



November 17, 2014

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Ken Levine  
Director  
Sunset Advisory Commission  
1501 North Congress Avenue, 6<sup>th</sup> Floor  
Austin, Texas 78701

RE: Self-Directed Semi-Independent (SDSI) Status of Finance  
Commission Agencies

Dear Mr. Levine:

After review of your October, 2014 Staff Study on SDSI status, and further review of various agency submissions and comments, it was our impression that our engagement was unnecessary in this process. However, after monitoring the hearings held last week, it appears that such was not necessarily an appropriate course of action.

Please consider these observations regarding SDSI status for the agencies under the purview of the Finance Commission of Texas. While my focus will be on the Department of Banking, as this agency regulates and supervises over half of our 400-plus community bank members across the state of Texas, SDSI status has had a positive impact on both other agencies as well as the regulated entities under their supervision.

As background, Independent Bankers Association of Texas (IBAT) represents only community banks. I had the privilege of serving as Deputy Commissioner of the Department of Banking from 1987 until 1991, and was the primary agency liaison with the Legislature and the Appropriations process in the 71<sup>st</sup> and 72<sup>nd</sup> Sessions. I have further had the honor of representing community banking in Texas since joining IBAT in 1995, and have had multiple opportunities to be involved in both the Appropriations process and Sunset since that time. As a taxpayer, I have tremendous respect and appreciation for the Appropriations and Sunset process. While certainly not a revelation but rather a reminder, the Finance Commission agencies are all funded by assessments and fees charged to their regulated entities, with absolutely no funding from taxpayer or other General Revenue (GR) sources.

SDSI status, for the agencies under the Finance Commission umbrella, has been responsibly utilized, and has been beneficial for all involved in our assessment. The Department of Banking has been able to react quickly to changes in the dynamic environment in the banking industry and economy,

adjusting staffing and salary levels as necessary, and has proven again and again to be a responsible steward of the financial resources raised from regulated entities. The Finance Commission oversees a rigorous and thorough budget process – on an annual basis with input from our Association and other stakeholders – and receives exhaustive reports from each agency regarding their operations at each of their meetings. Realistic salary levels for examination personnel have resulted in a dramatic decrease in turnover in the agency . . . something that has provided an historic challenge and increased costs to our banks. The result has been attainment of a more qualified and tenured examination staff and an increased level of competence, effectiveness and efficiency.

The Finance Commission agencies made a number of valid points and concerns – with which we are in full agreement - in their original submissions on the Study, and will no doubt follow up with some additional commentary prior to the December meeting of the Sunset Advisory Commission, so I will refrain from a redundant recital of all of their concerns. I will, however, point out several specific concerns that are deserving of special attention by the Sunset Commission.

Under the SDSI Act, all administrative fines and penalties are transferred to the General Revenue Fund. We believe that these penalties act not only to deter future unacceptable behavior, but also to offset the significant costs of investigation, litigation and enforcement in these cases. The inability for these agencies to keep these monies will only penalize the vast majority of regulated entities who are complying with established policies, guidelines and statutes. We find this potential increase in regulatory costs problematic and unacceptable.

Additionally, the enabling legislation granting SDSI status to the Finance Commission agencies allows for purchase, ownership, disposal, construction and improvements of real property. We believe this is an important facet of effective and efficient management of resources provided by the regulated industries, and is important to maintain in statute.

The Finance Commission agencies reimburse any costs incurred by all other state agencies engaged in audit, oversight, legal and other functions. We very much prefer a “pay as you go” methodology of ensuring that Texas taxpayers and the agencies they fund are not paying for necessary services to these regulatory agencies. An annual remittance to GR could easily grow into a transfer of funds from the state-chartered banking industry in an amount over and above actual costs to perform appropriate services. This would be discriminatory against a sector of the banking industry, as nationally chartered banks would not be subject to these costs.

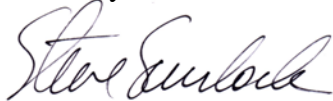
IBAT is on record as enthusiastically supporting full disclosure, transparency and accountability of state agencies to the Texas Legislature and the public. We believe that the present framework with the Finance Commission agencies is working remarkably well, and has served all stakeholders in an exemplary manner. We would be fully supportive of additional meaningful reporting if such is deemed necessary, but would seriously question subjecting these agencies to additional paperwork and bureaucratic “hoops” that would serve no purpose.

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**Our strong preference is to maintain the status quo with the Finance Commission agencies, their SDSI status and enabling legislation.** We believe that SDSI status has been tremendously beneficial to the Finance Commission agencies, and we strongly encourage the Sunset Commission to consider the potential impact and cost on both the agencies and the entities they are charged with regulating prior to considering modifications to existing statutes.

Thank you for your consideration of my comments. I would be more than happy to provide additional information or meet to discuss this or any other issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Scurlock". The signature is fluid and cursive, with the first name "Steve" written in a larger, more prominent script than the last name "Scurlock".

Stephen Y. Scurlock  
Executive Vice President

CC: Members, Sunset Advisory Commission