

BILL ANALYSIS

C.S.H.B. 4187
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Culture, Recreation & Tourism
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas Historical Commission manages historical sites, markers, and preservation programs across the state. However, the bill author has informed the committee that statutory limitations and outdated processes have slowed contract awards, hampered collaboration with nonprofits, and restricted flexibility in operations and funding. C.S.H.B. 4187 seeks to address these gaps by clarifying that the Texas Historical Commission 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 the Texas Historical Commission, 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.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Historical Commission in SECTIONS 5 and 9 of this bill.

ANALYSIS

C.S.H.B. 4187 amends the Government Code to set out and revise provisions relating to the authority and responsibilities of the Texas Historical Commission.

Contracts for Goods and Services

C.S.H.B. 4187 authorizes the executive director of the commission to negotiate with and award a contract for goods or services to any qualified vendor if the executive director does the following:

- solicits bids for the goods or services through a competitive process in compliance with all applicable laws, including statutory provisions relating to state purchasing rules and procedures, professional and consulting services, and contracting and delivery procedures for construction projects, that fails to result in competitive responsive bids;
- makes a written determination that resoliciting bids for the goods or services would be unlikely to result in responsive bids, increase costs to the commission, or delay the ability of the commission to address a critical need; and
- determines that the vendor meets the requirements of the original solicitation.

The bill 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. These provisions apply only to a contract for which bids are

first solicited on or after the bill's effective date. A contract for which bids are first solicited before the bill's effective date is governed by the law as it existed immediately before that date, and that law is continued in effect for that purpose.

C.S.H.B. 4187 clarifies that the bill's contracting authorization is an exception to the statutory requirement for the commission to adopt policies and procedures consistent with the Professional Services Procurement Act and other applicable state procurement practices for soliciting and awarding contracts related to its responsibilities regarding historic sites.

Historical Markers

C.S.H.B. 4187 establishes that a Civil War centennial marker or a Republic of Texas centennial marker that was installed as part of the celebration of the centennial of the Civil War or the Republic of Texas, respectively, by or at the direction of one of the following entities are state property regardless of whether the marker is located on public or private property:

- the former Centennial Commission;
- the former Texas Civil War Centennial Commission;
- the Texas Historical Commission or a predecessor of the commission; or
- the Republic of Texas.

The bill establishes that the Texas Historical Commission has jurisdiction over and is responsible for the preservation, maintenance, and repair of these markers. The bill defines "marker" as a marker, monument, or other memorial installed on public or private property to commemorate an area, event, or person that is engraved with text or to which a plaque with text is attached. The bill prohibits these provisions 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 that is owned or operated by a private entity, municipality, county, or public institution of higher education or university system, as defined by the Higher Education Coordinating Act of 1965.

C.S.H.B. 4187 establishes that the Texas Historical Commission replaces the Texas Facilities Commission on the bill's effective date as the state agency responsible for the preservation, maintenance, and repair of a Civil War centennial marker or a Republic of Texas centennial marker. The bill exempts such a marker from statutory provisions relating to building construction and acquisition and disposition of monuments, memorials, and historic sites.

Friends of the Texas Historical Commission and Affiliated Nonprofit Organizations

C.S.H.B. 4187 defines an "organization" for the bill's purposes as an affiliated nonprofit organization formed to raise funds for or provide services or other benefits to the commission under statutory provisions relating to the commission's general powers and duties, including the Friends of the Texas Historical Commission or any other affiliated nonprofit organization referenced in statutory provisions relating to the commission. The bill requires the commission to do the following:

- designate each organization as the entity responsible for providing the following:
 - services and other benefits to the commission or a historic site under the commission's jurisdiction; and
 - financial support as requested by the commission and approved by the organization's board; and
- adopt rules, in addition to those required under statutory provisions governing the commission and such an organization, that do the following:
 - establish guidelines under which an organization may solicit and accept sponsorships or donations from private entities in connection with commission activities;

- establish best practices under which an organization may engage in business activities described by the bill's provisions, including procurement guidelines for the use of state money; and
- require an organization to comply with specified standards and safeguards for the accounting of state assets held by the organization.

C.S.H.B. 4187 authorizes an organization and the commission to enter into an agreement to use state money for the following purposes:

- expanding, renovating, or improving historic sites or facilities, including through construction;
- maintaining, preserving, restoring, and protecting historical markers, monuments, and historic sites;
- promoting and conducting archeological studies;
- designing and fabricating exhibits and preserving, storing, and displaying artifacts, historical data, items of historical significance, and other items;
- creating interpretive and educational programs;
- acquiring additional artifacts, historical and marketing data, real estate, and items of historical significance relevant to Texas history, settlement, and culture and historic sites; and
- supporting programming or providing financial support for projects of the commission or a historic site.

The bill requires each agreement entered into by an organization and the commission to be approved by the commission.

C.S.H.B. 4187 establishes that such an agreement may authorize an organization to do the following:

- 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 commission facilities or other facilities; and
- collect revenue from gift shop and concession sales.

