

By: Metcalf

H.B. No. 4187

A BILL TO BE ENTITLED

AN ACT

relating to the authority and responsibilities of the Texas Historical Commission; authorizing fees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 442, Government Code, is amended by adding Section 442.0046 to read as follows:

Sec. 442.0046. AUTHORITY OF EXECUTIVE DIRECTOR TO ENTER CERTAIN CONTRACTS. (a) The executive director may 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 Chapters 2155, 2254, and 2269, that fails to result in competitive responsive bids;

(2) makes a written determination that resoliciting bids for the goods or services would:

(A) be unlikely to result in responsive bids;

(B) increase costs to the commission; or

(C) 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) To the extent practicable, the executive director may combine the procurement of multiple goods or services into a single

1 competitively bid contract to enhance the contract's attraction for
2 potential vendors.

3 SECTION 2. Section 442.005(p), Government Code, is amended
4 to read as follows:

5 (p) The commission may accept a gift, grant, devise, or
6 bequest of money, securities, services, or property to carry out
7 any purpose of this chapter, including funds raised or services
8 provided by a volunteer or volunteer group to promote the work of
9 the commission. The commission may participate in the establishment
10 and operation of an affiliated nonprofit organization whose
11 purpose is to raise funds for or provide services or other benefits
12 to the commission or one or more historic sites as defined by
13 Section 442.071.

14 SECTION 3. Sections 442.0151(b), (f), and (h), Government
15 Code, are amended to read as follows:

16 (b) The historic infrastructure sustainability trust fund
17 is created as a trust fund outside the treasury held by the trust
18 company and administered by the comptroller as trustee on behalf of
19 the people of this state to generate earnings on money in the fund
20 for the purpose of maintaining, preserving, rehabilitating,
21 improving, and restoring historic sites throughout the state.

22 (f) The commission annually may request a distribution from
23 the fund in an amount that may not exceed the amount the trust
24 company determines is available for distribution in the applicable
25 year under Subsection (d). Money distributed from the fund to the
26 commission may be used only for the purpose of maintaining,
27 preserving, rehabilitating, improving, and restoring state

1 historic sites under the control of the commission and for the
2 historic courthouse preservation program under Section 442.0081.
3 The commission shall allocate at least one-third of each annual
4 distribution from the fund under this subsection for the historic
5 courthouse preservation program. The commission may not use money
6 received from an annual distribution under this subsection to pay
7 salaries, employee benefits, costs associated with employee
8 benefits, or administration, operating, or program costs of the
9 commission.

10 (h) The commission may receive an additional distribution
11 from the fund under Subsection (g) only after the commission
12 certifies to the Legislative Budget Board that:

13 (1) the commission has reviewed and approved the use
14 of the money;

15 (2) all purchases made with the money will conform to
16 any applicable provision of law governing state procurement and
17 contracting; and

18 (3) the money will not be used to:

19 (A) pay salaries, employee benefits, costs
20 associated with employee benefits, or administration, operating,
21 or program costs of the commission or the state historic sites under
22 the control of the commission;

23 (B) acquire new historic sites ~~[or real~~
24 ~~property]~~; or

25 (C) purchase capital equipment that is not
26 related to the rehabilitation or restoration of a historic site
27 under the control of the commission or the historic courthouse

1 preservation program under Section 442.0081.

2 SECTION 4. Subchapter A, Chapter 442, Government Code, is
3 amended by adding Section 442.034 to read as follows:

4 Sec. 442.034. PRESERVATION, MAINTENANCE, AND REPAIR OF
5 CERTAIN HISTORICAL MARKERS. (a) In this section:

6 (1) "Civil War centennial marker" means a marker
7 installed as part of the celebration of the centennial of the Civil
8 War.

9 (2) "Institution of higher education" and "university
10 system" have the meanings assigned by Section 61.003, Education
11 Code.

12 (3) "Marker" means a marker, monument, or other
13 memorial installed on public or private property to commemorate an
14 area, event, or person that is engraved with text or to which a
15 plaque with text is attached.

