

1-1 By: Eltife S.B. No. 1518  
1-2 (In the Senate - Filed March 10, 2011; March 22, 2011, read  
1-3 first time and referred to Committee on Administration;  
1-4 March 30, 2011, reported favorably by the following vote: Yeas 5,  
1-5 Nays 0; March 30, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the powers and duties of the Texas Historical  
1-9 Commission; imposing a penalty.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subchapter F, Chapter 411, Government Code, is  
1-12 amended by adding Section 411.1146 to read as follows:

1-13 Sec. 411.1146. ACCESS TO CRIMINAL HISTORY RECORD  
1-14 INFORMATION: TEXAS HISTORICAL COMMISSION. (a) The Texas  
1-15 Historical Commission is entitled to obtain criminal history record  
1-16 information maintained by the department or the identification  
1-17 division of the Federal Bureau of Investigation that relates to a  
1-18 person who is:

1-19 (1) an employee, volunteer, or intern;

1-20 (2) an applicant to be an employee, volunteer, or  
1-21 intern; or

1-22 (3) a contractor or subcontractor for the commission.

1-23 (b) Criminal history record information obtained by the  
1-24 Texas Historical Commission under this section may not be released  
1-25 or disclosed to any person except on court order or with the consent  
1-26 of the person who is the subject of the information.

1-27 (c) The Texas Historical Commission shall collect and  
1-28 destroy criminal history record information that relates to a  
1-29 person immediately after the commission uses the information to  
1-30 make an employment or other decision related to the person or take a  
1-31 personnel action relating to the person who is the subject of the  
1-32 criminal history record information.

1-33 (d) The Texas Historical Commission may not obtain criminal  
1-34 history record information under this section unless the commission  
1-35 first adopts policies and procedures that provide that evidence of  
1-36 a criminal conviction or other relevant information obtained from  
1-37 the criminal history record information does not automatically  
1-38 disqualify an individual from obtaining employment or another  
1-39 position or contract with the commission. The policies and  
1-40 procedures developed under this section must provide that the  
1-41 hiring official will determine whether the individual is qualified  
1-42 for employment based on factors including:

1-43 (1) the specific duties of the position;

1-44 (2) the number of offenses committed by the  
1-45 individual;

1-46 (3) the nature and seriousness of each offense;

1-47 (4) the length of time between the offense and the  
1-48 employment decision;

1-49 (5) the efforts by the individual at rehabilitation;  
1-50 and

1-51 (6) the accuracy of the information on the  
1-52 individual's employment application.

1-53 SECTION 2. Section 442.0052, Government Code, is amended by  
1-54 adding Subsections (c) and (d) to read as follows:

1-55 (c) The executive director may waive entrance fees and  
1-56 facility use fees for historic sites under the commission's  
1-57 jurisdiction for a volunteer to assist in the accomplishment of the  
1-58 volunteer's service to the commission.

1-59 (d) The executive director may expend funds appropriated to  
1-60 the commission from dedicated funding sources for:

1-61 (1) the establishment of an insurance program to  
1-62 protect volunteers in the performance of volunteer service; and

1-63 (2) recognition of the services of a volunteer or  
1-64 volunteer groups.

2-1 SECTION 3. Subchapter A, Chapter 442, Government Code, is  
2-2 amended by adding Section 442.0054 to read as follows:

2-3 Sec. 442.0054. DISCLOSURE OF PERSONAL CUSTOMER  
2-4 INFORMATION. (a) The name and address and a telephone, social  
2-5 security, driver's license, bank account, credit card, or charge  
2-6 card number of a person who purchases customer products, licenses,  
2-7 or services from the commission may not be disclosed except as  
2-8 authorized under this section.

2-9 (b) Chapter 552 does not apply to customer information  
2-10 described by Subsection (a).

