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H.B. No. 2461

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Texas Historical  
Commission.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 442.002(b) and (k), Government Code,  
are amended to read as follows:

(b) The commission is composed of 17 members appointed by  
the governor with the advice and consent of the senate. One member  
must be a professional archeologist, one must be a professional  
historian, and one must be a licensed architect who has expertise in  
historic preservation and architectural history. Fourteen members  
must be representatives of the general public. A person may ~~is~~  
not be ~~[eligible for appointment as]~~ a public member of the  
commission if the person or the person's spouse:

(1) owns or controls, directly or indirectly, more  
than a 10 percent interest in a business entity or other  
organization regulated by the commission or receiving money ~~[funds]~~  
other than grant money ~~[funds]~~ from the commission; ~~[or]~~

(2) uses or receives a substantial amount of tangible  
goods, services, or money ~~[funds]~~ from the commission, other than  
compensation or reimbursement authorized by law for commission  
membership, attendance, or expenses; or

(3) is employed by or participates in the management  
of a business entity or other organization regulated by or

1 receiving money other than grant money from the commission.

2 (k) The Texas Historical Commission is subject to Chapter  
3 325 (Texas Sunset Act). Unless continued in existence as provided  
4 by that chapter, the commission is abolished and this chapter  
5 expires September 1, 2019 [~~2007~~].

6 SECTION 2. Section 442.0021, Government Code, is amended to  
7 read as follows:

8 Sec. 442.0021. COMMISSION MEMBERS: TRAINING. (a) A person  
9 who is appointed to and qualifies for office as a member of the  
10 commission may not vote, deliberate, or be counted as a member in  
11 attendance at a meeting of the commission until the person  
12 completes a training program that complies with this section  
13 [~~Before a member of the commission may assume the member's duties~~  
14 ~~and before the member may be confirmed by the senate, the member~~  
15 ~~must complete at least one course of the training program~~  
16 ~~established under this section].~~

17 (b) The [~~A~~] training program must [~~established under this~~  
18 ~~section shall~~] provide the person with information [~~to the member~~]  
19 regarding:

20 (1) the [~~enabling~~] legislation that created the  
21 commission;

22 (2) the programs, functions, rules, and budget of the  
23 commission;

24 (3) the results of the most recent formal audit of the  
25 commission [~~(2) the programs operated by the commission~~];

26 (4) the requirements of laws relating to open  
27 meetings, public information, administrative procedure, and

1 conflicts of interest [~~(3) the role and functions of the~~  
2 ~~commission]; and~~

3 (5) any applicable ethics policies adopted by the  
4 commission or the Texas Ethics Commission [~~(4) the rules of the~~  
5 ~~commission with an emphasis on the rules that relate to~~  
6 ~~disciplinary and investigatory authority;~~

7 [~~(5) the current budget for the commission;~~

8 [~~(6) the results of the most recent formal audit of the~~  
9 ~~commission;~~

10 [~~(7) the requirements of the:~~

11 [~~(A) open meetings law, Chapter 551;~~

12 [~~(B) open records law, Chapter 552; and~~

13 [~~(C) administrative procedure law, Chapter 2001;~~

14 [~~(8) the requirements of the conflict of interest laws~~  
15 ~~and other laws relating to public officials; and~~

16 [~~(9) any applicable ethics policies adopted by the~~  
17 ~~commission or the Texas Ethics Commission)].~~

18 (c) A person appointed to the commission is entitled to  
19 reimbursement, as provided by the General Appropriations Act, for  
20 the travel expenses incurred in attending the training program  
21 regardless of whether the attendance at the program occurs before  
22 or after the person qualifies for office.

