

AN ACT

relating to the continuation of the self-directed and semi-independent status of the Texas State Board of Public Accountancy, the Texas Board of Professional Engineers, and the Texas Board of Architectural Examiners.

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

SECTION 1. The Self-Directed Semi-Independent Agency Project Act (Article 8930, Revised Statutes) is transferred to Subtitle E, Title 4, Government Code, redesignated as Chapter 472, Government Code, and amended to read as follows:

CHAPTER 472 [~~Art. 8930~~]. SELF-DIRECTED SEMI-INDEPENDENT AGENCIES

SUBCHAPTER A. GENERAL PROVISIONS [~~AGENCY PROJECT ACT.~~

~~[Sec. 1. SHORT TITLE. This Act shall be known as the Self-Directed Semi-Independent Agency Project Act.]~~

Sec. 472.001. APPLICABILITY OF CHAPTER. This chapter applies to [~~2. AGENCY PARTICIPATION. The following agencies shall be part of the pilot project created by this Act~~]:

- (1) the Texas State Board of Public Accountancy;
- (2) the Texas Board of Professional Engineers; and
- (3) the Texas Board of Architectural Examiners.

Sec. 472.002 [~~3~~]. DEFINITION. In this chapter [~~Act~~], "[~~project~~] agency" means an agency listed in Section 472.001 [~~2 of this Act~~].

1 SUBCHAPTER B. STATUS OF AGENCIES

2 Sec. 472.051 [4]. SELF-DIRECTED AND SEMI-INDEPENDENT
3 STATUS OF AGENCIES [~~PILOT PROJECT~~]. (a) Each [~~Notwithstanding any~~
4 ~~other provision of law, each project~~] agency is [~~shall become~~]
5 self-directed and semi-independent as specified in this chapter
6 [~~Act. To allow the pilot project the opportunity to test the~~
7 ~~effectiveness of operating under the provisions of this Act, any~~
8 ~~Act of the 78th Legislature that relates to an agency included in~~
9 ~~Section 2 of this Act and that is inconsistent with being~~
10 ~~self-directed and semi-independent may be implemented on~~
11 ~~authorization by the governing board of the agency~~].

12 (b) Each [~~project~~] agency is [~~shall continue to be~~] a state
13 agency, as that term is defined in Section 2001.003(7) [~~, Government~~
14 ~~Code~~].

15 (b-1) Except as otherwise provided by this chapter, each
16 agency is subject to a provision of law that applies to state
17 agencies, including:

18 (1) state purchasing requirements under Subtitle D,
19 Title 10;

20 (2) interagency transfer voucher requirements under
21 Section 2155.327;

22 (3) travel requirements under Chapters 2171 and 2205,
23 using amounts provided by the General Appropriations Act to guide
24 travel reimbursement rates; and

25 (4) prompt payment requirements under Chapter 2251.

26 (c) The Sunset Advisory Commission shall examine each
27 agency's performance as a self-directed and semi-independent

1 agency and the agency's compliance with this chapter as part of the
 2 commission's periodic review of the agency under [~~This Act is~~
 3 ~~subject to~~] Chapter 325[~~, Government Code~~] (Texas Sunset Act)[~~-~~
 4 ~~Unless continued in existence as provided by that chapter, this Act~~
 5 ~~expires September 1, 2013~~].

6 (d) Each agency shall pay the cost incurred by the Sunset
 7 Advisory Commission in performing a review of the agency under the
 8 agency's enabling legislation. The Sunset Advisory Commission
 9 shall determine the cost, and the agency shall pay the amount
 10 promptly on receipt of a statement from the Sunset Advisory
 11 Commission detailing the cost.

12 SUBCHAPTER C. POWERS AND DUTIES OF AGENCIES

13 Sec. 472.101 [~~5~~]. GENERAL DUTIES OF ALL [~~PROJECT~~] AGENCIES.
 14 In addition to the duties enumerated in the enabling legislation
 15 specifically applicable to each [~~project~~] agency, each [~~project~~]
 16 agency shall have the duties prescribed by Sections 472.102 [~~6~~]
 17 through 472.105 [~~9 of this Act~~].

