

House Bill 1422
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Section 442.002(k), Government Code, is amended to read as follows:

(k) The Texas Historical Commission is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2031 [~~2019~~].

SECTION 2. Section 442.0021, Government Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) The training program must provide the person with information regarding:

(1) the law governing [~~legislation that created the~~] commission operations;

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

(3) the scope of and limitations on the rulemaking authority of the commission;

(4) the results of the most recent formal audit of the commission;

(5) [~~(4)~~] the requirements of:

(A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest; and

(B) other laws applicable to members of the commission in performing their duties; and

(6) [~~(5)~~] any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

(d) The executive director of the commission shall create a training manual that includes the information required by Subsection (b). The executive director shall distribute a copy

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SECTION 1. Same as House version.

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(1) the law governing [~~legislation that created the~~] commission operations;

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(5) [~~(4)~~] the requirements of:

(A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest; and

(B) other laws applicable to members of the commission in performing their duties; and

(6) [~~(5)~~] any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

(d) The executive director of the commission shall create a training manual that includes the information required by Subsection (b). The executive director shall distribute a copy

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of the training manual annually to each member of the commission. On receipt of the training manual, each member of the commission shall sign and submit to the executive director a statement acknowledging receipt of the training manual.

SECTION 3. Subchapter A, Chapter 442, Government Code, is amended by adding Sections 442.0045 and 442.0088 to read as follows:

Sec. 442.0045. DELEGATION OF POWERS AND DUTIES. The commission by order or rule may delegate to the executive director the authority to perform the duties or exercise the powers of the commission under this chapter or other law, including Chapter 191, Natural Resources Code.

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of the training manual annually to each member of the commission. Each member of the commission shall sign and submit to the executive director a statement acknowledging that the member received and has reviewed the training manual.

SECTION 3. Subchapter A, Chapter 442, Government Code, is amended by adding Sections 442.0045 and 442.0088 to read as follows:

Sec. 442.0045. DELEGATION OF CERTAIN POWERS AND DUTIES. (a) Except as provided by Subsection (b), the commission by order or rule may delegate to the executive director the authority to perform the duties or exercise the powers of the commission under this chapter or other law, including Chapter 191, Natural Resources Code. (b) The commission may not delegate to the executive director the following powers and duties:

- (1) proposing and adopting commission policies and rules;
- (2) developing and approving the commission's strategic plan under Chapter 2056 and annual operations plan and periodically updating and reviewing those plans;
- (3) approving the commission's legislative appropriations request;
- (4) approving the commission's biennial budget and any significant amendments to that budget;
- (5) approving the statewide comprehensive preservation plan;
- (6) providing information to the legislature regarding the commission's budget and policies;
- (7) hiring, evaluating, terminating, and setting the compensation of the executive director;

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- (8) formally accepting gifts and grants to the commission;
- (9) establishing advisory committees and appointing the members of those committees;
- (10) designating, and removing the designation of, State Archeological Landmarks;
- (11) excusing a commissioner's absence from a meeting of the commission;
- (12) approving the designation and removal of Recorded Texas Historic Landmarks, historic cemeteries, and Official Texas Historical Markers;
- (13) designating official main street cities;
- (14) awarding historic courthouse preservation program grants, certified local government grants, Texas preservation trust fund account grants, and all other grants;
- (15) selecting the winners of the governor's award for historic preservation and other competitive statewide awards awarded by the commission;
- (16) approving curatorial facilities to hold state-associated collections that are held in trust;
- (17) acquiring and disposing of real property;
- (18) establishing fees for commission services;
- (19) approving amendments to contracts entered into by the commission if the amendment extends the contract by six or more months or increases the contract price by 10 percent or more;
- (20) identifying and defining the relationship between the commission and any affiliated nonprofit organization;
- (21) raising issues regarding the performance of the commission's staff and the operation of agency programs with the chair, the executive director, or the appropriate deputy executive director;

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A delegation under this section may be amended or withdrawn by commission vote.

Sec. 442.0088. TEXAS HERITAGE TRAILS PROGRAM.

(a) The Texas Historical Commission may establish and administer the Texas Heritage Trails Program to promote tourism to heritage and cultural attractions in this state.

(b) The commission may contract with one or more nonprofit organizations to fulfill the commission's duties under this section.

