

BILL ANALYSIS

Senate Research Center
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H.B. 4187
By: Metcalf (Kolkhorst)
Economic Development
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Historical Commission (THC) manages historical sites, markers, and preservation programs across the state. However, statutory limitations and outdated processes have slowed contract awards, hampered collaboration with nonprofits, and restricted flexibility in operations and funding.

H.B. 4187 seeks to address these gaps by clarifying that THC has jurisdiction over Civil War and Republic of Texas centennial markers regardless of location, transferring maintenance responsibility for these historical markers from the Texas Facilities Commission to THC, directing THC to develop curriculum for and administer training to tour guides, and designating the Friends of the Texas Historical Commission and the Washington-on-the-Brazos Historical Foundation as affiliated nonprofits to provide services and raise funds for the agency and historic sites.

H.B. 4187 amends current law relating to the authority and responsibilities of the Texas Historical Commission and authorizes fees.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Historical Commission in SECTION 5 (Section 442.043, Government Code) and SECTION 9 (Section 442.157, Government Code) of this bill.

Rulemaking authority previously granted to the Texas Historical Commission is modified in SECTION 7 (Section 442.101, Government Code) of this bill.

Rulemaking authority previously granted to the Texas Historical Commission is rescinded in SECTION 11 (Section 442.0055, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 442, Government Code, by adding Section 442.0046, as follows:

Sec. 442.0046. **AUTHORITY OF EXECUTIVE DIRECTOR TO ENTER CERTAIN CONTRACTS.** (a) Authorizes the executive director of the Texas Historical Commission (executive director; THC) to negotiate with and award a contract for goods or services to any qualified vendor if the executive director:

- (1) solicits bids for the goods or services through a competitive process in compliance with all applicable laws, including certain chapters of the Government Code, that fails to result in competitive responsive bids;
- (2) makes a written determination that resoliciting bids for the goods or services would be unlikely to result in responsive bids, would increase costs to THC, or would delay the ability of THC to address a critical need; and

(3) determines that the vendor meets the requirements of the original solicitation.

(b) Authorizes the executive director, to the extent practicable, to combine the procurement of multiple goods or services into a single competitively bid contract to enhance the contract's attraction for potential vendors.

SECTION 2. Amends Section 442.005(p), Government Code, to authorize THC to participate in the establishment and operation of an affiliated nonprofit organization whose purpose is to raise funds for or provide services or other benefits to THC or one or more historic sites as defined by Section 442.071 (Definition).

SECTION 3. Amends Sections 442.0151(b), (f), and (h), Government Code, as follows:

(b) Provides that the historic infrastructure sustainability trust fund (fund) is created as a trust fund outside the treasury held by the trust company and administered by the Comptroller of Public Accounts of the State of Texas as trustee on behalf of the people of this state to generate earnings on money in the fund for certain purposes, including improving restoring historic sites throughout the state.

(f) Makes a conforming change to this subsection.

(h) Deletes existing text authorizing THC to receive an additional distribution from the fund under Subsection (g) (relating to authorizing THC to request an additional distribution from the fund in an amount that exceeds the amount the trust company determines is available for distribution) only after THC certifies to the Legislative Budget Board that the money will not be used to acquire real property.

SECTION 4. Amends Subchapter A, Chapter 442, Government Code, by adding Section 442.034, as follows:

Sec. 442.034. PRESERVATION, MAINTENANCE, AND REPAIR OF CERTAIN HISTORICAL MARKERS. (a) Defines "Civil War centennial marker," "institution of higher education," "university system," "marker," and "Republic of Texas centennial marker."

(b) Provides that this section applies only to a Civil War centennial marker or a Republic of Texas centennial marker that was installed by or at the direction of the former Centennial Commission, the former Texas Civil War Centennial Commission, THC or a predecessor of THC, or the Republic of Texas.

(c) Provides that a Civil War centennial marker or a Republic of Texas centennial marker is state property, regardless of whether the marker is located on public or private property.

(d) Provides that THC has jurisdiction over and is responsible for the preservation, maintenance, and repair of Civil War centennial markers and Republic of Texas centennial markers.

(e) Prohibits this section from being construed as transferring ownership or control of, or the responsibility to preserve, maintain, or repair, a museum, exhibition building, or other building that is associated with or located near a Civil War centennial marker or a Republic of Texas centennial marker and owned or operated by a private entity, municipality, county, or institution of higher education or university system.

SECTION 5. Amends Chapter 442, Government Code, by adding Subchapter A-1, as follows:

SUBCHAPTER A-1. AFFILIATED NONPROFIT ORGANIZATIONS; FRIENDS OF TEXAS HISTORICAL COMMISSION

Sec. 442.041. DEFINITION. Defines "organization."

Sec. 442.042. PURPOSE. Requires THC to designate each affiliate nonprofit organization as responsible for providing services and other benefits to THC or a historic site defined by Section 442.071 and financial support as requested by THC and approved by the organization's board.

