

By: Eltife

S.B. No. 1518

A BILL TO BE ENTITLED

AN ACT

relating to the powers and duties of the Texas Historical Commission; imposing a penalty.

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

SECTION 1. Subchapter F, Chapter 411, Government Code, is amended by adding Section 411.1146 to read as follows:

Sec. 411.1146. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS HISTORICAL COMMISSION. (a) The Texas Historical Commission is entitled to obtain criminal history record information maintained by the department or the identification division of the Federal Bureau of Investigation that relates to a person who is:

(1) an employee, volunteer, or intern;

(2) an applicant to be an employee, volunteer, or intern; or

(3) a contractor or subcontractor for the commission.

(b) Criminal history record information obtained by the Texas Historical Commission under this section may not be released or disclosed to any person except on court order or with the consent of the person who is the subject of the information.

(c) The Texas Historical Commission shall collect and destroy criminal history record information that relates to a person immediately after the commission uses the information to make an employment or other decision related to the person or take a

1 personnel action relating to the person who is the subject of the
2 criminal history record information.

3 (d) The Texas Historical Commission may not obtain criminal
4 history record information under this section unless the commission
5 first adopts policies and procedures that provide that evidence of
6 a criminal conviction or other relevant information obtained from
7 the criminal history record information does not automatically
8 disqualify an individual from obtaining employment or another
9 position or contract with the commission. The policies and
10 procedures developed under this section must provide that the
11 hiring official will determine whether the individual is qualified
12 for employment based on factors including:

- 13 (1) the specific duties of the position;
14 (2) the number of offenses committed by the
15 individual;
16 (3) the nature and seriousness of each offense;
17 (4) the length of time between the offense and the
18 employment decision;
19 (5) the efforts by the individual at rehabilitation;
20 and
21 (6) the accuracy of the information on the
22 individual's employment application.

23 SECTION 2. Section 442.0052, Government Code, is amended by
24 adding Subsections (c) and (d) to read as follows:

25 (c) The executive director may waive entrance fees and
26 facility use fees for historic sites under the commission's
27 jurisdiction for a volunteer to assist in the accomplishment of the

1 volunteer's service to the commission.

2 (d) The executive director may expend funds appropriated to
3 the commission from dedicated funding sources for:

4 (1) the establishment of an insurance program to
5 protect volunteers in the performance of volunteer service; and

6 (2) recognition of the services of a volunteer or
7 volunteer groups.

8 SECTION 3. Subchapter A, Chapter 442, Government Code, is
9 amended by adding Section 442.0054 to read as follows:

10 Sec. 442.0054. DISCLOSURE OF PERSONAL CUSTOMER
11 INFORMATION. (a) The name and address and a telephone, social
12 security, driver's license, bank account, credit card, or charge
13 card number of a person who purchases customer products, licenses,
14 or services from the commission may not be disclosed except as
15 authorized under this section.

16 (b) Chapter 552 does not apply to customer information
17 described by Subsection (a).

18 (c) The commission by rule shall adopt policies relating to:

19 (1) the release of the customer information;

20 (2) the use of the customer information by the
21 commission; and

22 (3) the sale of a mailing list consisting of the names
23 and addresses of persons who purchase customer products, licenses,
24 or services.

25 (d) The commission shall include in its policies a method
26 for a person by request to exclude information about the person from
27 a mailing list sold by the commission.

1 (e) The commission may disclose customer information to a
2 federal or state law enforcement agency if the agency provides a
3 lawfully issued subpoena.

4 (f) The commission and its officers and employees are immune
5 from civil liability for an unintentional violation of this
6 section.

7 (g) In this section, a reference to the commission includes
8 a reference to an agent of the commission.

