

1-1 By: Eltife, et al. S.B. No. 1000
1-2 (In the Senate - Filed February 28, 2011; March 8, 2011,
1-3 read first time and referred to Committee on Business and Commerce;
1-4 April 11, 2011, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 11, 2011,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1000 By: Eltife

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the self-directed and semi-independent status of the
1-11 Texas Real Estate Commission; making an appropriation.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Chapter 1101, Occupations Code, is amended by
1-14 adding Subchapter B-1 to read as follows:

1-15 SUBCHAPTER B-1. SELF-DIRECTED AND SEMI-INDEPENDENT STATUS OF
1-16 COMMISSION

1-17 Sec. 1101.081. SELF-DIRECTED AND SEMI-INDEPENDENT STATUS.

1-18 Notwithstanding any other provision of law, the commission is
1-19 self-directed and semi-independent as specified by this
1-20 subchapter. Any Act of the 82nd Legislature that relates to the
1-21 commission and that is inconsistent with the commission being
1-22 self-directed and semi-independent may be implemented by the
1-23 administrator of the commission only on authorization by the
1-24 commission.

1-25 Sec. 1101.082. BUDGET, REVENUES, AND EXPENSES.

1-26 (a) Notwithstanding any other provision of law, including the
1-27 General Appropriations Act, the commission shall adopt a budget
1-28 annually using generally accepted accounting principles.

1-29 (b) The commission shall be responsible for all direct and
1-30 indirect costs of the commission's existence and operation. The
1-31 commission may not directly or indirectly cause the general revenue
1-32 fund to incur any cost.

1-33 (c) Notwithstanding any other provision of this chapter,
1-34 the commission may set the amounts of fees, penalties, charges, and
1-35 revenues required or permitted by statute or rule as necessary for
1-36 the purpose of carrying out the functions of the commission and
1-37 funding the budget adopted and approved under Subsection (a).

1-38 (d) Except as provided by Subsection (e) or (f), all fees
1-39 and funds collected by the commission and any funds appropriated to
1-40 the commission shall be deposited in interest-bearing deposit
1-41 accounts in the Texas Treasury Safekeeping Trust Company. The
1-42 comptroller shall contract with the commission for the maintenance
1-43 of the deposit accounts under terms comparable to a contract
1-44 between a commercial banking institution and the institution's
1-45 customers.

1-46 (e) Collected revenue and interest associated with one of
1-47 the following funds in the state treasury shall continue to be
1-48 deposited in the appropriate fund:

- 1-49 (1) Fund 0028, Appraiser Registry;
1-50 (2) Fund 0969, Real Estate Fee Trust Account;
1-51 (3) Fund 0971, Real Estate Recovery Trust Account; and
1-52 (4) Fund 0988, Real Estate Inspection Recovery Trust

1-53 Fund.

1-54 (f) A fee collected under Section 1101.152(a)(16),
1-55 1101.153, or 1101.154 or under an agreement authorized by Section
1-56 1101.3521(d) shall be remitted to the state and deposited in the
1-57 appropriate fund in the state treasury.

1-58 (g) Not later than August 31 of each fiscal year, the
1-59 commission shall remit \$750,000 to the general revenue fund.

1-60 (h) The fiscal year for the commission begins on September 1
1-61 and ends on August 31.

1-62 Sec. 1101.083. AUDITS. (a) This subchapter does not
1-63 affect the duty of the state auditor to audit the commission. The

2-1 state auditor shall enter into a contract and schedule with the
 2-2 commission to conduct audits.

2-3 (b) Not later than August 31 of each fiscal year, the
 2-4 commission shall remit a nonrefundable retainer to the state
 2-5 auditor in an amount not less than \$10,000. The commission shall
 2-6 reimburse the state auditor for all costs incurred, in excess of the
 2-7 nonrefundable retainer amounts paid each fiscal year, in performing
 2-8 the audits and shall provide to the governor a copy of any audit
 2-9 performed.

2-10 Sec. 1101.084. RECORDS; REPORTING REQUIREMENTS. (a) The
 2-11 commission shall keep financial and statistical information as
 2-12 necessary to disclose completely and accurately the financial
 2-13 condition and results of operations of the commission.

2-14 (b) Before the beginning of each regular session of the
 2-15 legislature, the commission shall submit to the legislature and the
 2-16 governor a report describing all of the agency's activities in the
 2-17 previous biennium. The report must include:

2-18 (1) an audit as required by Section 1101.083;

2-19 (2) a financial report of the previous fiscal year,
 2-20 including reports on the financial condition and results of
 2-21 operations;

2-22 (3) a description of all changes in fees imposed on
 2-23 regulated persons;

2-24 (4) a report on changes in the regulatory jurisdiction
 2-25 of the commission; and

2-26 (5) a list of all new rules adopted or repealed.

