

**SUBJECT:** Continuing the National Guard Armory Board

**COMMITTEE:** State, Federal and International Relations — committee substitute recommended

**VOTE:** 9 ayes — Hunter, Moreno, Chavez, Isett, Palmer, Pitts, Seaman, West, Wise  
0 nays

**SENATE VOTE:** On final passage, Local and Uncontested Calendar, April 10 — 31-0

**WITNESSES:** For — None  
Against — None  
On — Hal Boyd; Mike Huff; John Hubbard, Sunset Commission

**BACKGROUND :** The National Guard Armory Board (NGAB) is responsible for constructing and maintaining armories for the Texas National Guard and Texas State Guard. The board can acquire, construct, rent, control, maintain and operate the armories, including property and equipment necessary or useful in connection with the armories. The National Guard is the military force that can serve in times of conflict and aid states or the nation during civil disturbances or natural disasters. The Texas State Guard is a voluntary state reserve force that can be mobilized by the governor when the National Guard is performing federal duties.

The board is composed of the two senior officers of the Texas Army National Guard, the senior officer of the Texas Air National Guard, and three members of the general public who are not actively serving in the Texas National Guard at the time of their appointment and who are appointed by the governor with advice and consent of the Senate. Board members serve six-year terms.

The NGAB's duties include financing the construction of National Guard armories. The federal government provides about 75 percent of funding for armory construction, and Texas provides about 25 percent through the sale of revenue bonds, which are issued through the Public Finance Authority.

The bonds are repaid with armory rental fees paid by the Adjutant General's Department (AGD). The Adjutant General's Department is primarily responsible for overseeing and providing staff support for the National Guard in Texas and for responding to federal mandates concerning the Guard. Currently, about \$30 million of these bonds is outstanding

The NGAB also manages the construction of armories. It helps identify and acquire sites, invites construction bids and inspects the armories to ensure they are built to specifications. The board also maintains 106 armories on state land and seven armories on federal land and is responsible for selling or disposing of surplus armories. The board also has executed surface and mineral leases on its lands.

Other activities of the NGAB include renting armories to community groups and working to obtain federal funding for armory construction and renovations.

The NGAB receives federal funding, revenue bond funding, and state general revenue. In fiscal 1995 the NGAB received about \$10.6 million, of which about 12 percent was federal funds, 15 percent general revenue, 28 percent bond proceeds and 44 percent from the current fund balance, which includes cash transfers from rental payments from the Adjutant General's Department. About one-half of the general revenue funds came from the sale of armory board property. However, the agency's funding can fluctuate depending on federal funds available for armory construction and renovation. For example, in fiscal 1996 the NGAB received about \$5.4 million in federal funds.

The NGAB is subject to the Sunset Act and underwent Sunset Advisory Commission review during the past interim. The department will be abolished September 1, 1997, unless continued by the Legislature.

**DIGEST:**

CSSB 352 would change the name of the National Guard Armory Board to the Texas Military Facilities Commission and restructure the governing board of the agency. The Texas Military Facilities Commission would be continued until September 1, 2009.

The commission would be composed of:

- one senior officer of the Texas National Guard who is actively serving in the guard who would be appointed by the governor with the advice and consent of the Senate from a list submitted by the Adjutant General; and
- five members of the general public who would be appointed by the governor with the advice and consent of the Senate who must not be actively serving in the Texas National Guard while on the commission. Two of these public members would have to have experience in architecture, civil engineering or construction management.

Commission members would serve six-year terms, with the governor designating the the presiding officer of the commission.

The commission would be the exclusive authority for the construction, repair, and maintenance of National Guard armories, facilities and improvements owned by the state and located on commission property. The commission would also be able to acquire and dispose of Texas National Guard or Texas State Guard facilities and property. The commission would be able to dispose of property only if it had been declared surplus and if it were in the best interests of the commission and the Texas National Guard.

The commission would be given new authority to lease property and to exchange property for other parcels of land equal to or exceeding the value of the commission-owned property.

CSSB 352 would make other changes to implement standard Sunset Advisory Commission including recommendations on:

- appointments being made without regard to race, color, sex, religion or national origin;
- conflicts of interest, standard training for policy making bodies, grounds for removal;
- development of an intra-agency career ladder, a system of annual performance evaluations, and a system of merit pay based on employee evaluations;
- requiring the commission's executive director or a designee to prepare and

maintain a policy statement to assure implementation of a program of equal employment opportunity;

- legislative review of agency funds and annual financial reporting; and
- complaint handling, public information on the department's functions, and compliance with federal and state disability laws.

CSSB 352 would take effect September 1, 1997.

**SUPPORTERS  
SAY:**

The NGAB, which would be renamed the Texas Military Facilities Commission under CSSB 352, serves an important function for the state, and it should be continued as an independent agency because it is able to develop and use expertise to construct and maintain armories for the best interest of Texas. The Adjutant General's Department, which as been suggested as the entity to assume the board's duties, is primarily concerned with the military readiness of the Texas National Guard and would not be the best agency to oversee armory construction and maintenance. Any savings from abolishing the NGAB would be minimal and not worth the disadvantages such a move would bring.