The bill requires an organization to hold, invest, manage, use, and apply money received from the fees and sales only for the benefit of the commission and authorizes the organization to exercise discretion, subject to the terms of an agreement entered into by the organization and the commission, regarding business operations, exhibits, programming, management, preservation, restoration, and site development.

C.S.H.B. 4187 establishes that an organization retains ownership of property purchased using the organization's money and held in the organization's name and authorizes the organization to acquire items by gift, grant, or purchase using the organization's money. The bill establishes that, in the event of an organization's dissolution, the commission is the sole beneficiary of all items held in the organization's name that relate to the commission, 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. The bill requires an item for which the commission is not the sole beneficiary to be clearly identified and described on an agreed list prepared jointly by the commission and the organization. The bill establishes 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 state public information law.

C.S.H.B. 4187 makes the Public Funds Investment Act applicable to an organization that is a party to an agreement to the extent that the agreement authorizes the organization to exercise control over state money. The bill requires an organization that is a party to an agreement to have an annual audit prepared by an independent auditor and to file the audit report with the commission. The bill establishes that all financial transactions involving, and financial records relating to, state money held by an organization that is a party to an agreement are subject to audit by the state auditor. The bill requires the commission to direct, by the terms of an

agreement, an organization's spending of state money. The bill prohibits a state employee from directly spending or obligating an organization's money and 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.

Historic Sites

C.S.H.B. 4187 revises the list of historic sites under the commission's jurisdiction as follows:

- includes the following historical sites:
 - Barrington Living History Farm State Historic Site;
 - Bush Family Home State Historic Site;
 - Fort Martin Scott State Historic Site;
 - Goodnight Ranch State Historic Site;
 - Harvey House State Historic Site;
 - Iwo Jima Monument and Museum 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 Jacinto Battleground State Historic Site;
 - Star of the Republic Museum State Historic Site; and
 - Stephen F. Austin Memorial State Historic Site; and
- updates the names of the following sites in the list as follows:
 - from the Caddoan Mounds State Historic Site to the Caddo Mounds State Historic Site;
 - from the property known as the French Legation to the French Legation State Historic Site; and
 - from the San Felipe State Historic Site to the San Felipe de Austin State Historic Site.

C.S.H.B. 4187 includes improving historic sites among the purposes of the historic infrastructure sustainability trust fund held by the Texas Treasury Safekeeping Trust Company for which money distributed from the fund to the commission may be used. The bill removes as a condition of the receipt by the commission of an additional distribution from the fund the condition that the commission certify to the Legislative Budget Board (LBB) that the money will not be used to acquire real property. These provisions apply only to a distribution from the fund requested by the commission on or after the bill's effective date.

Retail Operations Fund

C.S.H.B. 4187 revises statutory provisions relating to the Texas Historical Commission retail operations fund as follows:

- includes earned revenue from operating receipts among the revenue which the fund may include;
- authorizes appropriated money to be used to provide financial support for and grow retail operations; and
- establishes that the commission's retail operations are considered an auxiliary enterprise for purposes of the statutory provision excluding a purchase of goods and services for an auxiliary enterprise from the purchasing authority of the comptroller of public accounts.

Washington-on-the-Brazos Historical Foundation

C.S.H.B. 4187 establishes the Washington-on-the-Brazos Historical Foundation as a nonprofit historical association organized for the purposes of supporting the operations of the following historic sites:

- the Washington-on-the-Brazos State Historic Site;
- the Fanthorp Inn State Historic Site;
- the Barrington Living History Farm State Historic Site; and
- the Star of the Republic Museum State Historic Site.

The bill requires the commission to designate the foundation as the entity responsible for providing operational support for those sites and engaging in related activities for, and providing financial support to, those sites.

C.S.H.B. 4187 requires the foundation and the commission to enter into an agreement that establishes the following:

- the working relationship between the foundation and the commission in connection with the activities conducted at the sites;
- best practices under which the foundation may engage in business activities described by the bill;
- the relationship between the commission's employees and the foundation; and
- guidelines for identifying and defining the administrative and financial support the commission may provide in connection with the sites.

C.S.H.B. 4187 authorizes the foundation and the commission to enter into an agreement under the bill's provisions to use state money for the following purposes regarding a site supported by the foundation:

- expanding, renovating, managing, maintaining, operating, or providing financial support for the site;
- maintaining, preserving, restoring, and protecting property located on the site;
- promoting and conducting archeological studies at the site;
- maintaining, repairing, renovating, restoring, improving, expanding, or equipping improvements at the site, including constructing new improvements;
- designing and fabricating exhibits and preserving, storing, and displaying artifacts, historical data, and items of historical significance, including artifacts, data, livestock, and items owned or held by the foundation, at the site;
- creating interpretive and educational programs regarding the site;
- acquiring real property, additional artifacts, historical data, and items of historical significance relevant to the Texas Revolution and the period in which it occurred, and early Texas settlement and culture related to the site; and
- preserving, restoring, storing, and conserving artifacts, historical data, and items of historical significance related to the site.