Sec. 442.043. RULES; GUIDELINES. (a) Requires THC to adopt certain rules.

(b) Requires THC to establish guidelines for identifying and defining the administrative and financial support THC is authorized to provide for an organization.

Sec. 442.044. AGREEMENTS. (a) Authorizes an organization and THC, notwithstanding any other law, to enter into an agreement to use state money for certain purposes.

(b) Requires that each agreement entered into under this section be approved by THC.

Sec. 442.045. COLLECTION AND USE OF CERTAIN FEE AND REVENUE RECEIPTS. (a) Authorizes an agreement described by Section 442.044 to authorize an organization to charge and collect fees in connection with the organization's activities, including fees for viewing special exhibits or films, attending programs or events, and using THC facilities or other facilities and collect revenue from gift shop and concession sales.

(b) Provides that an organization is required to hold, invest, manage, use, and apply money received from the fees and sales described by Subsection (a) only for the benefit of THC and is authorized to exercise discretion, subject to the terms of an agreement described by Section 442.044, regarding business operations, exhibits, programming, management, preservation, restoration, and site development.

Sec. 442.046. OWNERSHIP AND ACQUISITION OF PROPERTY. Provides that an organization retains ownership of property purchased using the organization's money and held in the organization's name and is authorized to acquire items by gift, grant, or purchase using the organization's money.

Sec. 442.047. DISPOSITION OF ORGANIZATION ASSETS ON DISSOLUTION. (a) Provides that, in the event of an organization's dissolution, THC is the sole beneficiary of all items held in the organization's name that relate to THC, except as otherwise provided by the organization's articles of incorporation or the terms of the gift or other transfer of the items to the organization.

(b) Requires that an item for which THC is not the sole beneficiary be clearly identified and described on an agreed list prepared jointly by THC and the organization.

Sec. 442.048. CONFIDENTIALITY OF CERTAIN INFORMATION. Provides that the name, address, and other identifying information of a person who makes a donation, including a gift, grant, or other financial contribution, to an organization is confidential and excepted from disclosure under Chapter 552 (Public Information).

Sec. 442.049. ACCOUNTABILITY; INVESTMENT RESTRICTIONS; AUDIT. (a) Provides that Chapter 2256 (Public Funds Investment) applies to an organization that is a party to an agreement under this subchapter to the extent that the agreement authorizes the organization to exercise control over state money.

(b) Requires an organization that is a party to an agreement under this subchapter to have an annual audit prepared by an independent auditor. Requires the organization to file the audit report with THC.

(c) Provides that all financial transactions involving, and financial records relating to, state money held by an organization that is a party to an agreement under this subchapter are subject to audit by the state auditor as provided by Section 321.013 (Powers and Duties of State Auditor).

Sec. 442.050. EXPENDITURES; LIMITS. (a) Requires THC to direct, by the terms of an agreement entered into under this subchapter, an organization's spending of state money.

(b) Prohibits a state employee from directly spending or obligating an organization's money.

(c) Prohibits an organization from spending state money to lobby or otherwise attempt to influence a member of the legislature or directly or indirectly attempt to influence legislation.

SECTION 6. Amends Section 442.072(a), Government Code, as follows:

(a) Provides that certain historic sites in this state are under THC's jurisdiction, including Barrington Living History Farm State Historic Site, Bush Family Home State Historic Site, Caddo Mounds State Historic Site, Fort Martin Scott State Historic Site, French Legation State Historic Site, Goodnight Ranch State Historic Site, Harvey House State Historic Site, Iwo Jima Monument and Museum State Historic Site, Kreische Brewery State Historic Site, Old Socorro Mission State Historic Site, Palmito Ranch Battlefield State Historic Site, Port Isabel Lighthouse State Historic Site, Presidio La Bahia State Historic Site, San Felipe de Austin State Historic Site, San Jacinto Battleground State Historic Site, Star of the Republic Museum State Historic Site, and Stephen F. Austin Memorial State Historic Site.

Deletes existing text providing that Caddoan Mounds State Historic Site, Kreische Brewery State Historic Site, and the property known as the French Legation are under THC's jurisdiction. Makes nonsubstantive changes.

SECTION 7. Amends Section 442.101(c), Government Code, to create an exception under Section 442.0046.

SECTION 8. Amends Section 442.113, Government Code, by amending Subsection (a) and adding Subsections (a-1) and (d), as follows:

(a) Provides that THC retail operations fund is authorized to include, rather than consists of, revenue from THC retail operations and earned revenue from operating receipts but is prohibited from including appropriated money. Makes a nonsubstantive change.

(a-1) Authorizes appropriated money to be used to provide financial support for and grow retail operations.