9 SECTION 4. Subchapter A, Chapter 442, Government Code, is
10 amended by adding Sections 442.0056, 442.0057, 442.0058, and
11 442.0059 to read as follows:

12 Sec. 442.0056. ACQUISITION OF HISTORIC SITES. (a) The
13 commission may acquire by purchase, gift, or other manner historic
14 sites:

15 (1) where events occurred that represent an important
16 aspect of the cultural, political, economic, military, or social
17 history of the nation or state;

18 (2) significantly associated with the lives of
19 outstanding historic persons or with an important event that
20 represents a great ideal or idea;

21 (3) embodying the distinguishing characteristics of
22 an architectural type that is inherently valuable for study of a
23 period, style, or method of construction;

24 (4) that contribute significantly to the
25 understanding of aboriginal humans in the nation or state; or

26 (5) that are of significant geologic interest relating
27 to prehistoric animal or plant life.

1 (b) The commission shall restore and maintain each historic
2 site acquired under this section for the benefit of the general
3 public. The commission may enter into interagency contracts for
4 this purpose.

5 (c) The commission shall formulate plans for the
6 preservation and development of historic sites. Before formulating
7 a plan for a specific site, the commission shall conduct an
8 archeological survey of the site. In formulating plans, the
9 commission shall:

10 (1) consider the results from the archeological survey
11 for the site if the plan is for a specific site; and

12 (2) consider the resources necessary to manage a site.

13 Sec. 442.0057. SOLICITATION, RECEIPT, AND TRANSFER OF LAND.

14 (a) The commission may solicit and receive donations of land for
15 public purposes and may refuse donations of land not acceptable for
16 public purposes.

17 (b) If title to a site has vested in the commission and if
18 ownership of the site is no longer in the best interest of the
19 commission, the commission may transfer the title:

20 (1) to another state commission, department, or
21 institution requesting the site;

22 (2) to the donor of the land if the donor requests the
23 return of the site;

24 (3) to the United States if it has undertaken the
25 development of the site for public purposes;

26 (4) to the grantor if the deed to the commission
27 contains a reversion clause providing that title reverts to the

1 grantor when the site is not used for the purposes for which it was
2 acquired; or

3 (5) to any legally authorized entity if the property
4 is to be used for public purposes.

5 Sec. 442.0058. SALE OR EXCHANGE OF LAND. (a) The
6 executive director with the approval of the commission may execute
7 a deed exchanging real property or an interest in real property
8 either as all or partial consideration for other real property or
9 interest in real property. The executive director with the
10 approval of the commission may execute a deed selling real property
11 or an interest in real property under the jurisdiction of the
12 commission if ownership of the real property is no longer in the
13 best interest of the commission.

14 (b) The commission shall receive a good and marketable title
15 to all land exchanged under this section.

16 (c) All land to be received in the exchange must be
17 appraised, and if the land to be received is of greater value, as
18 determined by an independent and competent appraisal, than the
19 state land exchanged, the commission may use funds available for
20 land acquisitions as a partial consideration for the exchange.

21 (d) The receipts from the sale of land under this section
22 shall be used for improving or acquiring other real property
23 dedicated to the same purpose for which the land sold was dedicated.

24 Sec. 442.0059. EMPLOYEE FUND-RAISING. (a) This section
25 applies only to the solicitation or receipt of a gift, including
26 money, that has a value of \$500 or more.

27 (b) The commission by rule shall adopt policies to govern

1 fund-raising activities by commission employees on behalf of the
2 commission. The rules must:

3 (1) designate the types of employees who may solicit
4 donations;

5 (2) restrict where and how fund-raising may occur; and

6 (3) establish requirements for reports by employees to
7 the director.

8 (c) The executive director shall approve and manage
9 fund-raising activities by commission employees on behalf of the
10 commission in accordance with commission rules.

11 SECTION 5. Chapter 442, Government Code, is amended by
12 adding Subchapters D and E to read as follows:

13 SUBCHAPTER D. OPERATION OF HISTORIC SITES

14 Sec. 442.101. AUTHORITY TO CONTRACT. (a) For the purpose
15 of carrying out the powers, duties, and responsibilities of the
16 commission related to historic sites described by Subchapter C, the
17 executive director or the executive director's designee may
18 negotiate, contract, or enter an agreement for:

19 (1) professional services relating to a commission
20 project, including project management, design, bid, and
21 construction administration; and

22 (2) construction, restoration, renovation, or
23 preservation of any building, structure, or landscape.