2-27 (c) In addition to the reporting requirements of Subsection
 2-28 (b), not later than November 1 of each year, the commission shall
 2-29 submit to the governor, the committee of each house of the
 2-30 legislature that has jurisdiction over appropriations, and the
 2-31 Legislative Budget Board a report that contains:

2-32 (1) the salary for all commission personnel and the
 2-33 total amount of per diem expenses and travel expenses paid for all
 2-34 commission employees;

2-35 (2) the total amount of per diem expenses and travel
 2-36 expenses paid for each member of the commission;

2-37 (3) the commission's operating plan and annual budget;
 2-38 and

2-39 (4) a detailed report of all revenue received and all
 2-40 expenses incurred by the commission in the previous 12 months.

2-41 Sec. 1101.085. ABILITY TO CONTRACT. (a) To carry out and
 2-42 promote the objectives of this chapter, the commission may enter
 2-43 into contracts and do all other acts incidental to those contracts
 2-44 that are necessary for the administration of the commission's
 2-45 affairs and for the attainment of the commission's purposes, except
 2-46 as limited by Subsection (b).

2-47 (b) Any indebtedness, liability, or obligation of the
 2-48 commission incurred under this section may not:

2-49 (1) create a debt or other liability of this state or
 2-50 another entity other than the commission; or

2-51 (2) create any personal liability on the part of the
 2-52 members or employees of the commission.

2-53 Sec. 1101.086. PROPERTY. The commission may:

2-54 (1) acquire by purchase, lease, gift, or any other
 2-55 manner provided by law and maintain, use, and operate any real,
 2-56 personal, or mixed property, or any interest in property, necessary
 2-57 or convenient to the exercise of the powers, rights, privileges, or
 2-58 functions of the commission;

2-59 (2) sell or otherwise dispose of any real, personal,
 2-60 or mixed property, or any interest in property, that the commission
 2-61 determines is not necessary or convenient to the exercise of the
 2-62 commission's powers, rights, privileges, or functions;

2-63 (3) construct, extend, improve, maintain, and
 2-64 reconstruct, or cause to construct, extend, improve, maintain, and
 2-65 reconstruct, and use and operate all facilities necessary or
 2-66 convenient to the exercise of the powers, rights, privileges, or
 2-67 functions of the commission; and

2-68 (4) borrow money, as may be authorized from time to
 2-69 time by an affirmative vote of a two-thirds majority of the

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

3-4 Sec. 1101.087. SUITS. (a) The office of the attorney
3-5 general shall represent the commission in any litigation.

3-6 (b) Not later than August 31 of each fiscal year, the
3-7 commission shall remit a nonrefundable retainer to the office of
3-8 the attorney general in an amount not less than \$75,000. The
3-9 nonrefundable retainer shall be applied to any services provided to
3-10 the commission. If additional litigation services are required,
3-11 the attorney general may assess and collect from the commission
3-12 reasonable attorney's fees, in excess of the nonrefundable retainer
3-13 amount paid each fiscal year, associated with any litigation under
3-14 this section.

3-15 Sec. 1101.088. ADMINISTRATIVE HEARINGS. (a) Not later
3-16 than August 31 of each fiscal year, the commission shall remit a
3-17 nonrefundable retainer to the State Office of Administrative
3-18 Hearings in an amount of not less than \$75,000 for hearings
3-19 conducted under Section 1101.657 or 1101.705.

3-20 (b) The nonrefundable retainer shall be applied to the costs
3-21 associated with conducting the hearings. If additional costs are
3-22 incurred, the State Office of Administrative Hearings may assess
3-23 and collect from the commission reasonable fees, in excess of the
3-24 nonrefundable retainer amount paid each fiscal year, associated
3-25 with conducting a hearing under Section 1101.657 or 1101.705.

3-26 Sec. 1101.089. POST-PARTICIPATION LIABILITY. (a) If the
3-27 commission no longer has status under this subchapter as a
3-28 self-directed, semi-independent agency for any reason, the
3-29 commission shall be liable for any expenses or debts incurred by the
3-30 commission during the time the commission was a self-directed,
3-31 semi-independent agency. The commission's liability under this
3-32 section includes liability for any lease entered into by the
3-33 commission. This state is not liable for any expense or debt
3-34 covered by this subsection, and money from the general revenue fund
3-35 may not be used to repay the expense or debt.

3-36 (b) If the commission no longer has status under this
3-37 subchapter as a self-directed, semi-independent agency for any
3-38 reason, ownership of any property or other asset acquired by the
3-39 commission during the time the commission was a self-directed,
3-40 semi-independent agency, including unexpended fees in a deposit
3-41 account in the Texas Treasury Safekeeping Trust Company, shall be
3-42 transferred to this state.