2-11 (c) The commission by rule shall adopt policies relating to:

2-12 (1) the release of the customer information;

2-13 (2) the use of the customer information by the  
2-14 commission; and

2-15 (3) the sale of a mailing list consisting of the names  
2-16 and addresses of persons who purchase customer products, licenses,  
2-17 or services.

2-18 (d) The commission shall include in its policies a method  
2-19 for a person by request to exclude information about the person from  
2-20 a mailing list sold by the commission.

2-21 (e) The commission may disclose customer information to a  
2-22 federal or state law enforcement agency if the agency provides a  
2-23 lawfully issued subpoena.

2-24 (f) The commission and its officers and employees are immune  
2-25 from civil liability for an unintentional violation of this  
2-26 section.

2-27 (g) In this section, a reference to the commission includes  
2-28 a reference to an agent of the commission.

2-29 SECTION 4. Subchapter A, Chapter 442, Government Code, is  
2-30 amended by adding Sections 442.0056, 442.0057, 442.0058, and  
2-31 442.0059 to read as follows:

2-32 Sec. 442.0056. ACQUISITION OF HISTORIC SITES. (a) The  
2-33 commission may acquire by purchase, gift, or other manner historic  
2-34 sites:

2-35 (1) where events occurred that represent an important  
2-36 aspect of the cultural, political, economic, military, or social  
2-37 history of the nation or state;

2-38 (2) significantly associated with the lives of  
2-39 outstanding historic persons or with an important event that  
2-40 represents a great ideal or idea;

2-41 (3) embodying the distinguishing characteristics of  
2-42 an architectural type that is inherently valuable for study of a  
2-43 period, style, or method of construction;

2-44 (4) that contribute significantly to the  
2-45 understanding of aboriginal humans in the nation or state; or

2-46 (5) that are of significant geologic interest relating  
2-47 to prehistoric animal or plant life.

2-48 (b) The commission shall restore and maintain each historic  
2-49 site acquired under this section for the benefit of the general  
2-50 public. The commission may enter into interagency contracts for  
2-51 this purpose.

2-52 (c) The commission shall formulate plans for the  
2-53 preservation and development of historic sites. Before formulating  
2-54 a plan for a specific site, the commission shall conduct an  
2-55 archeological survey of the site. In formulating plans, the  
2-56 commission shall:

2-57 (1) consider the results from the archeological survey  
2-58 for the site if the plan is for a specific site; and

2-59 (2) consider the resources necessary to manage a site.

2-60 Sec. 442.0057. SOLICITATION, RECEIPT, AND TRANSFER OF LAND.

2-61 (a) The commission may solicit and receive donations of land for  
2-62 public purposes and may refuse donations of land not acceptable for  
2-63 public purposes.

2-64 (b) If title to a site has vested in the commission and if  
2-65 ownership of the site is no longer in the best interest of the  
2-66 commission, the commission may transfer the title:

2-67 (1) to another state commission, department, or  
2-68 institution requesting the site;