(c) The commission shall adopt rules to administer the Texas Heritage Trails Program, including rules defining the principles of heritage tourism and relating to contracts the commission enters into with nonprofit organizations. Rules adopted under this subsection relating to contracts with nonprofit organizations must require each contract to clearly establish:

(1) the role of the nonprofit organization in promoting heritage tourism;

(2) the nature of the relationship between the commission and the nonprofit organization;

(3) the performance expectations for the nonprofit organization;

(4) requirements and expectations regarding the nonprofit organization's employees;

(5) the commission's expectations regarding ownership of any literature, media, or other products developed or

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(22) determining whether a property offered to the commission should be accepted into the commission's land banking program or as a historic site; and

(23) recommending, in partnership with the Texas State Historical Association, a nominee for appointment by the governor as state historian.

(c) A delegation under this section may be amended or withdrawn by commission vote.

Sec. 442.0088. TEXAS HERITAGE TRAILS PROGRAM.

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(3) the performance expectations for the nonprofit organization;

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produced by the nonprofit organization to promote heritage tourism during the course of the contract;

(6) the commission's long-term goals for the program and the nonprofit organization's role in meeting those goals;

(7) a system for evaluating the nonprofit organization's overall performance, including the organization's effectiveness in meeting the performance expectations described by Subdivision (3); and

(8) the types of support, other than financial support, the commission will provide to the nonprofit organization to assist in the implementation and administration of the Texas Heritage Trails Program.

SECTION 4. Section 442.072(a), Government Code, is amended to read as follows:

(a) The following historic sites and parks are under the commission's jurisdiction:

- (1) Acton State Historic Site;
- (2) Caddoan Mounds State Historic Site;
- (3) Casa Navarro State Historic Site;
- (4) Confederate Reunion Grounds State Historic Site;
- (5) Eisenhower Birthplace State Historic Site;
- (6) Fannin Battleground State Historic Site;
- (7) Fanthorp Inn State Historic Site;
- (8) Fort Griffin State Historic Site;
- (9) [~~(8)~~] Fort Lancaster State Historic Site;
- (10) [~~(9)~~] Fort McKavett State Historic Site;
- (11) [~~(10)~~] Fulton Mansion State Historic Site;
- (12) [~~(11)~~] Landmark Inn State Historic Site;
- (13) [~~(12)~~] Levi Jordan State Historic Site;
- (14) Lipantitlan State Historic Site;

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produced by the nonprofit organization to promote heritage tourism during the course of the contract;

(6) the commission's long-term goals for the program and the nonprofit organization's role in meeting those goals;

(7) a system for evaluating the nonprofit organization's overall performance, including the organization's effectiveness in meeting the performance expectations described by Subdivision (3); and

(8) the types of support, other than financial support, the commission will provide to the nonprofit organization to assist in the implementation and administration of the Texas Heritage Trails Program.

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~~(15) [(13)]~~ Magoffin Home State Historic Site;
~~(16) Mission Dolores State Historic Site;~~
~~(17) Monument Hill and Kreische Brewery State Historic Sites;~~
~~(18) National Museum of the Pacific War;~~
~~(19) [(14)]~~ Sabine Pass Battleground State Historic Site;
~~(20) [(15)]~~ Sam Bell Maxey House State Historic Site;
~~(21) Sam Rayburn House State Historic Site;~~
~~(22) [(16)]~~ San Felipe State Historic Site;
~~(23) [(17)]~~ Starr Family Home State Historic Site;
~~(24) [(18)]~~ Varner-Hogg Plantation State Historic Site;
~~(25) Washington-on-the-Brazos State Historic Site; and~~
~~(26) [(19) Sam Rayburn House State Historic Site;~~
~~[(20) National Museum of the Pacific War;~~
~~[(21)]~~ the property known as the French Legation[; and
~~[(22) Mission Dolores State Historic Site].~~

No equivalent provisions.

