

## **BILL ANALYSIS**

H.B. 2461  
By: Flynn  
Culture, Recreation, & Tourism  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The Texas Historical Commission's mission is to protect and preserve Texas' unique historic resources. The Commission has four main functions: identifying and designating historic resources in Texas, reviewing proposed projects to help protect historic resources on public and private lands, providing financial and education assistance to communities and organizations for developing and preserving historic resources, and acting a steward to preserve and interpret historic resources entrusted to the State's care.

The agency operated with a budget of about \$11 million in FY 2006 and employs about 110 staff. The Commission is subject to the Sunset Act and will be abolished on September 1, 2007, unless continued by the Legislature. The Sunset review found that the Commission's role as the leader of historic preservation efforts in Texas requires the agency to delicately balance its many activities to ensure that it meets its most important goals.

House Bill 2461 continues the Texas Historical Commission for 12 years. The bill requires the Texas Historical Commission to adopt rules governing the relationship between the agency and its associated nonprofit corporation and to create a statewide strategy for awarding historical markers.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Historical Commission in SECTIONS 5, 6, and 8 of this bill.

### **ANALYSIS**

House Bill 2461 changes the Government Code to provide that a person may not be a public member of the Texas Historical Commission (the commission) if the person or his/her spouse owns or controls, directly or indirectly, more than a 10 percent interest in a business of other organization regulated by the commission or receiving money other than grant money from the commission. The bill provides that a person may not be a public member of the commission if the person or his/her spouse uses or receives a substantial amount of tangible money from the commission, other than compensation authorized by law, or if the person is employed by or participates in the management of a business or other organization regulated by or receiving money other than grant money from the commission.

HB 2461 continues the commission until September 1, 2019. The bill updates standard Sunset language requiring members of the commission to complete training before assuming their duties. The bill provides that a person appointed to office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting until the person completes a training program. HB 2461 specifies that the training program must give the person information regarding:

- legislation that created the commission;
- programs, functions, rules, and budget of the commission;
- results of the commission's most recent formal audit;
- requirements of laws relating to open meeting, public information, administrative procedure and conflicts of interest; and
- any applicable ethics policies.

HB 2461 provides that a person appointed to the commission be entitled to reimbursement for travel expenses incurred in attending such training program, regardless of whether the attendance occurs before or after the person qualifies for office.

HB 2461 redefines "Texas trade association," and updates standard Sunset language prohibiting commission members, high-level employees, and spouses from serving as an officer or employee of a related Texas trade association. HB 2461 provides that the executive director may not serve as a voting director on the board of directors of an affiliated nonprofit organization.

HB 2461 requires the commission adopt rules governing the relationship between the Commission and any affiliated nonprofit organization. The rules, at a minimum, must:

- prohibit commission employees with regulatory responsibilities from directly participating in fundraising activities for an affiliated nonprofit organization; and
- define the relationship between commission employees and an affiliated nonprofit organization.

HB 2461 requires the commission to establish guidelines that will identify and define the type of administrative and financial support the agency should give to the nonprofit organization Friends of the Texas Historical Commission.

HB 2461 requires the commission to approach the marker program more strategically by developing statewide themes for programs related to the Commission's preservation goals and awarding a more limited number of markers based on statewide themes. The bill requires the commission to establish guidelines for an application for, and the commission's review of the application for, a historical marker, monument, or medallion; and the guidelines must include ranking criteria for the applications. The bill provides that the commission give priority to the markers that relate to commission-developed statewide themes.

HB 2461 updates standard Sunset language requiring the commission to maintain information on all complaints and notify the parties about policies for and status of complaints. The bill requires the commission to periodically notify the complaint parties of the status of the complaint until final disposition.

HB 2461 adds standard Sunset language requiring the commission to make effective use of technology in its delivery of services and provision of information to the public. Such policy must ensure that the public is able to interact with the commission on the Internet.

HB 2461 requires the commission to develop and implement a policy to encourage the use of negotiated rulemaking procedures and appropriate alternative dispute resolution (ADR) procedures. The bill provides for the conforming the commission's ADR procedures to model guidelines used by the State Office of Administrative Hearings. The bill requires the commission to designate a trained person to coordinate the implementation of the policy, serve as a resource for training needed to implement the procedures for negotiated rulemaking or ADR, and to collect data relevant to the effectiveness of such procedures.

The bill repeals Sections 442.0022(c) and 442.009(d) of the Government Codes. Also, the Commission shall adopt the rules required in this bill by February 1, 2008. The changes in law made by this act only apply to a member appointed to the Commission on or after September 1, 2007. The changes related to complaints only apply to complaints filed with the Commission on or after September 1, 2007.

#### **EFFECTIVE DATE**

September 1, 2007.