2-69 (2) to the donor of the land if the donor requests the

3-1 return of the site;  
 3-2 (3) to the United States if it has undertaken the  
 3-3 development of the site for public purposes;  
 3-4 (4) to the grantor if the deed to the commission  
 3-5 contains a reversion clause providing that title reverts to the  
 3-6 grantor when the site is not used for the purposes for which it was  
 3-7 acquired; or  
 3-8 (5) to any legally authorized entity if the property  
 3-9 is to be used for public purposes.  
 3-10 Sec. 442.0058. SALE OR EXCHANGE OF LAND. (a) The  
 3-11 executive director with the approval of the commission may execute  
 3-12 a deed exchanging real property or an interest in real property  
 3-13 either as all or partial consideration for other real property or  
 3-14 interest in real property. The executive director with the  
 3-15 approval of the commission may execute a deed selling real property  
 3-16 or an interest in real property under the jurisdiction of the  
 3-17 commission if ownership of the real property is no longer in the  
 3-18 best interest of the commission.  
 3-19 (b) The commission shall receive a good and marketable title  
 3-20 to all land exchanged under this section.  
 3-21 (c) All land to be received in the exchange must be  
 3-22 appraised, and if the land to be received is of greater value, as  
 3-23 determined by an independent and competent appraisal, than the  
 3-24 state land exchanged, the commission may use funds available for  
 3-25 land acquisitions as a partial consideration for the exchange.  
 3-26 (d) The receipts from the sale of land under this section  
 3-27 shall be used for improving or acquiring other real property  
 3-28 dedicated to the same purpose for which the land sold was dedicated.  
 3-29 Sec. 442.0059. EMPLOYEE FUND-RAISING. (a) This section  
 3-30 applies only to the solicitation or receipt of a gift, including  
 3-31 money, that has a value of \$500 or more.  
 3-32 (b) The commission by rule shall adopt policies to govern  
 3-33 fund-raising activities by commission employees on behalf of the  
 3-34 commission. The rules must:  
 3-35 (1) designate the types of employees who may solicit  
 3-36 donations;  
 3-37 (2) restrict where and how fund-raising may occur; and  
 3-38 (3) establish requirements for reports by employees to  
 3-39 the director.  
 3-40 (c) The executive director shall approve and manage  
 3-41 fund-raising activities by commission employees on behalf of the  
 3-42 commission in accordance with commission rules.  
 3-43 SECTION 5. Chapter 442, Government Code, is amended by  
 3-44 adding Subchapters D and E to read as follows:  
 3-45 SUBCHAPTER D. OPERATION OF HISTORIC SITES  
 3-46 Sec. 442.101. AUTHORITY TO CONTRACT. (a) For the purpose  
 3-47 of carrying out the powers, duties, and responsibilities of the  
 3-48 commission related to historic sites described by Subchapter C, the  
 3-49 executive director or the executive director's designee may  
 3-50 negotiate, contract, or enter an agreement for:  
 3-51 (1) professional services relating to a commission  
 3-52 project, including project management, design, bid, and  
 3-53 construction administration; and  
 3-54 (2) construction, restoration, renovation, or  
 3-55 preservation of any building, structure, or landscape.  
 3-56 (b) The commission may contract with any appropriate entity  
 3-57 for services necessary to carry out its responsibilities regarding  
 3-58 historic sites described by Subchapter C.  
 3-59 (c) The commission by rule shall adopt policies and  
 3-60 procedures consistent with Subchapter A, Chapter 2254, and other  
 3-61 applicable state procurement practices for soliciting and awarding  
 3-62 contracts under this section.  
 3-63 Sec. 442.102. CONSTRUCTION OF ROADS BY TEXAS DEPARTMENT OF  
 3-64 TRANSPORTATION. (a) The commission may contract with the Texas  
 3-65 Transportation Commission for the construction and paving of roads  
 3-66 in and adjacent to historic sites described by Subchapter C.  
 3-67 (b) Agreements under this section must be made in conformity  
 3-68 with Chapter 771.  
 3-69 Sec. 442.103. LEASE OF LANDS AND IMPROVEMENTS. (a) The

4-1 commission may lease any land or improvement that is part of a  
 4-2 historic site described by Subchapter C to a municipality, county,  
 4-3 special district, nonprofit organization, or political  
 4-4 subdivision. After the execution of the lease, the leased area may  
 4-5 not be referred to as a state facility and state funds may not be  
 4-6 used to operate or maintain the property.

4-7 (b) The conditions and duration of the lease agreement are  
 4-8 determined by the agreement of the commission and the lessee.

4-9 Sec. 442.104. LEASE OF GRAZING RIGHTS; SALE OF PRODUCTS.