SECTION 5. Subchapter B, Chapter 22, Parks and Wildlife Code, is transferred to Chapter 442, Government Code, redesignated as Subchapter F, Chapter 442, Government Code, and amended to read as follows:
SUBCHAPTER F [B]. SAN JACINTO BATTLEGROUND STATE HISTORIC SITE

SECTION _____. Section 442.073, Government Code, is amended by adding Subsection (f) to read as follows:
(f) Money in the account may not be used to pay employee benefits or benefit-related costs. Notwithstanding any other law, the account is exempt from any applicable employee benefits proportionality requirement. [FA2(2)]

SECTION 5. Chapter 442, Government Code, is amended by adding Subchapter F, and a heading is added to that subchapter to read as follows:

SUBCHAPTER F. SAN JACINTO BATTLEGROUND STATE HISTORIC SITE

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Sec. 442.251 [~~22.011~~]. JURISDICTION. (a) The San Jacinto Battleground State Historic Site is under the jurisdiction of the commission [~~department~~].

(b) The San Jacinto Battleground State Historic Site is a historic site for purposes of Subchapter C.

Sec. 442.252 [~~22.012~~]. SAN JACINTO HISTORICAL ADVISORY BOARD. (a) The San Jacinto Historical Advisory Board is composed of:

- (1) the chair [~~chairman~~] of the Battleship Texas Foundation;
- (2) the president of the San Jacinto Museum of History Association; and
- (3) three members of the public.

(b) The three members of the public are appointed by the governor for terms of six years each, with the term of one member expiring each odd-numbered year.

(c) One or more of the three members of the public may be selected from the San Jacinto Chapter, Daughters of the Republic of Texas.

Sec. 442.253 [~~22.013~~]. MEETINGS. (a) The San Jacinto Historical Advisory Board shall meet quarterly to review the policies and operations of the San Jacinto Battleground State Historic Site and to advise the commission [~~department~~] on the proper historical development of the battleground.

(b) The board shall prepare minutes for all board meetings and deliver them to the commission. The board shall deliver the board's bylaws and any changes made to the bylaws to

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SECTION 6. Sections 22.011 and 22.016, Parks and Wildlife Code, are transferred to Subchapter F, Chapter 442, Government Code, as added by this Act, redesignated as Sections 442.251 and 442.252, Government Code, and amended to read as follows:

Sec. 442.251 [22.011]. JURISDICTION. (a) The San Jacinto Battleground State Historic Site is under the jurisdiction of the commission [department].

(b) The San Jacinto Battleground State Historic Site is a historic site for purposes of Subchapter C.

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the commission. ~~[Any minutes or bylaws delivered to the commission shall be delivered by the member of the board who is an employee of the department.]~~

Sec. ~~442.254~~ [22.014]. POWERS OF THE BOARD. ~~Subject to Section 442.074, the~~ [The] board may accept, in the name of the state, all bequests, gifts, and grants of money or property made to the battleground and use the bequests for the purposes specified by the grantor, if any.

Sec. ~~442.255~~ [22.015]. DATA. All data collected by the board is the property of the state and shall be used to depict the story of Texas history and independence at the battleground.

Sec. ~~442.256~~ [22.016]. SAN JACINTO MUSEUM OF HISTORY ASSOCIATION. The San Jacinto Museum of History Association, a nonprofit historical association organized for the purposes of operating the San Jacinto Memorial Building and Tower and establishing a museum, retains ownership of property and historical data held in the name of the association and may acquire museum accessions by gift, grant, or purchase from association funds.

SECTION 6. Subchapter H, Chapter 22, Parks and Wildlife Code, is transferred to Chapter 442, Government Code, redesignated as Subchapter G, Chapter 442, Government Code, and amended to read as follows:

SUBCHAPTER ~~G~~ [H]. PORT ISABEL LIGHTHOUSE STATE HISTORICAL MONUMENT AND PARK

Sec. ~~442.271~~ [22.101]. JURISDICTION. (a) The Port Isabel Lighthouse is a state historical monument and park and is under the jurisdiction of the ~~commission~~ [department].

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Sec. ~~442.252~~ [22.016]. SAN JACINTO MUSEUM OF HISTORY ASSOCIATION. The San Jacinto Museum of History Association, a nonprofit historical association organized for the purposes of operating the San Jacinto Memorial Building and Tower and establishing a museum, retains ownership of property and historical data held in the name of the association and may acquire museum accessions by gift, grant, or purchase from association funds.

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(b) The Port Isabel Lighthouse State Historical Monument and Park is a historic site for purposes of Subchapter C.

