

BILL ANALYSIS

S.B. 1312
By: Whitmire
Culture, Recreation, & Tourism
Committee Report (Unamended)

BACKGROUND AND PURPOSE

During the Texas Historical Commission's (commission) sunset review, it was discovered that the commission has never taken any type of enforcement action under the Antiquities Code (Chapter 191, Natural Resources Code). A difficulty in the commission's use of this power is that the penalty provided for violation of the Antiquities Code is a criminal offense which the local or county district attorney has to prosecute. A conflict of interest may arise from such prosecution if the county government has itself violated the Antiquities Code.

S.B. 1312 authorizes the Texas Historical Commission to use the Texas attorney general to pursue civil penalties for a violation of the Antiquities Code of Texas.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Section 442.011, Government Code, to provide that a person who violates Chapter 191 (Antiquities Code), Natural Resources Code, or Chapter 442 (Texas Historical Commission), Government Code, is subject to a civil penalty of not less than \$50 nor more than \$1,000 for each day of violation.

SECTION 2. Amends Sections 442.012(a) and (c), Government Code, as follows:

- (a) Makes conforming changes to include Chapter 191, Natural Resources Code.
- (c) Requires the court to award certain reasonable expenses to the attorney general if the attorney general substantially prevails in an action to recover a civil penalty under this section. Deletes existing text authorizing the court to award certain costs of litigation in issuing a final order in the action.

SECTION 3. Effective date: September 1, 2007.

EFFECTIVE DATE

September 1, 2007