

BILL ANALYSIS

Senate Research Center
85R14024 CJC-D

S.B. 1875
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Finance
4/7/2017
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The legislature enacted the Self-Directed Semi-Independent (SDSI) Act, which exempts agencies with SDSI status from the General Appropriations Act and process, in 2001. SDSI agencies set their own fees and operate on the revenue collected, and are responsible for all direct and indirect costs. Having this status is meant to improve agency operations by providing greater budget flexibility, including allowing for higher salaries to recruit and retain staff.

Since 2001, the legislature has granted SDSI status to eight state agencies—the Texas State Board of Public Accountancy, Texas Board of Professional Engineers, and Texas Board of Architectural Examiners under the SDSI Act and the Texas Department of Banking, Department of Savings and Mortgage Lending, Office of Consumer Credit Commissioner, Credit Union Department, and Texas Real Estate Commission, which includes the Texas Appraiser Licensing and Certification Board, under their individual enabling statutes.

The 83rd Legislature required the Sunset Advisory Commission (Sunset), in consultation with the Legislative Budget Board (LBB), to study the state's approach to the SDSI process, specifically the criteria for granting and revoking SDSI status and requirements to ensure adequate oversight of SDSI agencies. Overall, Sunset found that the state's undefined and inconsistent approach to managing the SDSI process exposes the state to unnecessary risk. Sunset recommended development of an application process for SDSI status and regular monitoring of SDSI agencies, as well as placing all SDSI agencies under the SDSI Act. These recommendations were presented to the 84th Legislature, but were not adopted.

S.B. 1875 provides a consistent process for granting and monitoring SDSI status by:

- Establishing Chapter 473, Government Code, to provide statutory provisions generally applicable to all SDSI agencies;
- Requiring LBB to review legislation passed each session granting SDSI status or amending any law relating to an agency's SDSI status;
- Requiring LBB to submit a report to the committee of each house of the legislature that has jurisdiction over appropriations that includes a list of all agencies granted SDSI status during the preceding legislative session and staff recommendations to address any potential problems identified relating to an agency's SDSI status;
- Requiring LBB to develop and administer an application process for agencies requesting SDSI status and to monitor these agencies, and authorizing LBB to recover associated costs from an agency;
- Standardizing the annual reporting requirements for all SDSI agencies, providing particular reporting requirements for the financial regulatory agencies;
- Requiring all SDSI agencies to undergo a State Auditor's Office financial and effectiveness audit every six years, but allowing the State Auditor to rely on other independent audits;

- Requiring LBB to review each SDSI agency's annual report and authorizing LBB staff to make recommendations to address issues identified in these reports to the committee of each house of the legislature that has jurisdiction over appropriation; and
- Authorizing LBB, not LBB staff, to develop a process and criteria for recommending revocation of an agency's SDSI status and to recommend revoking an agency's SDSI status to the committee of each house of the legislature that has jurisdiction over appropriations.

As proposed, S.B. 1875 amends current law relating to the self-directed and semi-independent status of certain agencies and the requirements applicable to, and the oversight of, those agencies.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 472.104(b), Government Code, to require each agency, in addition to the reporting requirements of Subsection (a) (relating to submitting a certain report describing all of an agency's activities in the previous biennium), not later than November 1 of each year, to submit the report required under Section 473.101, rather than to requires each agency to, in addition to the reporting requirements of Subsection (a), report annually, not later than November 1, to certain individuals and entities certain information.

SECTION 2. Amends Subtitle E, Title 4, Government Code, by adding Chapter 473, as follows:

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

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 473.001. DEFINITIONS. Defines "agency" and "board."

Sec. 473.002. ROLE OF BOARD; RECOVERY OF COSTS. (a) Provides that the Legislative Budget Board (LBB) has responsibility under this chapter for developing and administering the application process, monitoring agencies, and performing other duties provided under this chapter.

(b) Authorizes LBB to recover from an agency the costs associated with administering the application process for the agency and LBB's monitoring of the agency.

Sec. 473.003. REVIEW OF LEGISLATION; REPORT. (a) Requires LBB's staff to review certain legislation passed in each regular or special legislative session.

(b) Requires LBB's staff, not later than December 1 of each even-numbered year, to submit a certain report to the committee of each house of the legislature that has jurisdiction over appropriations.

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

Sec. 473.051. APPLICATION; AUDIT REQUIRED. (a) Requires an agency to, before an agency may be granted self-directed and semi-independent status, submit an application to LBB and undergo certain audits.

(b) Prohibits a state agency from submitting the application required under Subsection (a) until the agency's governing body takes certain actions.

(c) Requires that the application be submitted to LBB as part of the agency's legislative appropriations request.

(d) Requires LBB to prescribe an application form that requires the agency applying for self-directed and semi-independent status to include certain information.