Sec. 442.272 [22.102]. POWERS OF COMMISSION [DEPARTMENT]. The ~~commission~~ [department] may rehabilitate, maintain, and preserve the property of the park, and may collect entrance fees for admission to the park or operate it on a concession basis under the provisions of this chapter [code].

SECTION 7. Subchapter Z, Chapter 2175, Government Code, is amended by adding Section 2175.909 to read as follows:

Sec. 2175.909. SALE OF CERTAIN HISTORIC PROPERTY; PROCEEDS OF SALE. (a) In this section, "qualifying collection" means an archeological, architectural, archival, decorative, or fine arts collection.

(b) This section applies only to a state agency:

(1) that maintains a qualifying collection;

(2) that is authorized to dispose of surplus or salvage property under Section 2175.065; and

(3) the governing body of which has adopted a written policy governing the care and preservation of the qualifying collection, including procedures relating to the deaccession of an item from the collection.

(c) The state agency may deaccession an item from the agency's qualifying collection if the governing body determines that deaccession of the item is appropriate under the agency's written policy governing the care and preservation of the collection.

(d) A state agency and the Texas Facilities Commission may sell a deaccessioned item in the manner provided by

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Subchapter D. Before the sale of the item, the Texas Facilities Commission must verify that the state agency's governing body complied with Subsection (c).

(e) Notwithstanding Section 2175.191, proceeds from the sale of the deaccessioned item by a state agency shall be deposited to the credit of a dedicated account in the general revenue fund in the manner prescribed by Subsection (f).

(f) The comptroller shall separately account for the amount of money deposited to the credit of the account under Subsection (e) resulting from the sale of deaccessioned items by each state agency. Money deposited to the credit of the account may be appropriated only to the state agency for which the comptroller deposited the money to the account for the care and preservation of the agency's qualifying collection.

SECTION 8. Section 21.104, Parks and Wildlife Code, is amended to read as follows:

Sec. 21.104. **CONTRACTS AUTHORIZED.** The department may contract with any state or federal agency or with any other person to accomplish the functions prescribed by Sections 21.102(1) and (2) [~~Subdivisions (1) and (2) of Section 22.102 of this code~~].

SECTION 9. Section 151.801(c), Tax Code, is amended to read as follows:

(c) The proceeds from the collection of the taxes imposed by this chapter on the sale, storage, or use of sporting goods shall be deposited as follows:

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SECTION 9. Same as House version.

SECTION _____. Section 151.801(c), Tax Code, is amended to read as follows:

(c) The proceeds from the collection of the taxes imposed by this chapter on the sale, storage, or use of sporting goods shall be deposited as follows:

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(1) an amount equal to 93.4 [94] percent of the proceeds shall be credited to the Parks and Wildlife Department and deposited as specified in the Parks and Wildlife Code; and
(2) an amount equal to 6.6 [~~six~~] percent of the proceeds shall be credited to the Texas Historical Commission and deposited as specified in Section 442.073, Government Code.

SECTION 10. The following provisions are repealed:

- (1) Section 442.0081(g), Government Code;
- (2) Sections 442.015(d), (e), and (f), Government Code; and
- (3) Subchapter A, Chapter 22, Parks and Wildlife Code.

SECTION 11. (a) Except as provided by Subsection (b) of this section, Section 442.0021, Government Code, as amended by this Act, applies to a member of the Texas Historical Commission appointed before, on, or after the effective date of this Act.

(b) A member of the Texas Historical Commission who, before the effective date of this Act, completed the training program required by Section 442.0021, Government Code, as that law existed before the effective date of this Act, is required to complete additional training only on subjects added by this Act to the training program as required by Section 442.0021, Government Code, as amended by this

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(1) an amount equal to 93 [94] percent of the proceeds shall be credited to the Parks and Wildlife Department for the purposes described by Subsection (c-1) and deposited to department accounts as provided by that subsection [~~specified in the Parks and Wildlife Code~~]; and
(2) an amount equal to seven [~~six~~] percent of the proceeds shall be credited to the Texas Historical Commission and deposited to the credit of the historic site account under [~~as specified in~~] Section 442.073, Government Code. [FA2(2)].