24 (b) The commission may contract with any appropriate entity
25 for services necessary to carry out its responsibilities regarding
26 historic sites described by Subchapter C.

27 (c) The commission by rule shall adopt policies and

1 procedures consistent with Subchapter A, Chapter 2254, and other
2 applicable state procurement practices for soliciting and awarding
3 contracts under this section.

4 Sec. 442.102. CONSTRUCTION OF ROADS BY TEXAS DEPARTMENT OF
5 TRANSPORTATION. (a) The commission may contract with the Texas
6 Transportation Commission for the construction and paving of roads
7 in and adjacent to historic sites described by Subchapter C.

8 (b) Agreements under this section must be made in conformity
9 with Chapter 771.

10 Sec. 442.103. LEASE OF LANDS AND IMPROVEMENTS. (a) The
11 commission may lease any land or improvement that is part of a
12 historic site described by Subchapter C to a municipality, county,
13 special district, nonprofit organization, or political
14 subdivision. After the execution of the lease, the leased area may
15 not be referred to as a state facility and state funds may not be
16 used to operate or maintain the property.

17 (b) The conditions and duration of the lease agreement are
18 determined by the agreement of the commission and the lessee.

19 Sec. 442.104. LEASE OF GRAZING RIGHTS; SALE OF PRODUCTS.
20 (a) The commission may lease grazing rights on any historic site
21 described by Subchapter C and may lease from other parties grazing
22 rights necessary for proper livestock management. The commission
23 may harvest and sell, or sell in place, any timber, hay, livestock,
24 or other product grown on any historic site described by Subchapter
25 C that the commission finds to be in excess of natural resource
26 management, educational, or interpretive objectives. Timber may be
27 harvested only for forest pest management, salvage, or habitat

1 restoration and consistent with good forestry practices and the
2 advice of the Texas Forest Service.

3 (b) The commission may agree to accept materials, supplies,
4 or services instead of money as part or full payment for a sale or
5 lease under this subchapter. The commission may not assign to the
6 materials, supplies, or services accepted as payment under this
7 subsection a value that exceeds their actual market value.

8 Sec. 442.105. ESTABLISHMENT OF FEES; REVENUE. (a) In
9 setting the amounts of the fees for entering, reserving, or using a
10 historic site described by Subchapter C, the commission:

11 (1) shall establish reasonable and necessary fees for
12 the administration of commission programs; and

13 (2) may not set fees in amounts that permit the
14 commission to maintain unnecessary fund balances.

15 (b) The commission may sell any item in the possession of
16 the commission in which the state has title, or acquire and resell
17 items if a profit can be made, to provide funding for programs
18 administered by the commission.

19 (c) The commission may set and charge a fee for the use of a
20 credit card to pay a fee imposed by the commission in an amount
21 reasonable and necessary to reimburse the commission for the costs
22 involved in the use of the card.

23 Sec. 442.106. CONCESSIONS. The commission may operate or
24 grant contracts to operate concessions on the grounds of historic
25 sites described by Subchapter C. The commission may make rules
26 governing the granting or operating of concessions. The commission
27 may establish and operate staff concessions, including salaries,

1 consumable supplies and materials, operating expenses, rental and
2 other equipment, and other capital outlays.

3 Sec. 442.107. PUBLICATIONS ON HISTORIC SITES. (a) The
4 commission may provide or sell information about historic sites
5 described by Subchapter C to the public, including books,
6 magazines, photographs, prints, and bulletins.

7 (b) The commission may enter into contractual agreements
8 for publication of information concerning historic sites described
9 by Subchapter C.

10 (c) The commission may receive royalties on
11 commission-owned materials that are sold or supplied to others by
12 the commission for publication.