18 Sec. 472.102 [~~6~~]. BUDGET. (a) An [~~A project~~] agency shall
 19 adopt a budget annually using generally accepted accounting
 20 principles. The budget shall be reviewed and approved only by the
 21 [~~project~~] agency's governing board notwithstanding any other
 22 provision of law, including the General Appropriations Act. No
 23 costs shall be incurred by the general revenue fund. An [~~A project~~]
 24 agency shall be responsible for all costs, both direct and
 25 indirect.

26 (b) An [~~A project~~] agency shall keep financial and
 27 statistical information as necessary to disclose completely and

1 accurately the financial condition and operation of the [~~project~~]
2 agency.

3 (c) The Texas State Board of Public Accountancy shall
4 annually remit \$703,344 to the general revenue fund, the Texas
5 Board of Professional Engineers shall annually remit \$373,900 to
6 the general revenue fund, and the Texas Board of Architectural
7 Examiners shall annually remit \$510,000 to the general revenue
8 fund.

9 Sec. 472.103 [~~7~~]. AUDITS. Nothing in this chapter [~~Act~~]
10 shall affect the duty of the state auditor [~~State Auditor~~] to audit
11 an [~~a project~~] agency. The state auditor [~~State Auditor~~] shall
12 enter into a contract and schedule with each [~~project~~] agency to
13 conduct audits, including financial reports and performance
14 audits. Costs incurred in performing such audits shall be
15 reimbursed by the [~~project~~] agency.

16 Sec. 472.104 [~~8~~]. REPORTING REQUIREMENTS. (a) An [~~A~~
17 ~~project~~] agency shall submit to the legislature and the governor by
18 the first day of the regular session of the legislature a report
19 describing all of the agency's activities in the previous biennium.
20 The report shall include:

21 (1) an audit required by Section 472.103 [~~7 of this~~
22 ~~Act~~];

23 (2) a financial report of the previous fiscal year;

24 (3) a description of any changes in licensing fees;

25 (4) a report on the number of examination candidates,
26 licensees, certificate holders, and enforcement activities and any
27 changes in those figures; and

1 (5) a description of all new rules adopted or
2 repealed.

3 (b) In addition to the reporting requirements of Subsection
4 (a) [~~of this section~~], each [~~project~~] agency shall report annually,
5 not later than November 1, to the governor, to the committee of each
6 house of the legislature that has jurisdiction over appropriations,
7 and to the Legislative Budget Board the following:

8 (1) the salary for all [~~project~~] agency personnel and
9 the total amount of per diem expenses and travel expenses paid for
10 all agency employees, including trend performance data for the
11 preceding five fiscal years;

12 (2) the total amount of per diem expenses and travel
13 expenses paid for each member of the governing body of each
14 [~~project~~] agency, including trend performance data for the
15 preceding five fiscal years;

16 (3) each [~~project~~] agency's operating plan covering a
17 period of two fiscal years;

18 (4) each agency's operating [~~and~~] budget, including
19 revenues and a breakdown of expenditures by program and
20 administrative expenses, showing:

21 (A) projected budget data for [~~covering~~] a period
22 of two fiscal years [~~two-year period~~]; and

23 (B) trend performance data for the preceding five
24 fiscal years; and

25 (5) trend performance data for the preceding five
26 fiscal years regarding:

27 (A) the number of full-time equivalent positions

- 1 at the agency;
2 (B) the number of complaints received from the
3 public and the number of complaints initiated by agency staff;
4 (C) the number of complaints dismissed and the
5 number of complaints resolved by enforcement action;
6 (D) the number of enforcement actions by sanction
7 type;
8 (E) the number of enforcement cases closed
9 through voluntary compliance;
10 (F) the amount of administrative penalties
11 assessed and the rate of collection of assessed administrative
12 penalties;
13 (G) the number of enforcement cases that allege a
14 threat to public health, safety, or welfare or a violation of
15 professional standards of care and the disposition of those cases;
16 (H) the average time to resolve a complaint;
17 (I) the number of license holders or regulated
18 persons broken down by type of license and license status,
19 including inactive status or retired status;
20 (J) the fee charged to issue and renew each type
21 of license, certificate, permit, or other similar authorization
22 issued by the agency;
23 (K) the average time to issue a license;
24 (L) litigation costs, broken down by
25 administrative hearings, judicial proceedings, and outside counsel
26 costs; and
27 (M) reserve fund balances [~~4~~] ~~a detailed~~

1 ~~report of all revenue received and all expenses incurred by the~~
2 ~~project agency in the previous 12 months].~~

3 Sec. 472.105 [~~9~~]. DISPOSITION OF FEES COLLECTED. If
4 provided in an [~~a project~~] agency's enabling legislation, the
5 [~~project~~] agency shall collect a professional fee of \$200 from its
6 license holders [~~licensees~~] annually, which shall be remitted to
7 the state. If provided in an [~~a project~~] agency's enabling
8 legislation, the [~~project~~] agency shall collect a scholarship fee
9 of \$10 annually from its license holders [~~licensees and shall remit~~
10 ~~it to the state~~].