4-10 (a) The commission may lease grazing rights on any historic site  
 4-11 described by Subchapter C and may lease from other parties grazing  
 4-12 rights necessary for proper livestock management. The commission  
 4-13 may harvest and sell, or sell in place, any timber, hay, livestock,  
 4-14 or other product grown on any historic site described by Subchapter  
 4-15 C that the commission finds to be in excess of natural resource  
 4-16 management, educational, or interpretive objectives. Timber may be  
 4-17 harvested only for forest pest management, salvage, or habitat  
 4-18 restoration and consistent with good forestry practices and the  
 4-19 advice of the Texas Forest Service.

4-20 (b) The commission may agree to accept materials, supplies,  
 4-21 or services instead of money as part or full payment for a sale or  
 4-22 lease under this subchapter. The commission may not assign to the  
 4-23 materials, supplies, or services accepted as payment under this  
 4-24 subsection a value that exceeds their actual market value.

4-25 Sec. 442.105. ESTABLISHMENT OF FEES; REVENUE. (a) In  
 4-26 setting the amounts of the fees for entering, reserving, or using a  
 4-27 historic site described by Subchapter C, the commission:

4-28 (1) shall establish reasonable and necessary fees for  
 4-29 the administration of commission programs; and

4-30 (2) may not set fees in amounts that permit the  
 4-31 commission to maintain unnecessary fund balances.

4-32 (b) The commission may sell any item in the possession of  
 4-33 the commission in which the state has title, or acquire and resell  
 4-34 items if a profit can be made, to provide funding for programs  
 4-35 administered by the commission.

4-36 (c) The commission may set and charge a fee for the use of a  
 4-37 credit card to pay a fee imposed by the commission in an amount  
 4-38 reasonable and necessary to reimburse the commission for the costs  
 4-39 involved in the use of the card.

4-40 Sec. 442.106. CONCESSIONS. The commission may operate or  
 4-41 grant contracts to operate concessions on the grounds of historic  
 4-42 sites described by Subchapter C. The commission may make rules  
 4-43 governing the granting or operating of concessions. The commission  
 4-44 may establish and operate staff concessions, including salaries,  
 4-45 consumable supplies and materials, operating expenses, rental and  
 4-46 other equipment, and other capital outlays.

4-47 Sec. 442.107. PUBLICATIONS ON HISTORIC SITES. (a) The  
 4-48 commission may provide or sell information about historic sites  
 4-49 described by Subchapter C to the public, including books,  
 4-50 magazines, photographs, prints, and bulletins.

4-51 (b) The commission may enter into contractual agreements  
 4-52 for publication of information concerning historic sites described  
 4-53 by Subchapter C.

4-54 (c) The commission may receive royalties on  
 4-55 commission-owned materials that are sold or supplied to others by  
 4-56 the commission for publication.

4-57 (d) Money received under this section shall be deposited in  
 4-58 the state treasury to the credit of the account from which expenses  
 4-59 for the publication were paid.

4-60 Sec. 442.108. DEPOSIT OF RECEIPTS. The commission shall  
 4-61 deposit to the credit of the historic site account all revenue, less  
 4-62 allowable costs, received from the following sources:

4-63 (1) the operation of concessions at historic sites  
 4-64 described by Subchapter C;

4-65 (2) lease of grazing rights on a historic site;

4-66 (3) sale of products grown on a historic site;

4-67 (4) fines received from violations of rules governing  
 4-68 historic sites under Subchapter E; and

4-69 (5) any other source.

5-1 Sec. 442.109. MISTAKEN DEPOSIT. (a) Any funds deposited  
 5-2 in the state treasury under this subchapter by the commission by  
 5-3 mistake of fact or mistake of law shall be refunded by warrant  
 5-4 issued against the fund and credited against the account in the  
 5-5 state treasury into which the money was deposited. Refunds  
 5-6 necessary to make the proper correction shall be appropriated by  
 5-7 the General Appropriations Act.

5-8 (b) The comptroller may require written evidence from the  
 5-9 executive director of the commission to indicate the reason for the  
 5-10 mistake of fact or law before issuing the refund warrant authorized  
 5-11 by Subsection (a).