13 (d) Money received under this section shall be deposited in
14 the state treasury to the credit of the account from which expenses
15 for the publication were paid.

16 Sec. 442.108. DEPOSIT OF RECEIPTS. The commission shall
17 deposit to the credit of the historic site account all revenue, less
18 allowable costs, received from the following sources:

19 (1) the operation of concessions at historic sites
20 described by Subchapter C;

21 (2) lease of grazing rights on a historic site;

22 (3) sale of products grown on a historic site;

23 (4) fines received from violations of rules governing
24 historic sites under Subchapter E; and

25 (5) any other source.

26 Sec. 442.109. MISTAKEN DEPOSIT. (a) Any funds deposited
27 in the state treasury under this subchapter by the commission by

1 mistake of fact or mistake of law shall be refunded by warrant
2 issued against the fund and credited against the account in the
3 state treasury into which the money was deposited. Refunds
4 necessary to make the proper correction shall be appropriated by
5 the General Appropriations Act.

6 (b) The comptroller may require written evidence from the
7 executive director of the commission to indicate the reason for the
8 mistake of fact or law before issuing the refund warrant authorized
9 by Subsection (a).

10 (c) This section does not apply to any funds that have been
11 deposited under a written contract.

12 Sec. 442.110. PROGRAMS FOR THE DEVELOPMENT OF HISTORIC
13 SITES AND STRUCTURES. (a) The commission may apply to any
14 appropriate agency or officer of the United States for
15 participation in or the receipt of aid from any federal program
16 involving the planning, acquisition, and development of historic
17 sites and structures described by Subchapter C.

18 (b) The commission may contract with the United States to
19 plan, acquire, and develop historic sites and structures described
20 by Subchapter C in conformity with any federal act concerning the
21 development of historic sites and structures.

22 (c) The commission shall keep financial and other records
23 relating to programs under this section and shall furnish to
24 appropriate officials and agencies of the United States and of this
25 state all reports and information reasonably necessary for the
26 administration of the programs.

27 Sec. 442.111. FINANCING OF HISTORIC SITE PROGRAMS.

1 (a) The operation, maintenance, and improvement of historic sites
2 described by Subchapter C shall be financed from the general
3 revenue fund, the historic site account, other accounts that may be
4 authorized by law, and donations, grants, and gifts received by the
5 commission for these purposes.

6 (b) A donation, grant, or gift accruing to the state or
7 received by the commission for the purpose of operating,
8 maintaining, improving, or developing historic sites described by
9 Subchapter C may not be used for any purpose other than the
10 operation, maintenance, or developing of historic sites.

11 SUBCHAPTER E. RULES GOVERNING HISTORIC SITES

12 Sec. 442.201. AUTHORIZATION. The commission may adopt
13 rules governing the health, safety, and protection of persons and
14 property in historic sites described by Subchapter C under the
15 control of the commission, including public water within historic
16 sites.

17 Sec. 442.202. SCOPE OF RULES. The rules may govern:

18 (1) the conservation, preservation, and use of state
19 property, whether natural features or constructed facilities;

20 (2) the abusive, disruptive, or destructive conduct of
21 persons;

22 (3) the activities of site visitors, including
23 camping, swimming, boating, fishing, or other recreational
24 activities;

25 (4) the possession of pets or animals;

26 (5) the regulation of traffic and parking; and

27 (6) conduct that endangers the health or safety of

1 site visitors or their property.

2 Sec. 442.203. POSTING OF RULES. All specific or general
3 rules applying to a historic site described by Subchapter C must be
4 posted in a conspicuous place at the site. A copy of the rules shall
5 be made available on request to persons visiting the site.

6 Sec. 442.204. REMOVAL FROM SITE. (a) Any person directly
7 or indirectly responsible for disruptive, destructive, or violent
8 conduct that endangers property or the health, safety, or lives of
9 persons or animals may be removed from a historic site described by
10 Subchapter C for a period not to exceed 48 hours.