23 SECTION 3. Sections 442.0022(a) and (b), Government Code,  
24 are amended to read as follows:

25 (a) In this section, "Texas trade association" means a  
26 cooperative and voluntarily joined statewide association of  
27 business or professional competitors in this state designed to

1 assist its members and its industry or profession in dealing with  
2 mutual business or professional problems and in promoting their  
3 common interest [~~An officer, employee, or paid consultant of a~~  
4 ~~Texas trade association in the field of archeology or historic~~  
5 ~~preservation may not be a member of the commission or employee of~~  
6 ~~the commission who is exempt from the state's position~~  
7 ~~classification plan or is compensated at or above the amount~~  
8 ~~prescribed by the General Appropriations Act for step 1, salary~~  
9 ~~group 17, of the position classification salary schedule].~~

10 (b) A person may not be a member of the commission and may  
11 not be a commission employee employed in a "bona fide executive,  
12 administrative, or professional capacity," as that phrase is used  
13 for purposes of establishing an exemption to the overtime  
14 provisions of the federal Fair Labor Standards Act of 1938 (29  
15 U.S.C. Section 201 et seq.) if:

16 (1) the person is an officer, employee, or paid  
17 consultant of a Texas trade association in the field of archeology  
18 or historic preservation; or

19 (2) the person's spouse is an officer, manager, or paid  
20 consultant of a Texas trade association in the field of archeology  
21 or historic preservation [~~A person who is the spouse of an officer,~~  
22 ~~manager, or paid consultant of a Texas trade association in the~~  
23 ~~field of archeology or historic preservation may not be a member of~~  
24 ~~the commission and may not be an employee of the commission who is~~  
25 ~~exempt from the state's position classification plan or is~~  
26 ~~compensated at or above the amount prescribed by the General~~  
27 ~~Appropriations Act for step 1, salary group 17, of the position~~

1 ~~classification salary schedule].~~

2 SECTION 4. Section 442.004, Government Code, is amended by  
3 adding Subsection (b-1) to read as follows:

4 (b-1) The executive director may not serve as a voting  
5 director on the board of directors of an affiliated nonprofit  
6 organization formed under Section 442.005(p).

7 SECTION 5. Subchapter A, Chapter 442, Government Code, is  
8 amended by adding Section 442.0055 to read as follows:

9 Sec. 442.0055. AFFILIATED NONPROFIT ORGANIZATION; RULES;  
10 GUIDELINES. (a) The commission shall adopt rules governing the  
11 relationship between the commission and an affiliated nonprofit  
12 organization formed under Section 442.005(p), including rules  
13 that, at a minimum:

14 (1) prohibit commission employees with regulatory  
15 responsibilities, including the executive director, from directly  
16 participating in activities that raise funds for an affiliated  
17 nonprofit organization; and

18 (2) define the relationship between commission  
19 employees and an affiliated nonprofit organization.

20 (b) The commission shall establish guidelines for  
21 identifying and defining the administrative and financial support  
22 the commission may provide for an affiliated nonprofit organization  
23 formed under Section 442.005(p).

24 SECTION 6. Section 442.006, Government Code, is amended by  
25 amending Subsection (b) and adding Subsection (h) to read as  
26 follows:

27 (b) The commission shall:

1           (1) develop statewide themes for the program related  
2 to the commission's preservation goals for the state;

3           (2) install markers recognizing districts, sites,  
4 individuals, events, structures, and objects significant in Texas  
5 or American history, architecture, archeology, or culture;

6           (3) ~~and shall~~ keep a register of those markers; and

7           (4) establish a limit for the number of markers the  
8 commission awards annually.

9           (h) The commission by rule shall establish guidelines for an  
10 application for, and the commission's review of the application  
11 for, a historical marker, monument, or medallion. The guidelines  
12 must include criteria for ranking the applications. The commission  
13 shall give priority to the markers, monuments, and medallions that  
14 relate to the statewide themes developed by the commission.