16 (4) "Republic of Texas centennial marker" means a
17 marker installed as part of the celebration of the centennial of the
18 Republic of Texas.

19 (b) This section applies only to a Civil War centennial
20 marker or a Republic of Texas centennial marker that was installed
21 by or at the direction of:

22 (1) the former Centennial Commission;

23 (2) the former Texas Civil War Centennial Commission;

24 (3) the commission or a predecessor of the commission;

25 or

26 (4) the Republic of Texas.

27 (c) 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) The commission has jurisdiction over and is responsible for the preservation, maintenance, and repair of Civil War centennial markers and Republic of Texas centennial markers.

(e) This section may not be construed as transferring ownership or control of, or the responsibility to preserve, maintain, or repair, a museum, exhibition building, or other building that is:

(1) associated with or located near a Civil War centennial marker or a Republic of Texas centennial marker; and

(2) owned or operated by a private entity, municipality, county, or institution of higher education or university system.

SECTION 5. Chapter 442, Government Code, is amended by adding Subchapter A-1 to read as follows:

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

Sec. 442.041. DEFINITION. In this subchapter, "organization" means an affiliated nonprofit organization established under Section 442.005(p), including the Friends of the Texas Historical Commission or any other affiliated nonprofit organization referenced in this chapter.

Sec. 442.042. PURPOSE. The commission shall designate each organization as responsible for providing:

(1) services and other benefits to the commission or a historic site defined by Section 442.071; and

1 (2) financial support as requested by the commission
2 and approved by the organization's board.

3 Sec. 442.043. RULES; GUIDELINES. (a) The commission shall
4 adopt rules:

5 (1) establishing guidelines under which an
6 organization may solicit and accept sponsorships or donations from
7 private entities in connection with commission activities;

8 (2) establishing best practices under which an
9 organization may engage in business activities described by this
10 subchapter;

11 (3) requiring an organization to comply with specified
12 standards and safeguards for the accounting of state assets held by
13 the organization; and

14 (4) governing the relationship between the commission
15 and an organization that, at a minimum:

16 (A) define the extent to which commission
17 employees with regulatory responsibilities, including the
18 executive director, may participate in activities that raise funds
19 for an organization, which may not include the direct solicitation
20 of funds; and

21 (B) define the relationship between commission
22 employees and an organization.

23 (b) The commission shall establish guidelines for
24 identifying and defining the administrative and financial support
25 the commission may provide for an organization.

26 Sec. 442.044. AGREEMENTS. (a) Notwithstanding any other
27 law, an organization and the commission may enter into an agreement

1 to use state money for the following purposes:

2 (1) expanding, renovating, or improving historic
3 sites or facilities, including through construction;

4 (2) maintaining, preserving, restoring, and
5 protecting historical markers, monuments, and historic sites;

6 (3) promoting and conducting archeological studies;

7 (4) designing and fabricating exhibits and
8 preserving, storing, and displaying artifacts, historical data,
9 items of historical significance, and other items;

10 (5) creating interpretive and educational programs;

11 (6) acquiring additional artifacts, historical and
12 marketing data, real estate, and items of historical significance
13 relevant to state history, settlement, and culture and historic
14 sites; and

15 (7) supporting programming or providing financial
16 support for projects of the commission or a historic site.

17 (b) Each agreement entered into under this section must be
18 approved by the commission.

19 Sec. 442.045. COLLECTION AND USE OF CERTAIN FEE AND REVENUE
20 RECEIPTS. (a) An agreement described by Section 442.044 may
21 authorize an organization to:

22 (1) charge and collect fees in connection with the
23 organization's activities, including fees for viewing special
24 exhibits or films, attending programs or events, and using
25 commission facilities or other facilities; and

26 (2) collect revenue from gift shop and concession
27 sales.

1 (b) An organization shall hold, invest, manage, use, and
2 apply money received from the fees and sales described by
3 Subsection (a) only for the benefit of the commission and may
4 exercise discretion, subject to the terms of an agreement described
5 by Section 442.044, regarding business operations, exhibits,
6 programming, management, preservation, restoration, and site
7 development.