11 Sec. 472.106 [~~10~~]. GENERAL POWERS OF ALL [~~PROJECT~~]
12 AGENCIES. In addition to the powers enumerated in each [~~project~~]
13 agency's enabling legislation, each [~~project~~] agency shall have the
14 powers described in Sections 472.107 [~~11~~] through 472.110 [~~14 of~~
15 ~~this Act~~].

16 Sec. 472.107 [~~11~~]. ABILITY TO CONTRACT. To carry out and
17 promote the objectives of this chapter, an [~~Act, a project~~] agency
18 may enter into contracts and do all other acts incidental to those
19 contracts that are necessary for the administration of its affairs
20 and for the attainment of its purposes. Any [~~provided, however,~~
21 ~~that any~~] indebtedness, liability, or obligation of the [~~project~~]
22 agency shall not:

23 (1) create a debt or other liability of the state or
24 any other entity other than the [~~project~~] agency; or

25 (2) create any personal liability on the part of the
26 members of the board of the [~~project~~] agency or its employees.

27 Sec. 472.108 [~~12~~]. PROPERTY. An [~~A project~~] agency may

1 acquire by lease, and maintain, use, and operate, any real,
2 personal, or mixed property necessary to the exercise of the
3 powers, rights, privileges, and functions of the agency.

4 Sec. 472.109 [~~13~~]. SUITS. The office of the attorney
5 general shall represent an [~~a project~~] agency in any litigation.
6 The attorney general may assess and collect from the [~~project~~]
7 agency reasonable attorney's fees associated with any litigation
8 under this section.

9 Sec. 472.110 [~~14~~]. FEES AND DISPOSITION OF FUNDS. (a)
10 Subject to the limitations, if any, in the applicable enabling
11 legislation, each [~~project~~] agency may set the amount of fees by
12 statute or rule as necessary for the purpose of carrying out the
13 functions of the [~~project~~] agency.

14 (b) All fees and funds collected by an [~~a project~~] agency,
15 [~~during the pilot project and~~] any funds appropriated to the
16 [~~project~~] agency, and any other funds belonging to or under the
17 control of an agency shall be deposited in interest-bearing deposit
18 accounts in the Texas Treasury Safekeeping Trust Company. The
19 comptroller shall contract with the [~~project~~] agency for the
20 maintenance of the deposit accounts under terms comparable to a
21 contract between a commercial banking institution and its
22 customers. An agency may not hold funds in an account that is not
23 under the control of the comptroller.

24 (c) An [~~A project~~] agency shall use the comptroller's
25 uniform statewide accounting system under Chapter 2101 to make all
26 payments, other than direct payments from an agency's account to
27 the Texas Treasury Safekeeping Trust Company [~~may retain each~~

1 ~~fiscal year an amount of fines and other revenue the project agency~~
2 ~~receives during the fiscal year as a result of enforcement actions~~
3 ~~that is equal to 20 percent of the total amount expended by the~~
4 ~~project agency during the previous fiscal year, not to exceed \$1~~
5 ~~million].~~

6 (d) An agency shall remit all administrative penalties
7 collected by the agency to the comptroller for deposit in [~~At the~~
8 ~~end of each fiscal year 50 percent of the unexpended balance of the~~
9 ~~amount retained in Subsection (c) of this section shall be~~
10 ~~deposited to the credit of] the general revenue fund.~~

11 Sec. 472.111 [~~15~~]. POST-PARTICIPATION LIABILITY. (a) If a
12 state agency no longer has status under this chapter [~~Act~~] as a
13 self-directed semi-independent [~~project~~] agency [~~either because of~~
14 ~~the expiration of this Act or~~] for any [~~other~~] reason, the state
15 agency shall be liable for any expenses or debts incurred by the
16 state agency during the time the state agency had status as a
17 self-directed semi-independent agency [~~participated in the pilot~~
18 ~~project~~]. The state agency's liability under this section includes
19 liability for any lease entered into by the state agency. The state
20 is not liable for any expense or debt covered by this subsection,
21 and money from the general revenue fund may not be used to repay the
22 expense or debt.