15           SECTION 7. Sections 442.009(a), (b), and (c), Government  
16 Code, are amended to read as follows:

17           (a) The commission shall maintain a system to promptly and  
18 efficiently act on complaints filed with the commission. The  
19 commission shall maintain information about parties to the  
20 complaint, the subject matter of the complaint, a summary of the  
21 results of the review or investigation of the complaint, and its  
22 disposition [~~prepare information of public interest describing the~~  
23 ~~functions of the commission and the procedures by which complaints~~  
24 ~~are filed with and resolved by the commission. The commission shall~~  
25 ~~make the information available to the public and appropriate state~~  
26 ~~agencies].~~

27           (b) The commission [~~by rule~~] shall make information

1 available describing its procedures for complaint investigation  
2 and resolution [~~establish methods by which consumers and service~~  
3 ~~recipients are notified of the name, mailing address, and telephone~~  
4 ~~number of the commission for the purpose of directing complaints to~~  
5 ~~the commission)].~~

6 (c) The commission shall periodically notify the complaint  
7 parties of the status of the complaint until final disposition  
8 [~~keep information about each complaint filed with the commission.~~  
9 ~~The information shall include:~~

- 10 [~~(1) the date the complaint is received,~~  
11 [~~(2) the name of the complainant,~~  
12 [~~(3) the subject matter of the complaint,~~  
13 [~~(4) a record of all persons contacted in relation to~~  
14 ~~the complaint,~~  
15 [~~(5) a summary of the results of the review or~~  
16 ~~investigation of the complaint, and~~  
17 [~~(6) for complaints for which the agency took no~~  
18 ~~action, an explanation of the reason the complaint was closed~~  
19 ~~without action)].~~

20 SECTION 8. Subchapter A, Chapter 442, Government Code, is  
21 amended by adding Sections 442.022 and 442.023 to read as follows:

22 Sec. 442.022. USE OF TECHNOLOGY. The commission shall  
23 implement a policy requiring the commission to use appropriate  
24 technological solutions to improve the commission's ability to  
25 perform its functions. The policy must ensure that the public is  
26 able to interact with the commission on the Internet.

27 Sec. 442.023. NEGOTIATED RULEMAKING AND ALTERNATIVE

1 DISPUTE PROCEDURES. (a) The commission shall develop and  
2 implement a policy to encourage the use of:

3 (1) negotiated rulemaking procedures under Chapter  
4 2008 for the adoption of commission rules; and

5 (2) appropriate alternative dispute resolution  
6 procedures under Chapter 2009 to assist in the resolution of  
7 internal and external disputes under the commission's  
8 jurisdiction.

9 (b) The commission's procedures relating to alternative  
10 dispute resolution must conform, to the extent possible, to any  
11 model guidelines issued by the State Office of Administrative  
12 Hearings for the use of alternative dispute resolution by state  
13 agencies.

14 (c) The commission shall designate a trained person to:

15 (1) coordinate the implementation of the policy  
16 adopted under Subsection (a);

17 (2) serve as a resource for any training needed to  
18 implement the procedures for negotiated rulemaking or alternative  
19 dispute resolution; and

20 (3) collect data concerning the effectiveness of those  
21 procedures, as implemented by the commission.

22 SECTION 9. Sections 442.0022(c) and 442.009(d), Government  
23 Code, are repealed.

24 SECTION 10. Not later than February 1, 2008, the Texas  
25 Historical Commission shall adopt the rules required by Sections  
26 442.0055 and 442.006(h), Government Code, as added by this Act.

27 SECTION 11. (a) The changes in law made by this Act in the



1 prohibitions or qualifications applying to a member of the Texas  
2 Historical Commission do not affect the entitlement of a member  
3 serving on the Texas Historical Commission immediately before  
4 September 1, 2007, to continue to serve and function as a member of  
5 the Texas Historical Commission for the remainder of the member's  
6 term. Those changes in law apply only to a member appointed on or  
7 after September 1, 2007.

8 (b) The changes in law made by this Act to Section 442.009,  
9 Government Code, relating to the investigation of a complaint filed  
10 with the Texas Historical Commission apply only to a complaint  
11 filed on or after September 1, 2007. A complaint filed with the  
12 commission before September 1, 2007, is governed by the law as it  
13 existed immediately before that date, and the former law is  
14 continued in effect for that purpose.

15 SECTION 12. This Act takes effect September 1, 2007.