5-12 (c) This section does not apply to any funds that have been  
 5-13 deposited under a written contract.

5-14 Sec. 442.110. PROGRAMS FOR THE DEVELOPMENT OF HISTORIC  
 5-15 SITES AND STRUCTURES. (a) The commission may apply to any  
 5-16 appropriate agency or officer of the United States for  
 5-17 participation in or the receipt of aid from any federal program  
 5-18 involving the planning, acquisition, and development of historic  
 5-19 sites and structures described by Subchapter C.

5-20 (b) The commission may contract with the United States to  
 5-21 plan, acquire, and develop historic sites and structures described  
 5-22 by Subchapter C in conformity with any federal act concerning the  
 5-23 development of historic sites and structures.

5-24 (c) The commission shall keep financial and other records  
 5-25 relating to programs under this section and shall furnish to  
 5-26 appropriate officials and agencies of the United States and of this  
 5-27 state all reports and information reasonably necessary for the  
 5-28 administration of the programs.

5-29 Sec. 442.111. FINANCING OF HISTORIC SITE PROGRAMS.  
 5-30 (a) The operation, maintenance, and improvement of historic sites  
 5-31 described by Subchapter C shall be financed from the general  
 5-32 revenue fund, the historic site account, other accounts that may be  
 5-33 authorized by law, and donations, grants, and gifts received by the  
 5-34 commission for these purposes.

5-35 (b) A donation, grant, or gift accruing to the state or  
 5-36 received by the commission for the purpose of operating,  
 5-37 maintaining, improving, or developing historic sites described by  
 5-38 Subchapter C may not be used for any purpose other than the  
 5-39 operation, maintenance, or developing of historic sites.

5-40 SUBCHAPTER E. RULES GOVERNING HISTORIC SITES  
 5-41 Sec. 442.201. AUTHORIZATION. The commission may adopt  
 5-42 rules governing the health, safety, and protection of persons and  
 5-43 property in historic sites described by Subchapter C under the  
 5-44 control of the commission, including public water within historic  
 5-45 sites.

5-46 Sec. 442.202. SCOPE OF RULES. The rules may govern:

5-47 (1) the conservation, preservation, and use of state  
 5-48 property, whether natural features or constructed facilities;

5-49 (2) the abusive, disruptive, or destructive conduct of  
 5-50 persons;

5-51 (3) the activities of site visitors, including  
 5-52 camping, swimming, boating, fishing, or other recreational  
 5-53 activities;

5-54 (4) the possession of pets or animals;

5-55 (5) the regulation of traffic and parking; and

5-56 (6) conduct that endangers the health or safety of  
 5-57 site visitors or their property.

5-58 Sec. 442.203. POSTING OF RULES. All specific or general  
 5-59 rules applying to a historic site described by Subchapter C must be  
 5-60 posted in a conspicuous place at the site. A copy of the rules shall  
 5-61 be made available on request to persons visiting the site.

5-62 Sec. 442.204. REMOVAL FROM SITE. (a) Any person directly  
 5-63 or indirectly responsible for disruptive, destructive, or violent  
 5-64 conduct that endangers property or the health, safety, or lives of  
 5-65 persons or animals may be removed from a historic site described by  
 5-66 Subchapter C for a period not to exceed 48 hours.

5-67 (b) Before removal under this section, the person must be  
 5-68 given notice of the provisions of this section and an opportunity to  
 5-69 correct the conduct justifying removal.

6-1 (c) A court of competent jurisdiction may enjoin a person  
6-2 from reentry to the historic site described by Subchapter C, on  
6-3 cause shown, for any period set by the court.

6-4 Sec. 442.205. ENFORCEMENT OF RULES. Rules adopted under  
6-5 this subchapter may be enforced by any peace officer. A notice to  
6-6 appear may be issued by a peace officer for violation of a rule on a  
6-7 form prescribed by the commission.