(e) Requires a state agency to undergo a financial audit and an effectiveness audit by the state auditor during the four-year period preceding the date the agency submits an application under Subsection (a). Requires the state auditor to conduct the financial audit and effectiveness audit and make the findings of the completed audits available to LBB.

(f) Authorizes LBB to require an agency to submit additional information necessary to evaluate the agency's ability to operate effectively as a self-directed and semi-independent agency.

Sec. 473.052. REVIEW OF APPLICATION; RECOMMENDATION. (a) Requires LBB's staff to promptly review an application submitted under Section 473.051. Requires that the staff review determine whether the agency's application is sufficient and whether the agency's application should be granted or denied.

(b) Requires LBB's staff to submit the staff's recommendation as to whether the agency's application should be granted or denied to LBB. Authorizes LBB to recommend to the committee of each house of the legislature that has jurisdiction over appropriations that legislation be introduced to grant self-directed and semi-independent status to the agency.

SUBCHAPTER C. REPORTING REQUIREMENTS; AUDITS

Sec. 473.101. ANNUAL REPORT. (a) Requires each self-directed and semi-independent agency to, in addition to any other report required by law, not later than November 1 of each year, report in the form prescribed by LBB to the governor, the committee of each house of the legislature that has jurisdiction over appropriations, and LBB certain information.

(b) Authorizes LBB to, in certain circumstances, require an agency to submit information to LBB demonstrating certain agency qualities.

Sec. 473.102. AUDITS. (a) Requires the state auditor to, in addition to any other audit required by law, conduct certain audits at least once every six years, unless the state auditor determines that the auditor may rely on an independent audit of the agency conducted during the same period. Authorizes the state auditor to conduct a risk-based audit of a self-directed and semi-independent agency at any time.

(b) Requires the agency to reimburse the state auditor for costs incurred in performing an audit under this section.

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

Sec. 473.151. REVIEW OF AGENCIES. (a) Requires LBB's staff and LBB to review each agency's annual report submitted under Section 473.101 and any additional information requested by LBB and received from the agency to determine the agency's compliance with this chapter.

(b) Authorizes LBB's staff to make a recommendation to certain committees of each house of the legislature and to the legislature to address issues identified during a review conducted under this section, except that the staff is prohibited from recommending the revocation of an agency's self-directed and semi-independent status.

(c) Authorizes LBB to recommend that legislation be introduced to revoke an agency's self-directed and semi-independent status or otherwise address issues raised by the board. Authorizes a recommendation to revoke an agency's self-directed and semi-independent status to be based on the agency's conduct, including certain conduct.

Sec. 473.152. REVOCATION OF STATUS. (a) Authorizes LBB to develop criteria for determining when a recommendation for the revocation of an agency's self-directed and semi-independent status is appropriate. Authorizes LBB to recommend the revocation of an agency's self-directed and semi-independent status to the legislature as provided by Section 473.151(c). Requires the agency to have the opportunity to respond in writing to that recommendation, if LBB recommends revocation of an agency's self-directed and semi-independent status.

(b) Authorizes the Sunset Advisory Commission (Sunset) to recommend revocation of an agency's self-directed and semi-independent status to the legislature as part of Sunset's periodic review of the agency under Chapter 325 (Texas Sunset Act).

(c) Authorizes the legislature to consider legislation to revoke an agency's self-directed and semi-independent status regardless of whether the revocation is recommended by LBB or Sunset.

(d) Requires LBB to assist an agency in transitioning from self-directed and semi-independent status if the agency's status is revoked. Authorizes LBB to consider issues relating to appropriations and financial planning for the agency, and an evaluation of the status and disposition of agency contracts, facilities, properties, and leases when assisting an agency under this subsection.

SECTION 3. Amends Section 16.005(c), Finance Code, to require each financial regulatory agency to submit the report required under Section 473.101, Government Code, rather than to submit to certain individuals and entities a certain report, in addition to the reporting requirements of Subsection (b), not later than November 1 of each year.

SECTION 4. Amends Section 1105.001, Occupations Code, to define certain words in this chapter, rather than section.

SECTION 5. Amends Section 1105.005(c), Occupations Code, to require the Texas Appraisal Licensing and Certification Board and the Texas Real Estate Commission to submit the report required under Section 473.101, Government Code, rather than to submit to certain individuals and entities a certain report, in addition to the reporting requirements of Subsection (b), not later than November 1 of each year.

SECTION 6. Makes application of Section 16.005, Finance Code, Section 472.104, Government Code, and Section 1105.005, Occupations Code, as amended by this Act, and Section 473.101, Government Code, as added by this Act, prospective.

SECTION 7. Provides that Section 473.051, Government Code, as added by this Act, does not require a state agency that, on the effective date of this Act, is self-directed and semi-independent to submit an application to LBB seeking self-directed and semi-independent agency status.

SECTION 8. Effective date: September 1, 2017.