

By: Deuell

S.B. No. 900

A BILL TO BE ENTITLED

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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. Subsections (b) and (k), Section 442.002, 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
9 person who is appointed to and qualifies for office as a member of
10 the commission may not vote, deliberate, or be counted as a member
11 in attendance at a meeting of the commission until the person
12 completes a training program that complies with [~~Before a member~~
13 ~~of the commission may assume the member's duties and before the~~
14 ~~member may be confirmed by the senate, the member must complete at~~
15 ~~least one course of the training program established under~~] this
16 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. Subsections (a) and (b), Section 442.0022,
24 Government Code, 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 [~~who is the spouse of an officer, manager,~~
22 ~~or paid consultant of a Texas trade association in the field of~~
23 ~~archeology or historic preservation may not be a member of the~~
24 ~~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) define the extent to which commission employees
15 with regulatory responsibilities, including the executive
16 director, may participate in activities that raise funds for an
17 affiliated nonprofit organization, which may not include the direct
18 solicitation of funds; and

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

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

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

1 (b) The commission shall:

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

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

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

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

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

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

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

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

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

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

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

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

1 Sec. 442.023. NEGOTIATED RULEMAKING AND ALTERNATIVE
2 DISPUTE PROCEDURES. (a) The commission shall develop and
3 implement a policy to encourage the use of:

4 (1) negotiated rulemaking procedures under Chapter
5 2008 for the adoption of commission rules; and

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

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

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

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

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

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

23 SECTION 9. Subsection (c), Section 442.0022, and Subsection
24 (d), Section 442.009, Government Code, are repealed.

25 SECTION 10. Not later than February 1, 2008, the Texas
26 Historical Commission shall adopt the rules required by Section
27 442.0055 and Subsection (h), Section 442.006, Government Code, as

1 added by this Act.

2 SECTION 11. (a) The changes in law made by this Act in the
3 prohibitions or qualifications applying to a member of the Texas
4 Historical Commission do not affect the entitlement of a member
5 serving on the Texas Historical Commission immediately before
6 September 1, 2007, to continue to serve and function as a member of
7 the Texas Historical Commission for the remainder of the member's
8 term. Those changes in law apply only to a member appointed on or
9 after September 1, 2007.

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

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