

BILL ANALYSIS

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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

An omnibus bill created in consultation with the Texas Historical Commission (THC), S.B. 2036 outlines the responsibilities and governance structures related to THC and its affiliated organizations. The executive director of THC is authorized to negotiate and award contracts for goods and services to qualified vendors under specific conditions, including the use of a competitive process and the need to address critical needs. Vendors must meet the requirements of the original solicitation. THC is allowed to accept gifts and funds to support its work.

S.B. 2036 establishes the Friends of THC as an affiliated nonprofit organization, which is responsible for providing services, financial support, and other benefits to THC. THC must create guidelines for the nonprofit to solicit sponsorships, accept donations, and follow best business practices. The nonprofit may also charge fees for activities such as special exhibits and use the proceeds solely for THC's benefit. In case of dissolution, all assets held by the nonprofit would go to THC.

THC is responsible for the preservation, maintenance, and repair of Civil War and Republic of Texas centennial markers but does not take ownership or control of properties associated with the markers. The document also establishes the Washington-on-the-Brazos Historical Foundation as an entity providing operational support for historical sites, with a similar structure and responsibilities as the Friends of THC.

The document repeals certain sections of the Government Code, clarifies the rules for soliciting bids and contracts, and specifies that THC will now oversee the preservation of certain historical markers, taking over this responsibility from the Texas Facilities Commission.

As proposed, S.B. 2036 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 4 (Section 442.043, Government Code) and SECTION 8 (Section 442.157, 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) 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, 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 the Texas Historical Commission (THC), or would delay the ability of the commission 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 require, rather than authorize, THC to participate in the establishment and operation of the affiliated nonprofit organization described by Subchapter A-1, rather than an affiliated nonprofit organization, whose purpose is to raise funds for or provide services or other benefits to THC.

SECTION 3. 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 4. Amends Chapter 442, Government Code, by adding Subchapter A-1, as follows:

SUBCHAPTER A-1. FRIENDS OF TEXAS HISTORICAL COMMISSION

Sec. 442.041. DEFINITION. Defines "organization."

Sec. 442.042. PURPOSE. (a) Provides that the Friends of THC (organization) is the affiliated nonprofit organization formed under Section 442.005(p) (relating to authorizing THC to accept certain monies to carry out certain purposes).

(b) Requires THC to designate the organization as the entity responsible for providing services and other benefits to THC 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 the organization.

Sec. 442.044. AGREEMENTS. Authorizes the organization and THC to enter into an agreement for certain purposes.

Sec. 442.045. COLLECTION AND USE OF CERTAIN FEE AND REVENUE RECEIPTS. (a) Authorizes an agreement described by Section 442.044 to authorize the 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 commission facilities or other facilities, and collect revenue from gift shop and concession sales.

(b) Provides that the 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 the organization retains ownership of property held in the name of the organization 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 the 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 the organization is confidential and excepted from disclosure under Chapter 552 (Public Information).

SECTION 5. 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 6. Amends Section 442.101(c), Government Code, to create an exception under Section 442.0046.

SECTION 7. Amends Section 442.113, Government Code, by amending Subsection (a) and adding Subsections (a-1) and (d), as follows:

- (a) Provides that the THC fund (fund) consists of revenue from THC retail operations and earned revenue operating receipts and is prohibited from including appropriated money.
- (a-1) Authorizes THC to purchase goods for resale necessary to support THC's retail operations using general revenue available to THC for that purpose only until sufficient money is available in the fund established under Section 442.113 (Texas Historical Commission Retail Fund Operation) to fully support retail operations.
- (d) Provides that THC's retail and earned revenue operations are considered auxiliary enterprises for purposes of Section 2155.141 (Purchases for Auxiliary Enterprise not Within Comptroller's Purchasing Authority).

SECTION 8. 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 organized 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), best practices under which the foundation may engage in business activities described by this subchapter, including procurement guidelines for the use of state money, relationship between THC's employees and the foundation, and 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 to enter into an agreement regarding a site described by Section 442.152(a) for certain purposes.

- (b) Authorizes the foundation, subject to the terms of an agreement under this section, 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 held in the name of the foundation 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 9. 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 10. Repealer: Section 442.0055 (Affiliated Nonprofit Organization), Government Code.

SECTION 11. Makes application of Section 442.0046, Government Code, as added by this Act, prospective.

SECTION 12. 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 13. Effective date: September 1, 2025.