8 Sec. 442.046. OWNERSHIP AND ACQUISITION OF PROPERTY. An
9 organization:

10 (1) retains ownership of property purchased using the
11 organization's money and held in the organization's name; and

12 (2) may acquire items by gift, grant, or purchase
13 using the organization's money.

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

21 (b) An item for which the commission is not the sole
22 beneficiary must be clearly identified and described on an agreed
23 list prepared jointly by the commission and the organization.

24 Sec. 442.048. CONFIDENTIALITY OF CERTAIN INFORMATION. The
25 name, address, and other identifying information of a person who
26 makes a donation, including a gift, grant, or other financial
27 contribution, to an organization is confidential and excepted from

1 disclosure under Chapter 552.

2 Sec. 442.049. ACCOUNTABILITY; INVESTMENT RESTRICTIONS;
3 AUDIT. (a) Chapter 2256 applies to an organization that is a party
4 to an agreement under this subchapter to the extent that the
5 agreement authorizes the organization to exercise control over
6 state money.

7 (b) An organization that is a party to an agreement under
8 this subchapter shall have an annual audit prepared by an
9 independent auditor. The organization shall file the audit report
10 with the commission.

11 (c) All financial transactions involving, and financial
12 records relating to, state money held by an organization that is a
13 party to an agreement under this subchapter are subject to audit by
14 the state auditor as provided by Section 321.013.

15 Sec. 442.050. EXPENDITURES; LIMITS. (a) The commission
16 shall direct, by the terms of an agreement entered into under this
17 subchapter, an organization's spending of state money.

18 (b) A state employee may not directly spend or obligate an
19 organization's money.

20 (c) An organization may not spend state money to:

21 (1) lobby or otherwise attempt to influence a member
22 of the legislature; or

23 (2) directly or indirectly attempt to influence
24 legislation.

25 SECTION 6. Section 442.072(a), Government Code, is amended
26 to read as follows:

27 (a) The following historic sites in this state are under the

commission's jurisdiction:

- (1) Acton State Historic Site;
- (2) Barrington Living History Farm State Historic Site;
- (3) Bush Family Home State Historic Site;
- (4) Caddo [~~Caddoan~~] Mounds State Historic Site;
- (5) [~~(3)~~] Casa Navarro State Historic Site;
- (6) [~~(4)~~] Confederate Reunion Grounds State Historic Site;
- (7) [~~(5)~~] Eisenhower Birthplace State Historic Site;
- (8) [~~(6)~~] Fannin Battleground State Historic Site;
- (9) [~~(7)~~] Fanthorp Inn State Historic Site;
- (10) [~~(8)~~] Fort Griffin State Historic Site;
- (11) [~~(9)~~] Fort Lancaster State Historic Site;
- (12) Fort Martin Scott State Historic Site;
- (13) [~~(10)~~] Fort McKavett State Historic Site;
- (14) French Legation State Historic Site;
- (15) [~~(11)~~] Fulton Mansion State Historic Site;
- (16) Goodnight Ranch State Historic Site;
- (17) Harvey House State Historic Site;
- (18) Iwo Jima Monument and Museum State Historic Site;
- (19) Kreische Brewery State Historic Site;
- (20) [~~(12)~~] Landmark Inn State Historic Site;
- (21) [~~(13)~~] Levi Jordan State Historic Site;
- (22) [~~(14)~~] Lipantitlan State Historic Site;
- (23) [~~(15)~~] Magoffin Home State Historic Site;
- (24) [~~(16)~~] Mission Dolores State Historic Site;

