

By: Eltife, Hinojosa, Van de Putte, Williams, S.B. No. 1000
et al.
(Geren, Thompson, Hamilton, Darby, Otto, et al.)

Substitute the following for S.B. No. 1000:

By: Kuempel C.S.S.B. No. 1000

A BILL TO BE ENTITLED

AN ACT

1
2 relating to self-directed and semi-independent status of the Texas
3 Real Estate Commission; making an appropriation.

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

5 SECTION 1. Subtitle A, Title 7, Occupations Code, is
6 amended by adding Chapter 1105 to read as follows:

7 CHAPTER 1105. SELF-DIRECTED AND SEMI-INDEPENDENT STATUS OF
8 TEXAS REAL ESTATE COMMISSION

9 Sec. 1105.001. DEFINITIONS. In this section:

10 (1) "Agency" means the commission and the board.

11 (2) "Board" means the Texas Appraiser Licensing and
12 Certification Board.

13 (3) "Commission" means the Texas Real Estate
14 Commission.

15 Sec. 1105.002. SELF-DIRECTED AND SEMI-INDEPENDENT STATUS.

16 (a) Notwithstanding any other provision of law, the agency is
17 self-directed and semi-independent as specified by this chapter.
18 Any Act of the 82nd Legislature that relates to the agency and that
19 is inconsistent with the agency being self-directed and
20 semi-independent may be implemented by the administrator of the
21 agency only on authorization by the agency.

22 (b) This chapter does not affect the board's status as an
23 independent subdivision of the commission as provided by Section
24 1103.051.

1 Sec. 1105.003. BUDGET, REVENUES, AND EXPENSES. (a)

2 Notwithstanding any other provision of law, including the General
3 Appropriations Act, the commission and the board shall each adopt a
4 separate budget annually using generally accepted accounting
5 principles.

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

11 (c) Notwithstanding any other provision of law, the
12 commission and the board may each set the amounts of the respective
13 fees, penalties, charges, and revenues required or permitted by
14 statute or rule as necessary for the purpose of carrying out the
15 separate functions of the commission and the board and funding the
16 respective budgets of the commission and the board adopted and
17 approved under Subsection (a).

18 (d) Except as provided by Subsection (e), all fees and funds
19 collected by the commission or the board and any funds appropriated
20 to the commission or the board shall be deposited in
21 interest-bearing deposit accounts in the Texas Treasury
22 Safekeeping Trust Company. The comptroller shall contract with the
23 commission and the board for the maintenance of the deposit
24 accounts under terms comparable to a contract between a commercial
25 banking institution and the institution's customers.

26 (e) A fee collected under:

27 (1) Section 1101.153(b)(2) shall be deposited in Fund

1 0193 in the state treasury; and

2 (2) Section 1101.153(b)(3) shall be deposited in Fund
3 0001 in the state treasury.

4 (f) Not later than August 31 of each fiscal year, the agency
5 shall remit \$750,000 to the general revenue fund.

6 (g) The fiscal year for the agency begins on September 1 and
7 ends on August 31.

8 Sec. 1105.004. AUDITS. (a) This chapter does not affect
9 the duty of the state auditor to audit the agency. The state
10 auditor shall enter into a contract and schedule with the agency to
11 conduct audits.

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

19 Sec. 1105.005. RECORDS; REPORTING REQUIREMENTS. (a) The
20 agency shall keep financial and statistical information as
21 necessary to disclose completely and accurately the financial
22 condition and results of operations of the agency.

23 (b) Before the beginning of each regular session of the
24 legislature, the agency shall submit to the legislature and the
25 governor a report describing all of the agency's activities in the
26 previous biennium. The report must include:

27 (1) an audit as required by Section 1105.004;

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

4 (3) a description of all changes in fees imposed on
5 regulated persons;

6 (4) a report on changes in the regulatory jurisdiction
7 of the agency; and

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

9 (c) In addition to the reporting requirements of Subsection
10 (b), not later than November 1 of each year, the agency shall submit
11 to the governor, the committee of each house of the legislature that
12 has jurisdiction over appropriations, and the Legislative Budget
13 Board a report that contains:

14 (1) the salary for all agency personnel and the total
15 amount of per diem expenses and travel expenses paid for all agency
16 employees;

17 (2) the total amount of per diem expenses and travel
18 expenses paid for each member of the agency;

19 (3) the agency's operating plan and the annual budgets
20 of the commission and the board; and

21 (4) a detailed report of all revenue received and all
22 expenses incurred by the agency in the previous 12 months.