6-8 Sec. 442.206. EFFECT OF RULES. A rule adopted under this  
6-9 subchapter does not amend or repeal any penal law of this state.

6-10 Sec. 442.207. PENALTY. A person who violates a rule adopted  
6-11 under this subchapter commits an offense that is a Class C  
6-12 misdemeanor.

6-13 SECTION 6. Section 651.004, Government Code, is amended by  
6-14 adding Subsection (g) to read as follows:

6-15 (g) The Texas Historical Commission is not required to  
6-16 comply with management-to-staff ratio requirements of this section  
6-17 with respect to employees located in field-based operations.

6-18 SECTION 7. Subsection (a), Section 2166.003, Government  
6-19 Code, is amended to read as follows:

6-20 (a) Unless otherwise provided, this chapter does not apply  
6-21 to:

6-22 (1) a project constructed by and for the Texas  
6-23 Department of Transportation;

6-24 (2) a project constructed by and for a state  
6-25 institution of higher education;

6-26 (3) a pen, shed, or ancillary building constructed by  
6-27 and for the Department of Agriculture for the processing of  
6-28 livestock before export;

6-29 (4) a project constructed by the Parks and Wildlife  
6-30 Department;

6-31 (5) a repair or rehabilitation project, except a major  
6-32 renovation, of buildings and grounds on the commission inventory;

6-33 (6) a repair and rehabilitation project of another  
6-34 using agency, if all labor for the project is provided by the  
6-35 regular maintenance force of the using agency under specific  
6-36 legislative authorization and the project does not require the  
6-37 advance preparation of working plans or drawings;

6-38 (7) a repair and rehabilitation project involving the  
6-39 use of contract labor, if the project has been excluded from this  
6-40 chapter by commission rule and does not require the advance  
6-41 preparation of working plans or drawings;

6-42 (8) an action taken by the Texas Commission on  
6-43 Environmental Quality under Subchapter F or I, Chapter 361, Health  
6-44 and Safety Code;

6-45 (9) a repair, rehabilitation, or construction project  
6-46 on property owned by the Texas Department of Housing and Community  
6-47 Affairs or the Texas State Affordable Housing Corporation; ~~[or]~~

6-48 (10) a project constructed by and for the Veterans'  
6-49 Land Board; or

6-50 (11) a project constructed by and for the Texas  
6-51 Historical Commission.

6-52 SECTION 8. Subsection (a), Section 13.001, Parks and  
6-53 Wildlife Code, is amended to read as follows:

6-54 (a) Except as otherwise provided by law, the following are  
6-55 under the department's control and custody:

6-56 (1) all recreational and natural areas designated as  
6-57 state parks; and

6-58 (2) all historical sites under the jurisdiction of  
6-59 [acquired by] the department.

6-60 SECTION 9. Section 13.0052, Parks and Wildlife Code, is  
6-61 amended to read as follows:

6-62 Sec. 13.0052. REPORTS. The department shall periodically  
6-63 prepare reports on plans to preserve and develop historical sites  
6-64 under the jurisdiction of the department in this state.

6-65 SECTION 10. Section 13.010, Parks and Wildlife Code, is  
6-66 amended to read as follows:

6-67 Sec. 13.010. HISTORIC SITES. The department and the Texas  
6-68 Historical Commission may cooperate to locate, designate, and  
6-69 suitably mark historic grounds, battlefields, and other historic

7-1 spots in Texas as historic sites. Fitting markers may be erected;  
7-2 however, no expense may be incurred in the name of the state for  
7-3 this project.

7-4 SECTION 11. This Act takes effect immediately if it  
7-5 receives a vote of two-thirds of all the members elected to each  
7-6 house, as provided by Section 39, Article III, Texas Constitution.  
7-7 If this Act does not receive the vote necessary for immediate  
7-8 effect, this Act takes effect September 1, 2011.

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