23 (b) If a state agency no longer has status under this
24 chapter [~~Act~~] as a self-directed semi-independent [~~project~~] agency
25 [~~either because of the expiration of this Act or~~] for any [~~other~~]
26 reason, ownership of any property or other asset acquired by the
27 state agency during the time the state agency had status as a

1 self-directed semi-independent agency [~~participated in the pilot~~
2 ~~project~~], including unexpended fees in a deposit account in the
3 Texas Treasury Safekeeping Trust Company, shall be transferred to
4 the state.

5 Sec. 472.112 [~~16~~]. OPEN GOVERNMENT. Subject to the
6 confidentiality provisions of an [~~a project~~] agency's enabling
7 legislation:

8 (1) meetings of the [~~project~~] agency are subject to
9 Chapter 551[~~, Government Code~~]; and

10 (2) records maintained by the [~~project~~] agency are
11 subject to Chapter 552[~~, Government Code~~].

12 Sec. 472.113 [~~17~~]. MEMBERSHIP IN EMPLOYEES [~~EMPLOYEE~~]
13 RETIREMENT SYSTEM. Employees of the [~~project~~] agencies are members
14 of the Employees Retirement System of Texas under Chapter 812,
15 [~~Government Code~~] and the agencies' [~~transition to~~] independent
16 status shall have no effect on their membership.

17 Sec. 472.114 [~~18~~]. GIFTS. (a) Notwithstanding other law,
18 an [~~a project~~] agency may not accept a gift, grant, or donation:

19 (1) from a party to an enforcement action; or

20 (2) to pursue a specific investigation or enforcement
21 action.

22 (b) An [~~A project~~] agency must:

23 (1) report each gift, grant, or donation that the
24 agency receives as a separate item in the agency's detailed report
25 under Section 472.104(b) [~~8(b) of this Act~~]; and

26 (2) include with the report a statement indicating the
27 purpose for which each gift, grant, or donation was used.

1 SECTION 2. Section 901.658, Occupations Code, is amended to
2 read as follows:

3 Sec. 901.658. FUNDING. The board may:

4 (1) use without appropriation, in accordance with
5 [~~Article 8930, Revised Statutes,~~] this subchapter[~~7~~] and Section
6 901.155, any money from the trust fund established under Section
7 901.155; and

8 (2) accept gifts, grants, and donations of real or
9 personal property from any entity, subject to limitations or
10 conditions set by law, for the purposes of this subchapter.

11 SECTION 3. Section 1001.507, Occupations Code, is repealed.

12 SECTION 4. Section 472.104(b), Government Code, as
13 redesignated and amended by this Act, applies only to a report
14 originally due on or after the effective date of this Act. A report
15 originally due before the effective date of this Act is governed by
16 the law in effect on the date the report was originally due, and the
17 former law is continued in effect for that purpose.

18 SECTION 5. Not later than October 1, 2013, each agency, as
19 that term is defined by Section 472.002, Government Code, as
20 redesignated and amended by this Act, shall transfer any funds held
21 in an account not under the control of the comptroller of public
22 accounts to an account that is under the control of the comptroller
23 of public accounts, as provided by Section 472.110(b), Government
24 Code, as redesignated and amended by this Act.

25 SECTION 6. Sections 472.110(c) and (d), Government Code, as
26 redesignated and amended by this Act, and the repeal by this Act of
27 Section 1001.507, Occupations Code, apply only to an administrative

1 penalty that is collected on or after the effective date of this
2 Act. An administrative penalty that is collected before the
3 effective date of this Act is governed by the law in effect on the
4 date the administrative penalty was collected, and the former law
5 is continued in effect for that purpose.

6 SECTION 7. This Act takes effect September 1, 2013.

President of the Senate

Speaker of the House

I certify that H.B. No. 1685 was passed by the House on April 23, 2013, by the following vote: Yeas 133, Nays 9, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1685 was passed by the Senate on May 9, 2013, by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor