

1-1 By: Hinojosa S.B. No. 1875  
 1-2 (In the Senate - Filed March 10, 2017; March 23, 2017, read  
 1-3 first time and referred to Committee on Finance; April 10, 2017,  
 1-4 reported favorably by the following vote: Yeas 14, Nays 0;  
 1-5 April 10, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Nelson	X			
1-8 Hinojosa	X			
1-9 Bettencourt	X			
1-10 Birdwell	X			
1-11 Hancock	X			
1-12 Huffman	X			
1-13 Kolkhorst	X			
1-14 Nichols	X			
1-15 Schwertner	X			
1-16 Seliger	X			
1-17 Taylor of Galveston	X			
1-18 Uresti	X			
1-19 Watson	X			
1-20 West	X			
1-21 Whitmire			X	

1-23 A BILL TO BE ENTITLED  
 1-24 AN ACT

1-25 relating to the self-directed and semi-independent status of  
 1-26 certain agencies and the requirements applicable to, and the  
 1-27 oversight of, those agencies.

1-28 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-29 SECTION 1. Section 472.104(b), Government Code, is amended  
 1-30 to read as follows:

1-31 (b) In addition to the reporting requirements of Subsection  
 1-32 (a), ~~[each agency shall report annually,]~~ not later than November 1  
 1-33 of each year, each agency shall submit the report required under  
 1-34 Section 473.101~~[, to the governor, to the committee of each house of~~  
 1-35 ~~the legislature that has jurisdiction over appropriations, and to~~  
 1-36 ~~the Legislative Budget Board the following:~~

1-37 ~~[(1) the salary for all agency personnel and the total~~  
 1-38 ~~amount of per diem expenses and travel expenses paid for all agency~~  
 1-39 ~~employees, including trend performance data for the preceding five~~  
 1-40 ~~fiscal years,~~

1-41 ~~[(2) the total amount of per diem expenses and travel~~  
 1-42 ~~expenses paid for each member of the governing body of each agency,~~  
 1-43 ~~including trend performance data for the preceding five fiscal~~  
 1-44 ~~years,~~

1-45 ~~[(3) each agency's operating plan covering a period of~~  
 1-46 ~~two fiscal years,~~

1-47 ~~[(4) each agency's operating budget, including~~  
 1-48 ~~revenues and a breakdown of expenditures by program and~~  
 1-49 ~~administrative expenses, showing:~~

1-50 ~~[(A) projected budget data for a period of two~~  
 1-51 ~~fiscal years, and~~

1-52 ~~[(B) trend performance data for the preceding~~  
 1-53 ~~five fiscal years, and~~

1-54 ~~[(5) trend performance data for the preceding five~~  
 1-55 ~~fiscal years regarding:~~

1-56 ~~[(A) the number of full-time equivalent~~  
 1-57 ~~positions at the agency,~~

1-58 ~~[(B) the number of complaints received from the~~  
 1-59 ~~public and the number of complaints initiated by agency staff,~~

1-60 ~~[(C) the number of complaints dismissed and the~~  
 1-61 ~~number of complaints resolved by enforcement action,~~

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

2-23 SECTION 2. Subtitle E, Title 4, Government Code, is amended  
2-24 by adding Chapter 473 to read as follows:

2-25 CHAPTER 473. PROVISIONS GENERALLY APPLICABLE TO SELF-DIRECTED AND  
2-26 SEMI-INDEPENDENT AGENCIES

2-27 SUBCHAPTER A. GENERAL PROVISIONS

2-28 Sec. 473.001. DEFINITIONS. In this chapter:

2-29 (1) "Agency" means a state agency that:  
2-30 (A) is self-directed and semi-independent under  
2-31 the laws of this state; or  
2-32 (B) is seeking self-directed and  
2-33 semi-independent agency status.

2-34 (2) "Board" means the Legislative Budget Board.

2-35 Sec. 473.002. ROLE OF BOARD; RECOVERY OF COSTS. (a) The  
2-36 board has responsibility under this chapter for developing and  
2-37 administering the application process, monitoring agencies, and  
2-38 performing other duties provided under this chapter.

2-39 (b) The board may recover from an agency the costs  
2-40 associated with administering the application process for the  
2-41 agency and the board's monitoring of the agency.

2-42 Sec. 473.003. REVIEW OF LEGISLATION; REPORT. (a) The  
2-43 board's staff shall review legislation passed in each regular or  
2-44 special legislative session that:

2-45 (1) grants a state agency self-directed and  
2-46 semi-independent status; or  
2-47 (2) amends a provision of this chapter or any other law  
2-48 that relates to a state agency's self-directed and semi-independent  
2-49 status.

2-50 (b) Not later than December 1 of each even-numbered year,  
2-51 the board's staff shall submit a report to the committee of each  
2-52 house of the legislature that has jurisdiction over appropriations  
2-53 that includes:

2-54 (1) a list of all state agencies granted self-directed  
2-55 and semi-independent status during the preceding regular or special  
2-56 session of the legislature; and

2-57 (2) recommendations by the board's staff to address  
2-58 potential problems identified by the staff during the review  
2-59 prescribed by Subsection (a).

2-60 SUBCHAPTER B. APPLICATION FOR SELF-DIRECTED AND SEMI-INDEPENDENT  
2-61 AGENCY STATUS

2-62 Sec. 473.051. APPLICATION; AUDIT REQUIRED. (a) Before an  
2-63 agency may be granted self-directed and semi-independent status,  
2-64 the agency must:

2-65 (1) submit an application to the board; and  
2-66 (2) undergo a financial audit and an effectiveness  
2-67 audit as required under Subsection (e).

2-68 (b) A state agency may not submit the application required  
2-69 under Subsection (a) until the agency's governing body:

3-1 (1) provides notice and holds a public hearing on the  
3-2 application; and

3-3 (2) approves, by majority vote, the submission of the  
3-4 application.

3-5 (c) The application must be submitted to the board as part  
3-6 of the agency's legislative appropriations request.

3-7 (d) The board shall prescribe an application form that  
3-8 requires the agency applying for self-directed and  
3-9 semi-independent status to:

3-10 (1) state the reasons for which the agency is seeking  
3-11 self-directed and semi-independent status and address any  
3-12 potential problems that may result from granting that status; and

3-13 (2) include, as relevant to the agency's application:

3-14 (A) information demonstrating the agency's  
3-15 history of efficient operation and continuing ability to operate  
3-16 efficiently and in a manner that protects the public interest;

3-17 (B) documentation of adequate budgetary  
3-18 processes and controls; and

3-19 (C) an analysis of the fiscal effect on state  
3-20 revenue and other state agencies demonstrating that the agency's  
3-21 status as self-directed and semi-independent would be  
3-22 revenue-neutral.

3-23 (e) A state agency must undergo a financial audit and an  
3-24 effectiveness audit by the state auditor during the four-year  
3-25 period preceding the date the agency submits an application under  
3-26 Subsection (a). The state auditor shall conduct the financial  
3-27 audit and effectiveness audit and make the findings of the  
3-28 completed audits available to the board.

3-29 (f) The board may require an agency to submit additional  
3-30 information necessary to evaluate the agency's ability to operate  
3-31 effectively as a self-directed and semi-independent agency.

3-32 Sec. 473.052. REVIEW OF APPLICATION; RECOMMENDATION.

3-33 (a) The board's staff shall promptly review an application  
3-34 submitted under Section 473.051. The staff review shall determine  
3-35 whether the agency's application is sufficient and whether the  
3-36 agency's application should be granted or denied.

3-37 (b) The board's staff shall submit the staff's  
3-38 recommendation as to whether the agency's application should be  
3-39 granted or denied to the board. The board may recommend to the  
3-40 committee of each house of the legislature that has jurisdiction  
3-41 over appropriations that legislation be introduced to grant  
3-42 self-directed and semi-independent status to the agency.

3-43 SUBCHAPTER C. REPORTING REQUIREMENTS; AUDITS

3-44 Sec. 473.101. ANNUAL REPORT. (a) In addition to any other  
3-45 report required by law, not later than November 1 of each year, each  
3-46 self-directed and semi-independent agency shall report in the form  
3-47 prescribed by the board to the governor, the committee of each house  
3-48 of the legislature that has jurisdiction over appropriations, and  
3-49 the board the following:

3-50 (1) the salary for all agency personnel and the total  
3-51 amount of per diem expenses and travel expenses paid for all agency  
3-52 employees, including trend performance data for the preceding five  
3-53 fiscal years;

3-54 (2) the total amount of per diem expenses and travel  
3-55 expenses paid for each member of the governing body of each agency,  
3-56 including trend performance data for the preceding five fiscal  
3-57 years;

3-58 (3) each agency's operating plan covering a period of  
3-59 two fiscal years;

3-60 (4) each agency's operating budget, including revenues  
3-61 from all sources, an accounting of all expenditures, and a  
3-62 breakdown of expenditures by program and administrative expenses,  
3-63 showing:

3-64 (A) projected budget data for a period of two  
3-65 fiscal years; and

3-66 (B) trend performance data for the preceding five  
3-67 fiscal years;

3-68 (5) the purchase or sale of any real property during  
3-69 the preceding year;

4-1                   (6) any lease and maintenance costs associated with  
4-2 real property owned or leased by the agency;  
4-3                   (7) for an agency other than a financial regulatory  
4-4 agency as defined by Section 16.001, Finance Code, trend  
4-5 performance data for the preceding five fiscal years regarding:  
4-6                   (A) the number of full-time equivalent positions  
4-7 at the agency;  
4-8                   (B) the number of complaints received from the  
4-9 public and the number of complaints initiated by agency staff;  
4-10                  (C) the number of complaints dismissed and the  
4-11 number of complaints resolved by enforcement action;  
4-12                  (D) the number of enforcement actions, by  
4-13 sanction type;  
4-14                  (E) the number of enforcement cases closed  
4-15 through voluntary compliance;  
4-16                  (F) the amount of administrative penalties  
4-17 assessed and the rate of collection of assessed administrative  
4-18 penalties;  
4-19                  (G) the number of enforcement cases that allege a  
4-20 threat to public health, safety, or welfare or a violation of  
4-21 professional standards of care and the disposition of those cases;  
4-22                  (H) the average time to resolve a complaint;  
4-23                  (I) the number of license holders or regulated  
4-24 persons, broken down by type of license and license status,  
4-25 including inactive status or retired status;  
4-26                  (J) the fee charged to issue and renew each type  
4-27 of license, certificate, permit, or other similar authorization  
4-28 issued by the agency;  
4-29                  (K) the average time to issue a license;  
4-30                  (L) litigation costs, broken down by  
4-31 administrative hearings, judicial proceedings, and outside counsel  
4-32 costs; and  
4-33                  (M) reserve fund balances; and  
4-34                  (8) for a financial regulatory agency as defined by  
4-35 Section 16.001, Finance Code, trend performance data for the  
4-36 preceding five fiscal years regarding:  
4-37                  (A) the number of full-time equivalent positions  
4-38 at the agency;  
4-39                  (B) the number of complaints received;  
4-40                  (C) the number of complaints dismissed or  
4-41 resolved and, of those complaints, the number resolved by  
4-42 enforcement action;  
4-43                  (D) the number of enforcement actions, by type;  
4-44                  (E) the amount of administrative penalties  
4-45 assessed and the amount of administrative penalties collected;  
4-46                  (F) the number of entities regulated by the  
4-47 agency;  
4-48                  (G) the fee charged to issue and renew each type  
4-49 of license, certificate, permit, or other similar authorization  
4-50 issued by the agency, or any assessments paid to the agency by the  
4-51 holder of a license, certificate, permit, or other similar  
4-52 authorization issued by the agency;  
4-53                  (H) litigation costs, broken down by  
4-54 administrative hearings, judicial proceedings, and outside counsel  
4-55 costs;  
4-56                  (I) reserve fund balances; and  
4-57                  (J) the key performance measures approved by the  
4-58 governing board of the agency during the fiscal year for which the  
4-59 report is due.  
4-60                  (b) If, based on a review of an agency's annual report  
4-61 submitted as required under Subsection (a), the board determines  
4-62 that additional information is necessary to address an issue  
4-63 identified during the review, the board may require an agency to  
4-64 submit information to the board demonstrating the agency's:  
4-65                  (1) ability to perform those duties that are required  
4-66 of the agency by its enabling statute or a related duty contained in  
4-67 another law;  
4-68                  (2) financial soundness, including the agency's  
4-69 ability to raise sufficient revenue, maintain sufficient operating

5-1 reserves, and meet all of the agency's financial obligations;  
 5-2 (3) compliance with the provisions of this chapter;  
 5-3 and  
 5-4 (4) satisfactory audit history, including a summary of  
 5-5 any corrective action taken by the agency in response to an audit.

5-6 Sec. 473.102. AUDITS. (a) In addition to any other audit  
 5-7 required by law, the state auditor shall conduct a financial audit  
 5-8 and an effectiveness audit of a self-directed and semi-independent  
 5-9 agency at least once every six years, unless the state auditor  
 5-10 determines that the auditor may rely on an independent audit of the  
 5-11 agency conducted during the same period. The state auditor may  
 5-12 conduct a risk-based audit of a self-directed and semi-independent  
 5-13 agency at any time.

5-14 (b) The agency shall reimburse the state auditor for costs  
 5-15 incurred in performing an audit under this section.

5-16 SUBCHAPTER D. REVIEW OF SELF-DIRECTED AND SEMI-INDEPENDENT  
 5-17 AGENCIES; REVOCATION OF STATUS

5-18 Sec. 473.151. REVIEW OF AGENCIES. (a) The board's staff  
 5-19 and the board shall review each agency's annual report submitted  
 5-20 under Section 473.101 and any additional information requested by  
 5-21 the board and received from the agency to determine the agency's  
 5-22 compliance with this chapter.

5-23 (b) The board's staff may make a recommendation to the  
 5-24 committee of each house of the legislature that has jurisdiction  
 5-25 over appropriations and to the legislature to address issues  
 5-26 identified during a review conducted under this section, except  
 5-27 that the staff may not recommend the revocation of an agency's  
 5-28 self-directed and semi-independent status.

5-29 (c) The board may recommend that legislation be introduced  
 5-30 to revoke an agency's self-directed and semi-independent status or  
 5-31 otherwise address issues raised by the board. A recommendation to  
 5-32 revoke an agency's self-directed and semi-independent status may be  
 5-33 based on the agency's conduct, including:

5-34 (1) material abuse by the agency of its self-directed  
 5-35 and semi-independent status; or

5-36 (2) fiscal mismanagement.

5-37 Sec. 473.152. REVOCATION OF STATUS. (a) The board may  
 5-38 develop criteria for determining when a recommendation for the  
 5-39 revocation of an agency's self-directed and semi-independent  
 5-40 status is appropriate. The board may recommend the revocation of an  
 5-41 agency's self-directed and semi-independent status to the  
 5-42 legislature as provided by Section 473.151(c). If the board  
 5-43 recommends revocation of an agency's self-directed and  
 5-44 semi-independent status, the agency shall have the opportunity to  
 5-45 respond in writing to that recommendation.

5-46 (b) The Sunset Advisory Commission may recommend revocation  
 5-47 of an agency's self-directed and semi-independent status to the  
 5-48 legislature as part of the commission's periodic review of the  
 5-49 agency under Chapter 325 (Texas Sunset Act).

5-50 (c) The legislature may consider legislation to revoke an  
 5-51 agency's self-directed and semi-independent status regardless of  
 5-52 whether the revocation is recommended by the board or the Sunset  
 5-53 Advisory Commission.

5-54 (d) The board shall assist an agency in transitioning from  
 5-55 self-directed and semi-independent status if the agency's status is  
 5-56 revoked. The board may consider issues relating to appropriations  
 5-57 and financial planning for the agency, and an evaluation of the  
 5-58 status and disposition of agency contracts, facilities,  
 5-59 properties, and leases when assisting an agency under this  
 5-60 subsection.

5-61 SECTION 3. Section 16.005(c), Finance Code, is amended to  
 5-62 read as follows:

5-63 (c) In addition to the reporting requirements of Subsection  
 5-64 (b), not later than November 1 of each year, each financial  
 5-65 regulatory agency shall submit the report required under Section  
 5-66 473.101, Government Code [to the governor, the committee of each  
 5-67 house of the legislature that has jurisdiction over appropriations,  
 5-68 and the Legislative Budget Board a report that contains:

5-69 [(1) the salary for all financial regulatory agency

6-1 ~~personnel and the total amount of per diem expenses and travel~~  
6-2 ~~expenses paid for all agency employees;~~  
6-3 ~~[(2) the total amount of per diem expenses and travel~~  
6-4 ~~expenses paid for each member of the agency's policy-making body,~~  
6-5 ~~provided that only one report must be submitted regarding the~~  
6-6 ~~Finance Commission of Texas;~~  
6-7 ~~[(3) the agency's operating plan and annual budget;~~  
6-8 ~~and~~  
6-9 ~~[(4) a detailed report of all revenue received and all~~  
6-10 ~~expenses incurred by the financial regulatory agency in the~~  
6-11 ~~previous 12 months].~~

6-12 SECTION 4. Section 1105.001, Occupations Code, is amended  
6-13 to read as follows:

6-14 Sec. 1105.001. DEFINITIONS. In this chapter ~~[section]~~:  
6-15 (1) "Agency" means the commission and the board.  
6-16 (2) "Board" means the Texas Appraiser Licensing and  
6-17 Certification Board.  
6-18 (3) "Commission" means the Texas Real Estate  
6-19 Commission.

6-20 SECTION 5. Section 1105.005(c), Occupations Code, is  
6-21 amended to read as follows:

6-22 (c) In addition to the reporting requirements of Subsection  
6-23 (b), not later than November 1 of each year, the agency shall submit  
6-24 the report required under Section 473.101, Government Code ~~[to the~~  
6-25 ~~governor, the committee of each house of the legislature that has~~  
6-26 ~~jurisdiction over appropriations, and the Legislative Budget Board~~  
6-27 ~~a report that contains.~~

6-28 ~~[(1) the salary for all agency personnel and the total~~  
6-29 ~~amount of per diem expenses and travel expenses paid for all agency~~  
6-30 ~~employees;~~

6-31 ~~[(2) the total amount of per diem expenses and travel~~  
6-32 ~~expenses paid for each member of the agency;~~

6-33 ~~[(3) the agency's operating plan and the annual~~  
6-34 ~~budgets of the commission and the board; and~~

6-35 ~~[(4) a detailed report of all revenue received and all~~  
6-36 ~~expenses incurred by the agency in the previous 12 months].~~

6-37 SECTION 6. Section 16.005, Finance Code, Section 472.104,  
6-38 Government Code, and Section 1105.005, Occupations Code, as amended  
6-39 by this Act, and Section 473.101, Government Code, as added by this  
6-40 Act, apply only to a report originally due on or after the effective  
6-41 date of this Act. A report originally due before the effective date  
6-42 of this Act is governed by the law in effect on the date the report  
6-43 was originally due, and the former law is continued in effect for  
6-44 that purpose.

6-45 SECTION 7. Section 473.051, Government Code, as added by  
6-46 this Act, does not require a state agency that, on the effective  
6-47 date of this Act, is self-directed and semi-independent to submit  
6-48 an application to the Legislative Budget Board seeking  
6-49 self-directed and semi-independent agency status.

6-50 SECTION 8. This Act takes effect September 1, 2017.

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