While the AGD has some responsibilities relating to armories, the commission would be able to focus solely on armory maintenance and construction. This would ensure that the proper attention was given to armory maintenance and construction and that this important duty was not simply a sideline in another larger agency. Because these facilities are located on state land, the duty of constructing and maintaining them is best handled by a purely state agency like the NGAB and not a quasi-federal agency like the AGD. Although the AGD has some experience with military facilities, it is involved with federal, not state, issues. Abolishing the NGAB would eliminate a necessary check on the authority of the adjutant general and would result in the same agency that uses the facilities being in charge of the expansion of the facilities.

Other functions of the commission are best handled by an independent agency. The director of the NGAB also serves as a liaison with the federal government and Congress. The Office of State and Federal Relations does not have the time or expertise in military issues to adequately take over this duty. In addition, it could be inappropriate for the AGD to perform this duty because of the adjutant general's relationship with the military. Also, in

some situations, the adjutant general could be prohibited from lobbying the federal government.

It would be unnecessary to abolish the NGAB because of concerns about its internal controls because it has already hired an internal auditor. Because the commission is an independent entity, it can best handle some of the political pressures surrounding construction and disposal of facilities.

Other provisions in CSSB 352 would give the commission the necessary flexibility to handle its duties by allowing it to lease and to exchange property. The bill also would restructure the board to include more public membership and expertise in architecture, civil engineering, and construction.

The commission should not be forced to give away some of its facilities without adequate compensation. Currently, the NGAB uses funds from property sales to supplement its budget to maintain and renovate armories. If the commission was forced to donate this property, its programs would suffer, and it could need additional general revenue for its duties.

**OPPONENTS  
SAY:**

The NGAB should be abolished, and its duties transferred to the Adjutant General's Department. While the maintenance and construction of armories needs to continue so that the National Guard has adequate facilities, the duties currently performed by the NGAB could be easily and efficiently taken over by the AGD. A transfer of duties would result in the elimination of seven positions, and the state could save about \$350,000 per year. In addition, none of the other 10 states with the largest National Guards has an independent armory board with a separate staff.

The AGD builds armories and non-armory support facilities on federal land and maintains non-armory support facilities, so it could easily take over the construction and maintenance duties of the NGAB. Having these responsibilities consolidated in one agency would be a more efficient arrangement that would save the state money. Since the AGD and the National Guard Bureau develop plans for the National Guards' needs it would make sense for the AGD to also be responsible for building and maintaining the armories. A previous temporary, two-year transfer of most NGAB functions to the AGD in 1987 demonstrated that the AGD was

capable of handling the board's duties. The AGD is a state agency headed by the governor-appointed adjutant general, so there would be no problem in having the AGD responsible for activities on state lands.

The NGAB is not necessary to serve as a check on the AGD and has no statutory authority to do so. Because under both the current and proposed structure the board includes at least one National Guard member and other members can be former National Guard members, it is unlikely that the entity could provide objective oversight to the AGD's facilities requests. In addition, the NGAB is unnecessary to provide a political buffer for the adjutant general, who is an appointee of the governor. A transfer of duties also would address a problem of inadequate internal safeguards at the NGAB by bringing armory construction and maintenance under the AGD's internal audit process.

Transferring the NGAB duties to the AGD would have no detrimental effect on the financing of armories. With a transfer of duties, the AGD would make bond payments directly instead of the current cumbersome arrangement of having the AGD pay rent to the NGAB, which is then used to pay off the bonds. A transfer of duties would give the AGD direct control over National Guard armories instead of having to rent them from the NGAB which would place the AGD in a better position to handle its armory needs. The Texas Public Finance Authority would continue to issue bonds for armory construction.

Other duties of the NGAB could be easily performed by other state agencies already involved in similar activities. For example, the NGAB administers its own mineral leases, a duty usually performed by the General Land Office. Also, the NGAB is not needed to represent the state before Congress because the Office of State-Federal Relations is capable of performing this duty, as is the adjutant general. There would be no problem with the adjutant general representing Texas before the federal government as long as the general was acting in a state capacity using state resources.

OTHER  
OPPONENTS  
SAY:

CSSB 352 should include a requirement that the commission donate certain properties to the cities of Donna, Edinburg, McAllen and Pharr. A new armory, completed in 1996, in Weslaco replaced these armories. Since in most cases the land for the armories was donated to the board, it should be

donated back to the cities. The cities could use the land for community projects such as youth clubs or police stations. It would be inappropriate and unfair to make cities purchase property that they originally donated to the NGAB.

NOTES:

The committee substitute made numerous changes to the Senate-passed version of the bill, including changing the agency's name to the Texas Military Facilities Commission; changing the agency's next Sunset review date from September 1, 2001, to September 1, 2009; giving the agency new authority to lease and exchange property; making changes in the wording concerning the equal employment opportunity policy statement; and eliminating provisions that would have required the board to donate and transfer four specified properties to the cities of Donna, Edinburg, McAllen and Pharr.