1 (25) [~~(17)~~] Monument Hill [~~and Kreische Brewery~~]
 2 State Historic Site [~~Sites~~];
 3 (26) [~~(18)~~] National Museum of the Pacific War;
 4 (27) Old Socorro Mission State Historic Site;
 5 (28) Palmito Ranch Battlefield State Historic Site;
 6 (29) Port Isabel Lighthouse State Historic Site;
 7 (30) Presidio La Bahia State Historic Site;
 8 (31) [~~(19)~~] Sabine Pass Battleground State Historic
 9 Site;
 10 (32) [~~(20)~~] Sam Bell Maxey House State Historic Site;
 11 (33) [~~(21)~~] Sam Rayburn House State Historic Site;
 12 (34) [~~(22)~~] San Felipe de Austin State Historic Site;
 13 (35) San Jacinto Battleground State Historic Site;
 14 (36) Star of the Republic Museum State Historic Site;
 15 (37) [~~(23)~~] Starr Family Home State Historic Site;
 16 (38) Stephen F. Austin Memorial State Historic Site;
 17 (39) [~~(24)~~] Varner-Hogg Plantation State Historic
 18 Site; and
 19 (40) [~~(25)~~] Washington-on-the-Brazos State Historic
 20 Site[, ~~and~~
 21 ~~[(26) the property known as the French Legation]~~.

22 SECTION 7. Section [442.101](#)(c), Government Code, is amended
 23 to read as follows:

24 (c) Except as authorized by Section 442.0046, the [~~The~~]
 25 commission by rule shall adopt policies and procedures consistent
 26 with Subchapter [A](#), Chapter [2254](#), and other applicable state
 27 procurement practices for soliciting and awarding contracts under

1 this section.

2 SECTION 8. Section [442.113](#), Government Code, is amended by
3 amending Subsection (a) and adding Subsections (a-1) and (d) to
4 read as follows:

5 (a) The Texas Historical Commission retail operations fund
6 is a special fund established outside the state treasury as a fund
7 to be held and administered by the comptroller as directed by the
8 commission to provide support for commission retail operations
9 under Section [442.112](#). The fund may include ~~[consists of]~~ revenue
10 from commission retail operations and earned revenue from operating
11 receipts but ~~[and]~~ may not include appropriated money.

12 (a-1) Appropriated money may be used to provide financial
13 support for and grow retail operations.

14 (d) The commission's retail operations are considered an
15 auxiliary enterprise for purposes of Section [2155.141](#).

16 SECTION 9. Chapter [442](#), Government Code, is amended by
17 adding Subchapter D-1 to read as follows:

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

19 Sec. 442.151. DEFINITION. In this subchapter, "foundation"
20 means the Washington-on-the-Brazos Historical Foundation.

21 Sec. 442.152. PURPOSE OF FOUNDATION. (a) The foundation is
22 a nonprofit historical association established under Section
23 [442.005](#)(p) for the purposes of supporting the operations of:

- 24 (1) the Washington-on-the-Brazos State Historic Site;
25 (2) the Fanthorp Inn State Historic Site;
26 (3) the Barrington Living History Farm State Historic
27 Site; and

1 (4) the Star of the Republic Museum State Historic
2 Site.

3 (b) The commission shall designate the foundation as the
4 entity responsible for providing operational support for the sites
5 described by Subsection (a) and engaging in related activities for,
6 and providing financial support to, those sites.

7 Sec. 442.153. RESPONSIBILITIES OF FOUNDATION AND
8 COMMISSION. The foundation and the commission shall enter into an
9 agreement that establishes the:

10 (1) working relationship between the foundation and
11 the commission in connection with the activities conducted at the
12 sites described by Section 442.152(a);

13 (2) best practices under which the foundation may
14 engage in business activities described by this subchapter;

15 (3) relationship between the commission's employees
16 and the foundation; and

17 (4) guidelines for identifying and defining the
18 administrative and financial support the commission may provide in
19 connection with the sites described by Section 442.152(a).