11 (b) Before removal under this section, the person must be
12 given notice of the provisions of this section and an opportunity to
13 correct the conduct justifying removal.

14 (c) A court of competent jurisdiction may enjoin a person
15 from reentry to the historic site described by Subchapter C, on
16 cause shown, for any period set by the court.

17 Sec. 442.205. ENFORCEMENT OF RULES. Rules adopted under
18 this subchapter may be enforced by any peace officer. A notice to
19 appear may be issued by a peace officer for violation of a rule on a
20 form prescribed by the commission.

21 Sec. 442.206. EFFECT OF RULES. A rule adopted under this
22 subchapter does not amend or repeal any penal law of this state.

23 Sec. 442.207. PENALTY. A person who violates a rule adopted
24 under this subchapter commits an offense that is a Class C
25 misdemeanor.

26 SECTION 6. Section 651.004, Government Code, is amended by
27 adding Subsection (g) to read as follows:

1 (g) The Texas Historical Commission is not required to
2 comply with management-to-staff ratio requirements of this section
3 with respect to employees located in field-based operations.

4 SECTION 7. Subsection (a), Section 2166.003, Government
5 Code, is amended to read as follows:

6 (a) Unless otherwise provided, this chapter does not apply
7 to:

8 (1) a project constructed by and for the Texas
9 Department of Transportation;

10 (2) a project constructed by and for a state
11 institution of higher education;

12 (3) a pen, shed, or ancillary building constructed by
13 and for the Department of Agriculture for the processing of
14 livestock before export;

15 (4) a project constructed by the Parks and Wildlife
16 Department;

17 (5) a repair or rehabilitation project, except a major
18 renovation, of buildings and grounds on the commission inventory;

19 (6) a repair and rehabilitation project of another
20 using agency, if all labor for the project is provided by the
21 regular maintenance force of the using agency under specific
22 legislative authorization and the project does not require the
23 advance preparation of working plans or drawings;

24 (7) a repair and rehabilitation project involving the
25 use of contract labor, if the project has been excluded from this
26 chapter by commission rule and does not require the advance
27 preparation of working plans or drawings;

1 (8) an action taken by the Texas Commission on
2 Environmental Quality under Subchapter F or I, Chapter 361, Health
3 and Safety Code;

4 (9) a repair, rehabilitation, or construction project
5 on property owned by the Texas Department of Housing and Community
6 Affairs or the Texas State Affordable Housing Corporation; ~~[or]~~

7 (10) a project constructed by and for the Veterans'
8 Land Board; or

9 (11) a project constructed by and for the Texas
10 Historical Commission.

11 SECTION 8. Subsection (a), Section 13.001, Parks and
12 Wildlife Code, is amended to read as follows:

13 (a) Except as otherwise provided by law, the following are
14 under the department's control and custody:

15 (1) all recreational and natural areas designated as
16 state parks; and

17 (2) all historical sites under the jurisdiction of
18 ~~[acquired by]~~ the department.

19 SECTION 9. Section 13.0052, Parks and Wildlife Code, is
20 amended to read as follows:

21 Sec. 13.0052. REPORTS. The department shall periodically
22 prepare reports on plans to preserve and develop historical sites
23 under the jurisdiction of the department in this state.

24 SECTION 10. Section 13.010, Parks and Wildlife Code, is
25 amended to read as follows:

26 Sec. 13.010. HISTORIC SITES. The department and the Texas
27 Historical Commission may cooperate to locate, designate, and

1 suitably mark historic grounds, battlefields, and other historic
2 spots in Texas as historic sites. Fitting markers may be erected;
3 however, no expense may be incurred in the name of the state for
4 this project.

5 SECTION 11. This Act takes effect immediately if it
6 receives a vote of two-thirds of all the members elected to each
7 house, as provided by Section 39, Article III, Texas Constitution.
8 If this Act does not receive the vote necessary for immediate
9 effect, this Act takes effect September 1, 2011.