23 Sec. 1105.006. ABILITY TO CONTRACT. (a) To carry out and
24 promote the objectives of this chapter, the commission or board may
25 enter into contracts and do all other acts incidental to those
26 contracts that are necessary for the administration of the
27 commission's or board's respective affairs and for the attainment

1 of the commission's or board's respective purposes, except as
2 limited by Subsection (b).

3 (b) Any indebtedness, liability, or obligation of the
4 commission or board incurred under this section may not:

5 (1) create a debt or other liability of this state or
6 another entity other than the commission or board, as appropriate;
7 or

8 (2) create any personal liability on the part of the
9 members or employees of the agency.

10 Sec. 1105.007. PROPERTY. The commission or board may:

11 (1) acquire by purchase, lease, gift, or any other
12 manner provided by law and maintain, use, and operate any real,
13 personal, or mixed property, or any interest in property, necessary
14 or convenient to the exercise of the respective powers, rights,
15 privileges, or functions of the commission or board;

16 (2) sell or otherwise dispose of any real, personal,
17 or mixed property, or any interest in property, that the commission
18 or board, as appropriate, determines is not necessary or convenient
19 to the exercise of the commission's or board's respective powers,
20 rights, privileges, or functions;

21 (3) construct, extend, improve, maintain, and
22 reconstruct, or cause to construct, extend, improve, maintain, and
23 reconstruct, and use and operate all facilities necessary or
24 convenient to the exercise of the respective powers, rights,
25 privileges, or functions of the commission or board; and

26 (4) borrow money, as may be authorized from time to
27 time by an affirmative vote of a two-thirds majority of the

1 commission or board, as appropriate, for a period not to exceed five
2 years if necessary or convenient to the exercise of the
3 commission's or board's respective powers, rights, privileges, or
4 functions.

5 Sec. 1105.008. SUITS. (a) The office of the attorney
6 general shall represent the agency in any litigation.

7 (b) Not later than August 31 of each fiscal year, the agency
8 shall remit a nonrefundable retainer to the office of the attorney
9 general in an amount of not less than \$75,000. The nonrefundable
10 retainer shall be applied to any services provided to the agency.
11 If additional litigation services are required, the attorney
12 general may assess and collect from the agency reasonable
13 attorney's fees, in excess of the aggregate nonrefundable retainer
14 amount paid each fiscal year, associated with any litigation under
15 this section.

16 Sec. 1105.009. ADMINISTRATIVE HEARINGS. (a) Not later
17 than August 31 of each fiscal year, the agency shall remit a
18 nonrefundable retainer to the State Office of Administrative
19 Hearings in an amount of not less than \$75,000 for hearings
20 conducted by the State Office of Administrative Hearings under a
21 law administered by the commission or the board.

22 (b) The nonrefundable retainer shall be applied to the costs
23 associated with conducting the hearings. If additional costs are
24 incurred, the State Office of Administrative Hearings may assess
25 and collect from the agency reasonable fees, in excess of the
26 nonrefundable retainer amount paid each fiscal year, associated
27 with conducting the hearings.

1 Sec. 1105.010. POST-PARTICIPATION LIABILITY. (a) If the
2 agency no longer has status under this chapter as a self-directed
3 semi-independent agency for any reason, the agency shall be liable
4 for any expenses or debts incurred by the agency during the time the
5 agency was a self-directed semi-independent agency. The agency's
6 liability under this section includes liability for any lease
7 entered into by the agency. This state is not liable for any
8 expense or debt covered by this subsection, and money from the
9 general revenue fund may not be used to repay the expense or debt.

10 (b) If the agency no longer has status under this chapter as
11 a self-directed semi-independent agency for any reason, ownership
12 of any property or other asset acquired by the agency during the
13 time the agency was a self-directed semi-independent agency,
14 including unexpended fees in a deposit account in the Texas
15 Treasury Safekeeping Trust Company, shall be transferred to this
16 state.