(d) Provides that THC's retail operations are considered an auxiliary enterprise for purposes of Section 2155.141 (Purchases for Auxiliary Enterprise Not Within Comptroller's Purchasing Authority).

SECTION 9. Amends Chapter 442, Government Code, by adding Subchapter D-1, as follows:

SUBCHAPTER D-1. WASHINGTON-ON-THE-BRAZOS HISTORICAL FOUNDATION

Sec. 442.151. DEFINITION. Defines "foundation."

Sec. 442.152. PURPOSE OF FOUNDATION. (a) Provides that the Washington-on-the-Brazos Historical Foundation (foundation) is a nonprofit historical association established under Section 442.005(p) for the purposes of supporting the operations of certain historic sites.

(b) Requires THC to designate the foundation as the entity responsible for providing operational support for the sites described by Subsection (a) and engaging in related activities for, and providing financial support to, those sites.

Sec. 442.153. RESPONSIBILITIES OF FOUNDATION AND COMMISSION. Requires the foundation and THC to enter into an agreement that establishes the working relationship between the foundation and THC in connection with the activities conducted at the sites described by Section 442.152(a), the best practices under which the foundation may engage in business activities described by this subchapter, the relationship between THC's employees and the foundation, and the guidelines for identifying and defining the administrative and financial support THC is authorized to provide in connection with the sites described by Section 442.152(a).

Sec. 442.154. AGREEMENTS REGARDING CERTAIN HISTORIC SITES. (a) Authorizes the foundation and THC, notwithstanding any other law, to enter into an agreement under Subchapter A-1 to use state money for certain purposes regarding a site described by Section 442.152(a).

(b) Authorizes the foundation, subject to the terms of an agreement under Subchapter A-1, to exercise discretion regarding business operations, exhibits, programming, collection management, preservation, restoration, storage, and site development at the site that is the subject of the agreement.

Sec. 442.155. COLLECTION AND USE OF CERTAIN FEE AND REVENUE RECEIPTS. (a) Authorizes an agreement described by Section 442.154 to authorize the foundation to, at the site that is the subject of the agreement, charge and collect fees in connection with the foundation's activities at the site, including fees for viewing special exhibits or films, attending programs or events, and using the facilities at the site, and collect revenue from gift shop and concession sales at the site.

(b) Requires the foundation to hold, invest, manage, use, and apply money received from the fees and sales described by Subsection (a) only for the benefit of the sites described by Section 442.152(a).

Sec. 442.156. COMMISSION ADVICE AND OVERSIGHT. (a) Requires THC to advise the foundation on the operation, interpretation, and presentation of historical events, preservation, archeology, education, nature, philanthropy, and business development regarding a site described by Section 442.152(a).

(b) Authorizes THC to appoint two nonvoting members to the foundation's board.

Sec. 442.157. FUNDRAISING. (a) Requires the foundation to set priorities for fundraising activities at the sites described by Section 442.152(a).

(b) Authorizes THC, notwithstanding Subsection (a), to adopt rules to establish naming opportunities as described by Section 442.032 (Naming of Certain Areas on Historic Sites).

Sec. 442.158. OWNERSHIP AND ACQUISITION OF PROPERTY. Provides that the foundation retains ownership of property purchased using the foundation's money and held in the foundation's name and is authorized to acquire items by gift, grant, or purchase using the foundation's money.

Sec. 442.159. DISPOSITION OF FOUNDATION ASSETS ON DISSOLUTION. (a) Provides that, in the event of the foundation's dissolution, THC is the sole beneficiary of

all items held in the foundation's name that relate to the revolutionary history of a site described by Section 442.152(a) and to early Texas settlement and culture, except as otherwise provided by the foundation's articles of incorporation or the terms of the gift or other transfer of the items to the foundation.

(b) Requires that an item for which THC is not the sole beneficiary be clearly identified and described on an agreed list prepared jointly by THC and the foundation.

SECTION 10. Amends Subchapter K, Chapter 2166, Government Code, by adding Section 2166.504, as follows:

Sec. 2166.504. **APPLICABILITY OF SUBCHAPTER TO CERTAIN MARKERS.** Provides that Subchapter K (Monuments, Memorials, and Historic Sites), Chapter 2166 (Building Construction and Acquisition and Disposition of Real Property), does not apply to a marker over which THC has jurisdiction under Section 442.034.

SECTION 11. Repealer: Section 442.0055 (Affiliated Nonprofit Organization), Government Code.

SECTION 12. Makes application of Section 442.0046, Government Code, as added by this Act, prospective.

SECTION 13. Makes application of Section 442.0151, Government Code, as amended by this Act, prospective.

SECTION 14. Provides that, on the effective date of this Act, THC replaces the Texas Facilities Commission as the state agency responsible for the preservation, maintenance, and repair of the markers described by Section 442.034, Government Code, as added by this Act.

SECTION 15. Effective date: September 1, 2025.