fine, tax, penalty, or obligation of any
10 party;

11 (3) any contract or other obligation of any party; or

12 (4) any action taken by the commission in the
13 administration or enforcement of the commission's duties.

14 SECTION 6. The Texas Real Estate Commission shall continue
15 to have and exercise the powers and duties allocated to the
16 commission in the commission's enabling legislation, except as
17 specifically amended by this Act.

18 SECTION 7. Title to or ownership of all supplies,
19 materials, records, equipment, books, papers, and furniture used by
20 the Texas Real Estate Commission is transferred to the commission.
21 This Act does not affect any property owned by the commission on or
22 before the effective date of this Act.

23 SECTION 8. The Texas Real Estate Commission shall relocate
24 to state-owned office space not later than September 1, 2011, and
25 shall pay rent to this state in a reasonable amount to be determined
26 by the Texas Facilities Commission for the use and occupancy of the
27 office space. Aggregate rental payments may not be less than

S.B. No. 1000

1 \$550,000 per fiscal year for the state fiscal years ending August
2 31, 2012, and August 31, 2013. Aggregate rental payments may not be
3 less than \$425,000 per fiscal year for each state fiscal year ending
4 August 31, 2014, August 31, 2015, and August 31, 2016.

5 SECTION 9. This Act takes effect September 1, 2011.