SECTION 11. The following provisions are repealed:

- (1) Section 442.0081(g), Government Code;
- (2) Sections 442.015(d), (e), and (f), Government Code;
- (3) Subchapter A, Chapter 22, Parks and Wildlife Code;
- (4) the heading to Subchapter B, Chapter 22, Parks and Wildlife Code; and
- (5) Sections 22.012, 22.013, 22.014, and 22.015, Parks and Wildlife Code.

SECTION 12. Same as House version.

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Act. A commission member described by this subsection may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission held on or after December 1, 2019, until the member completes the additional training.

SECTION 12. (a) Not later than November 1, 2019, the Texas Historical Commission shall adopt rules under Section 442.0088, Government Code, as added by this Act.
(b) Section 442.0088(c), Government Code, as added by this Act, applies only to a contract relating to the Texas Heritage Trails Program that is entered into by the Texas Historical Commission and a nonprofit organization on or after the effective date of this Act.

SECTION 13. Section 2175.909, Government Code, as added by this Act, applies only to the deaccession of an item from a state agency's qualifying collection, as that term is defined by Section 2175.909, that occurs on or after the effective date of this Act.

SECTION 14. (a) In this section, "historic site" means the:
(1) Fanthorp Inn State Historic Site;
(2) Lipantitlan State Historic Site;
(3) Monument Hill and Kreische Brewery State Historic Sites;
(4) Port Isabel Lighthouse State Historical Monument and Park;
(5) San Jacinto Battleground State Historic Site; and

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SECTION 13. Same as House version.

SECTION 14. Same as House version.

SECTION 15. Same as House version.

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- (6) Washington-on-the-Brazos State Historic Site.
- (b) On September 1, 2019, the following are transferred to the Texas Historical Commission:
- (1) each historic site described by Subsection (a) of this section and all obligations and liabilities of the Parks and Wildlife Department relating to those sites;
 - (2) all unobligated and unexpended funds appropriated to the Parks and Wildlife Department designated for the administration of those sites;
 - (3) all equipment and property of the Parks and Wildlife Department used for the administration of or related to those sites; and
 - (4) all files and other records of the Parks and Wildlife Department kept by the department regarding those sites.
- (c) A rule adopted by the Parks and Wildlife Commission that is in effect immediately before September 1, 2019, and that relates to a historic site is, on September 1, 2019, a rule of the Texas Historical Commission and remains in effect until amended or repealed by the Texas Historical Commission.
- (d) The transfer under this section does not diminish or impair the rights of a holder of an outstanding bond or other obligation issued by the Parks and Wildlife Department in relation to the support of a historic site.
- (e) Beginning September 1, 2019, a reference in the Parks and Wildlife Code or other law to a power, duty, obligation, or liability of the Parks and Wildlife Department or the Parks and Wildlife Commission that relates to a historic site is a reference to the Texas Historical Commission. The Texas Historical Commission is the successor agency to the Parks and Wildlife Department and the Parks and Wildlife Commission for a historic site.

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(f) Before September 1, 2019, the Parks and Wildlife Department may agree with the Texas Historical Commission to transfer any property of the Parks and Wildlife Department to the Texas Historical Commission to implement the transfer required by this section.

(g) Until a historic site is transferred to the Texas Historical Commission in accordance with this section, the Parks and Wildlife Department shall continue to operate and maintain the site under applicable law as it existed on January 1, 2018.

(h) This section takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this section takes effect on the 91st day after the last day of the legislative session.

SECTION 15. Notwithstanding any other provision of this Act, if on or before September 1, 2019, the Parks and Wildlife Department has applied for a grant for the San Jacinto Battleground State Historic Site for which the department is required to possess legal title to the site, the department may retain legal title to the site for purposes of receiving the grant until the earlier of:

- (1) the date on which the grant application is denied; or
- (2) September 1, 2021.

SECTION 16. Except as otherwise provided by this Act, this Act takes effect September 1, 2019.

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SECTION 16. Notwithstanding any other provision of this Act, if on or before September 1, 2019, the Parks and Wildlife Department has applied for a grant for which the department is required to possess legal title to the San Jacinto Battleground State Historic Site, the department may retain legal title to the site for purposes of receiving the grant until the earlier of:

- (1) the date on which the grant application is denied; or
- (2) September 1, 2021.

SECTION 17. Same as House version.

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