17 Sec. 1105.011. DUE PROCESS; OPEN GOVERNMENT. The
18 commission and the board are governmental bodies for purposes of
19 Chapters 551 and 552, Government Code. The commission is a state
20 agency for purposes of Chapters 2001 and 2005, Government Code.

21 Sec. 1105.012. MEMBERSHIP IN EMPLOYEES RETIREMENT SYSTEM.
22 Employees of the agency are members of the Employees Retirement
23 System of Texas under Chapter 812, Government Code, and the
24 commission's and the board's transition to independent status as
25 provided by this chapter has no effect on their membership or any
26 benefits under that system.

27 SECTION 2. Section 1101.059(c), Occupations Code, is

1 amended to read as follows:

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

7 SECTION 3. Section 1101.101(d), Occupations Code, is
8 amended to read as follows:

9 (d) The commission shall determine the salaries of the
10 administrator, officers, and employees of the commission. [~~The~~
11 ~~amounts of the salaries may not exceed the amounts specified by the~~
12 ~~General Appropriations Act.~~]

13 SECTION 4. Section 1103.103(b), Occupations Code, is
14 repealed.

15 SECTION 5. (a) To provide a reasonable period for the Texas
16 Real Estate Commission to establish itself as a self-directed and
17 semi-independent agency under Chapter 1105, Occupations Code, as
18 added by this Act, the following amounts are appropriated out of the
19 general revenue fund:

20 (1) for the state fiscal year ending August 31, 2012,
21 an amount equal to 50 percent of the amount of general revenue
22 appropriated to the agency for the state fiscal year ending August
23 31, 2011; and

24 (2) for the state fiscal year ending August 31, 2013,
25 an amount equal to 50 percent of the amount of general revenue
26 appropriated to the agency for the state fiscal year ending August
27 31, 2011.

1 (b) Subject to Chapter 1105, Occupations Code, as added by
2 this Act, the appropriations made by Subsection (a) of this section
3 may be spent by the Texas Real Estate Commission as the commission
4 directs. The Texas Real Estate Commission shall repay to the
5 general revenue fund the appropriation made to the commission for
6 the state fiscal year ending August 31, 2012, not later than that
7 date and as funds become available. The Texas Real Estate
8 Commission shall repay to the general revenue fund the
9 appropriation made to the commission for the state fiscal year
10 ending August 31, 2013, not later than that date and as funds become
11 available.

12 SECTION 6. The transfer of the Texas Real Estate Commission
13 to self-directed and semi-independent status under Chapter 1105,
14 Occupations Code, as added by this Act, and the expiration of
15 self-directed and semi-independent status may not act to cancel,
16 suspend, or prevent:

17 (1) any debt owed to or by the commission or the Texas
18 Appraiser Licensing and Certification Board;

19 (2) any fine, tax, penalty, or obligation of any
20 party;

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

22 (4) any action taken by the commission or the board in
23 the administration or enforcement of the commission's or the
24 board's duties.

25 SECTION 7. The Texas Real Estate Commission and the Texas
26 Appraiser Licensing and Certification Board shall continue to have
27 and exercise the powers and duties allocated to the commission or

1 the board in the commission's or the board's enabling legislation,
2 except as specifically amended by this Act.

3 SECTION 8. Title to or ownership of all supplies,
4 materials, records, equipment, books, papers, and furniture used by
5 the Texas Real Estate Commission or the Texas Appraiser Licensing
6 and Certification Board is transferred to the commission or the
7 board, respectively. This Act does not affect any property owned by
8 the commission or the board on or before the effective date of this
9 Act.

10 SECTION 9. The Texas Real Estate Commission and the Texas
11 Appraiser Licensing and Certification Board shall relocate to
12 state-owned office space not later than September 1, 2011, and
13 shall pay rent to this state in a reasonable amount to be determined
14 by the Texas Facilities Commission for the use and occupancy of the
15 office space. Aggregate rental payments may not be less than
16 \$550,000 per fiscal year for the state fiscal years ending August
17 31, 2012, and August 31, 2013. Aggregate rental payments may not be
18 less than \$425,000 per fiscal year for each state fiscal year ending
19 August 31, 2014, August 31, 2015, and August 31, 2016.

20 SECTION 10. This Act takes effect September 1, 2011.