The bill authorizes the foundation, subject to the terms of an agreement entered into by the foundation and the commission, 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. The bill authorizes such an agreement to authorize the foundation to do the following 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.

The bill requires the foundation to hold, invest, manage, use, and apply money received from the fees and sales only for the benefit of the sites supported by the foundation.

C.S.H.B. 4187 authorizes the commission to appoint two nonvoting members to the foundation's board and requires the commission to advise the foundation on the operation, interpretation, and presentation of historical events, preservation, archeology, education, nature, philanthropy, and business development regarding a site supported by the foundation. The bill requires the foundation to set priorities for fundraising activities at the sites supported by the foundation and authorizes the commission to adopt rules to establish naming opportunities as described by

statutory provisions relating to naming certain areas of a historic site in honor of donors or benefactors.

C.S.H.B. 4187 establishes that the foundation retains ownership of property purchased using the foundation's money and held in the name of the foundation and authorizes the foundation to acquire items by gift, grant, or purchase using the foundation's money. The bill establishes that, in the event of the foundation's dissolution, the commission is the sole beneficiary of all items held in the foundation's name that relate to the revolutionary history of a site supported by the foundation 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. The bill requires an item for which the commission is not the sole beneficiary to be clearly identified and described on an agreed list prepared jointly by the commission and the foundation.

C.S.H.B. 4187 repeals Section 442.0055, Government Code.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 4187 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Whereas the introduced defined "organization" as the Friends of the Texas Historical Commission, the substitute defines that term as an affiliated nonprofit organization established under provisions relating to general powers of the commission, including the Friends of the Texas Historical Commission or any other affiliated nonprofit referenced in statutory provisions relating to the commission.

Whereas the introduced required the commission to designate the Friends of the Texas Historical Commission as the entity responsible for providing certain services and benefits to the commission and requested financial support, the substitute requires the commission to designate each applicable organization as responsible for providing those services, benefits, and support. The substitute includes a specification absent from the introduced that the designation includes the provision of services and other benefits to a historic site.

While both the introduced and substitute require the commission to adopt rules establishing best practices under which an applicable organization may engage in business activities described by the bill's provisions, the substitute omits the specification from the introduced that those best practices include procurement guidelines for the use of state money.

The substitute includes a requirement absent from the introduced for the commission to adopt rules requiring an applicable organization to comply with specified standards and safeguards for the accounting of state assets held by the organization.

While both the introduced and substitute authorize an applicable organization and the commission to enter into an agreement for certain purposes, the substitute includes a specification absent from the introduced that the agreement is to use state money for those purposes. While both the introduced and substitute include as such a purpose supporting programming or providing financial support for projects of the commission, the substitute also includes as such a purpose supporting programming or providing financial support for projects of a historic site. The substitute includes a requirement absent from the introduced for each agreement to be approved by the commission.

Whereas the introduced established that the organization retains ownership of property held in the name of the organization, the substitute establishes that an applicable organization retains ownership of property purchased using the organization's money and held in the organization's name.

The substitute includes provisions absent from the introduced that do the following:

- make the Public Funds Investment Act applicable to an organization that is a party to an agreement to the extent that the agreement authorizes the organization to exercise control over state money;
- require an organization that is a party to an agreement to have an annual audit prepared by an independent auditor and to file the audit report with the commission;
- establish that all financial transactions involving, and financial records relating to, state money held by an organization that is a party to an agreement are subject to audit by the state auditor;
- require the commission to direct, by the terms of an agreement, an organization's spending of state money;
- prohibit a state employee from directly spending or obligating an organization's money; and
- prohibit 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.

With respect to the historic infrastructure sustainability trust fund held by the Texas Treasury Safekeeping Trust Company, the substitute includes provisions absent from the introduced that do the following:

- includes improving historic sites among the purposes of the fund for which money distributed from the fund to the commission may be used; and
- removes as a condition of the receipt by the commission of an additional distribution from the fund the condition that the commission certify to the LBB that the money will not be used to acquire real property.

The substitute establishes that these provisions apply only to a distribution from the fund requested by the commission after the bill's effective date.

The substitute omits the introduced version's authorization for the commission to purchase goods for resale necessary to support the commission's retail operations using general revenue available to the commission for that purpose under certain conditions. The substitute includes an authorization absent from the introduced for appropriated money to be used to provide financial support for and grow retail operations. The substitute omits a provision from the introduced establishing that the commission's earned revenue operations are considered an auxiliary enterprise.

With respect to the best practices under which the Washington-on-the-Brazos Historical Foundation may engage in certain business activities, the substitute omits the provision of the introduced including procurement guidelines for the use of state money among those business activities.

With respect to the authorization for the foundation and the commission to enter into an agreement for certain purposes relating to historic sites, the substitute specifies that the agreement is to use state money for those purposes, whereas the introduced did not. The substitute includes as one of those purposes acquiring real property relevant to the Texas Revolution and the period in which it occurred and early Texas settlement and culture related to the site, whereas the introduced did not. The substitute specifies that the property held in the name of the foundation that the foundation retains ownership of is property purchased using the foundation's money, whereas the introduced did not.