3-43 Sec. 1101.090. DUE PROCESS; OPEN GOVERNMENT. The
3-44 commission is:

3-45 (1) a governmental body for purposes of Chapters 551
3-46 and 552, Government Code; and

3-47 (2) a state agency for purposes of Chapters 2001 and
3-48 2005, Government Code.

3-49 Sec. 1101.091. MEMBERSHIP IN EMPLOYEES RETIREMENT SYSTEM.
3-50 Employees of the commission are members of the Employees Retirement
3-51 System of Texas under Chapter 812, Government Code, and the
3-52 commission's transition to independent status as provided by this
3-53 chapter has no effect on their membership or any benefits under that
3-54 system.

3-55 SECTION 2. Subsection (c), Section 1101.059, Occupations
3-56 Code, is amended to read as follows:

3-57 (c) A person appointed to the commission is entitled to
3-58 reimbursement [~~as provided by the General Appropriations Act,~~]
3-59 for the travel expenses incurred in attending the training program
3-60 regardless of whether the attendance at the program occurs before
3-61 or after the person qualifies for office.

3-62 SECTION 3. Subsection (d), Section 1101.101, Occupations
3-63 Code, is amended to read as follows:

3-64 (d) The commission shall determine the salaries of the
3-65 administrator, officers, and employees of the commission. [~~The~~
3-66 amounts of the salaries may not exceed the amounts specified by the
3-67 General Appropriations Act.]

3-68 SECTION 4. (a) To provide a reasonable period for the
3-69 Texas Real Estate Commission to establish itself as a self-directed

4-1 and semi-independent agency under Subchapter B-1, Chapter 1101,
4-2 Occupations Code, as added by this Act, the following amounts are
4-3 appropriated out of the general revenue fund:

4-4 (1) for the state fiscal year ending August 31, 2012,
4-5 an amount equal to 50 percent of the amount of general revenue
4-6 appropriated to the agency for the state fiscal year ending August
4-7 31, 2011; and

4-8 (2) for the state fiscal year ending August 31, 2013,
4-9 an amount equal to 50 percent of the amount of general revenue
4-10 appropriated to the agency for the state fiscal year ending August
4-11 31, 2011.

4-12 (b) Subject to Subchapter B-1, Chapter 1101, Occupations
4-13 Code, as added by this Act, the appropriations made by Subsection
4-14 (a) of this section may be spent by the Texas Real Estate Commission
4-15 as the commission directs. The Texas Real Estate Commission shall
4-16 repay to the general revenue fund the appropriation made to the
4-17 commission for the state fiscal year ending August 31, 2012, not
4-18 later than that date and as funds become available. The Texas Real
4-19 Estate Commission shall repay to the general revenue fund the
4-20 appropriation made to the commission for the state fiscal year
4-21 ending August 31, 2013, not later than that date and as funds become
4-22 available.

4-23 SECTION 5. The transfer of the Texas Real Estate Commission
4-24 to self-directed and semi-independent status under Subchapter B-1,
4-25 Chapter 1101, Occupations Code, as added by this Act, and the
4-26 expiration of self-directed and semi-independent status may not act
4-27 to cancel, suspend, or prevent:

4-28 (1) any debt owed to or by the commission;
4-29 (2) any fine, tax, penalty, or obligation of any
4-30 party;

4-31 (3) any contract or other obligation of any party; or
4-32 (4) any action taken by the commission in the
4-33 administration or enforcement of the commission's duties.

4-34 SECTION 6. The Texas Real Estate Commission shall continue
4-35 to have and exercise the powers and duties allocated to the
4-36 commission in the commission's enabling legislation, except as
4-37 specifically amended by this Act.

4-38 SECTION 7. Title to or ownership of all supplies,
4-39 materials, records, equipment, books, papers, and furniture used by
4-40 the Texas Real Estate Commission is transferred to the commission.
4-41 This Act does not affect any property owned by the commission on or
4-42 before the effective date of this Act.

4-43 SECTION 8. The Texas Real Estate Commission shall relocate
4-44 to state-owned office space not later than September 1, 2011, and
4-45 shall pay rent to this state in a reasonable amount to be determined
4-46 by the Texas Facilities Commission for the use and occupancy of the
4-47 office space. Aggregate rental payments may not be less than
4-48 \$550,000 per fiscal year for the state fiscal years ending August
4-49 31, 2012, and August 31, 2013. Aggregate rental payments may not be
4-50 less than \$425,000 per fiscal year for each state fiscal year ending
4-51 August 31, 2014, August 31, 2015, and August 31, 2016.

4-52 SECTION 9. This Act takes effect September 1, 2011.

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