20 Sec. 442.154. AGREEMENTS REGARDING CERTAIN HISTORIC SITES.

21 (a) Notwithstanding any other law, the foundation and the
22 commission may enter into an agreement under Subchapter A-1 to use
23 state money for the following purposes regarding a site described
24 by Section 442.152(a):

25 (1) expanding, renovating, managing, maintaining,
26 operating, or providing financial support for the site;

27 (2) maintaining, preserving, restoring, and

protecting property located on the site;

(3) promoting and conducting archeological studies at the site;

(4) maintaining, repairing, renovating, restoring, improving, expanding, or equipping improvements at the site, including constructing new improvements;

(5) 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;

(6) creating interpretive and educational programs regarding the site;

(7) 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

(8) preserving, restoring, storing, and conserving artifacts, historical data, and items of historical significance related to the site.

(b) Subject to the terms of an agreement under Subchapter A-1, the foundation may 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) An agreement described by Section 442.154 may authorize the foundation to, at the site that is the subject of the

1 agreement:

2 (1) charge and collect fees in connection with the
3 foundation's activities at the site, including fees for viewing
4 special exhibits or films, attending programs or events, and using
5 the facilities at the site; and

6 (2) collect revenue from gift shop and concession
7 sales at the site.

8 (b) The foundation shall hold, invest, manage, use, and
9 apply money received from the fees and sales described by
10 Subsection (a) only for the benefit of the sites described by
11 Section 442.152(a).

12 Sec. 442.156. COMMISSION ADVICE AND OVERSIGHT. (a) The
13 commission shall advise the foundation on the operation,
14 interpretation, and presentation of historical events,
15 preservation, archeology, education, nature, philanthropy, and
16 business development regarding a site described by Section
17 442.152(a).

18 (b) The commission may appoint two nonvoting members to the
19 foundation's board.

20 Sec. 442.157. FUNDRAISING. (a) The foundation shall set
21 priorities for fundraising activities at the sites described by
22 Section 442.152(a).

23 (b) Notwithstanding Subsection (a), the commission may
24 adopt rules to establish naming opportunities as described by
25 Section 442.032.

26 Sec. 442.158. OWNERSHIP AND ACQUISITION OF PROPERTY. The
27 foundation:

1 (1) retains ownership of property purchased using the
2 foundation's money and held in the foundation's name; and

3 (2) may acquire items by gift, grant, or purchase
4 using the foundation's money.

5 Sec. 442.159. DISPOSITION OF FOUNDATION ASSETS ON
6 DISSOLUTION. (a) In the event of the foundation's dissolution, the
7 commission is the sole beneficiary of all items held in the
8 foundation's name that relate to the revolutionary history of a
9 site described by Section 442.152(a) and to early Texas settlement
10 and culture, except as otherwise provided by the foundation's
11 articles of incorporation or the terms of the gift or other transfer
12 of the items to the foundation.

13 (b) An item for which the commission is not the sole
14 beneficiary must be clearly identified and described on an agreed
15 list prepared jointly by the commission and the foundation.

16 SECTION 10. Subchapter [K](#), Chapter [2166](#), Government Code, is
17 amended by adding Section 2166.504 to read as follows:

18 Sec. 2166.504. APPLICABILITY OF SUBCHAPTER TO CERTAIN
19 MARKERS. This subchapter does not apply to a marker over which the
20 Texas Historical Commission has jurisdiction under Section
21 442.034.

22 SECTION 11. Section [442.0055](#), Government Code, is repealed.

23 SECTION 12. Section 442.0046, Government Code, as added by
24 this Act, applies only to a contract for which bids are first
25 solicited on or after the effective date of this Act. A contract
26 for which bids are first solicited before the effective date of this
27 Act is governed by the law as it existed immediately before the

1 effective date of this Act, and that law is continued in effect for
2 that purpose.

3 SECTION 13. Section [442.0151](#), Government Code, as amended
4 by this Act, applies only to a distribution from the historic
5 infrastructure sustainability trust fund requested by the Texas
6 Historical Commission on or after the effective date of this Act.

7 SECTION 14. On the effective date of this Act, the Texas
8 Historical Commission replaces the Texas Facilities Commission as
9 the state agency responsible for the preservation, maintenance, and
10 repair of the markers described by Section 442.034, Government
11 Code, as added by this Act.

12 SECTION 15. This Act takes effect September 1, 2025.