

Appendix D

Federal Aviation Administration/Texas Historical
Commission Requirements



181354

GOVERNMENT CODE

TITLE 4. EXECUTIVE BRANCH

SUBTITLE D. HISTORY, CULTURE, AND EDUCATION

CHAPTER 442. TEXAS HISTORICAL COMMISSION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 442.001. DEFINITIONS. In this chapter:

(1) "Historic courthouse" means a county courthouse that is at least 50 years old. The term includes a structure that:

(A) previously functioned as the official county courthouse of the county in which it is located; and

(B) is owned by a municipality.

(2) "Historic courthouse project" means a project to preserve or restore a historic courthouse.

(3) "Historic structure" means a structure that:

(A) is included on the National Register of Historic Places;

(B) is designated as a Recorded Texas Historic Landmark;

(C) is designated as a State Archeological Landmark;

(D) is determined by the Texas Historical Commission to qualify as eligible property under criteria for inclusion on the National Register of Historic Places or for designation as a Recorded Texas Historic Landmark or as a State Archeological Landmark;

(E) is certified by the Texas Historical Commission to other state agencies as worthy of preservation; or

(F) is designated by an ordinance of a municipality with a population of more than 1.5 million as historic.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1056, Sec. 2, eff. June 19, 1997; Acts 1999, 76th Leg., ch. 403, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1100 (H.B. 3674), Sec. 1, eff. September 1, 2013.

Sec. 442.002. COMMISSION; MEMBERS; SUNSET ACT. (a) The Texas Historical Commission is an agency of the state.

(b) The commission is composed of nine members appointed by the governor with the advice and consent of the senate. A person may not be a member of the commission if the person or the person's spouse:

(1) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the commission or receiving money other than grant money from the commission;

(2) uses or receives a substantial amount of tangible goods, services, or money from the commission, other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses; or

(3) is employed by or participates in the management of a business entity or other organization regulated by or receiving money other than grant money from the commission.

(c) Members serve for staggered six-year terms, with the terms of one-third of the members expiring February 1 of each odd-numbered year.

(d) Any vacancy occurring on the commission shall be filled for the unexpired term.

(e) A member of the commission must be a citizen of this state who has demonstrated an interest in the preservation of the state's historical or archeological heritage. In making appointments to the commission, the governor shall seek to have each geographical section of the state represented as nearly as possible.

(f) A person may not serve as a member of the commission or act as the general counsel to the commission if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the commission.

(g) The commission shall hold at least one regular meeting in each calendar quarter of each year. The commission may hold other meetings at times and places scheduled by it in formal session or called by the chairman of the commission.

(h) The governor shall designate a member of the commission as the presiding officer of the commission to serve in that capacity at the pleasure of the governor. At its first meeting in

each odd-numbered year, the commission shall select from its membership an assistant presiding officer and a secretary.

(i) A member of the commission serves without pay but shall be reimbursed for actual expenses incurred in attending a meeting of the commission.

(j) The commission is subject to the open meetings law, Chapter 551, and the administrative procedure law, Chapter 2001. The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the commission.

(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, 2019.

(l) Appointments to the commission shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 2.13, eff. Nov. 12, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(50), (83), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 109, Sec. 1, eff. Aug. 30, 1995; Acts 2003, 78th Leg., ch. 1170, Sec. 19.01, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 1, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 37 (S.B. 283), Sec. 1, eff. May 14, 2013.

Sec. 442.0021. COMMISSION MEMBERS: TRAINING. (a) A person who is appointed to and qualifies for office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes a training program that complies with this section.

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

- (1) the legislation that created the commission;
- (2) the programs, functions, rules, and budget of the commission;
- (3) the results of the most recent formal audit of the commission;
- (4) the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest; and
- (5) any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

(c) A person appointed to the commission is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Added by Acts 1995, 74th Leg., ch. 109, Sec. 2, eff. Aug. 30, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 2, eff. September 1, 2007.

Sec. 442.0022. COMMISSION MEMBERS: CONFLICT OF INTEREST. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the commission and may not be a commission employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) if:

- (1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of archeology or historic preservation; or
- (2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of archeology or historic preservation.

(c) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1159, Sec. 46, eff. June 15, 2007.

Added by Acts 1995, 74th Leg., ch. 109, Sec. 2, eff. Aug. 30, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 3, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 46, eff. June 15, 2007.

Sec. 442.0023. COMMISSION MEMBERS: GROUNDS FOR REMOVAL. (a) It is a ground for removal

181354

from the commission if a member:

- (1) does not have at the time of appointment the qualifications required by Sections 442.002(b) and (e);
- (2) does not maintain during service on the commission the qualifications required by Sections 442.002(b) and (e);
- (3) violates a prohibition established by Sections 442.002(f) or 442.0022;
- (4) cannot because of illness or disability discharge the member's duties for a substantial part of the term for which the member is appointed; or
- (5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the commission.

(b) The validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a commission member exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the commission of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest officer of the commission, who shall notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 1995, 74th Leg., ch. 109, Sec. 2, eff. Aug. 30, 1995.

Sec. 442.003. PURPOSE OF COMMISSION. The commission shall provide leadership and coordinate services in the field of archeological and historic preservation.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 109, Sec. 3, eff. Aug. 30, 1995.

Sec. 442.004. PERSONNEL. (a) The commission shall employ an executive director.

(b) A person employed as executive director must:

- (1) be a citizen of this state;
- (2) have ability in organization, administration, and coordination of organizational work; and
- (3) have particular qualities for carrying out the purposes of the commission.

(b-1) The executive director may not serve as a voting director on the board of directors of an affiliated nonprofit organization formed under Section 442.005(p).

(c) The executive director may employ professional and clerical personnel as considered necessary. The number of employees, their compensation, and other expenditures shall be in accordance with appropriations to the commission by the legislature.

(d) The executive director or the executive director's designee shall provide to members of the commission and to agency employees, as often as necessary, information regarding their qualification for office or employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

(e) The executive director or the executive director's designee shall develop an intra-agency career ladder program that addresses opportunities for mobility and advancement for employees within the commission. The program shall require intra-agency posting of all positions concurrently with any public posting.

(f) The executive director or the executive director's designee shall develop a system of annual performance evaluations based on documented employee performance. All merit pay for commission employees must be based on the system established under this subsection.

(g) The executive director or the executive director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

- (1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel, that are in compliance with the requirements of Chapter 21, Labor Code;
- (2) a comprehensive analysis of the commission workforce that meets federal and state guidelines;
- (3) procedures by which a determination can be made about the extent of underuse in the commission workforce of all persons for whom federal or state guidelines encourage a more equitable balance; and
- (4) reasonable methods to appropriately address those areas of underuse.

(h) A policy statement prepared under Subsection (g) must cover an annual period, be

updated annually, be reviewed by the Commission on Human Rights for compliance with Subsection (g), and be filed with the governor's office.

(i) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (h). The report may be made separately or as a part of other biennial reports made to the legislature.

(j) Before the expiration of 30 days after April 1 and November 1 of each year the commission shall submit a progress report to the governor. The report must include a statement of the steps that the commission has taken during the previous six months to comply with the requirement of Subsection (g).

(k) The governor shall designate the executive director as the state historic preservation officer, and the executive director shall act in that capacity for the conduct of relations with the representatives of the federal government and the respective states concerning matters of historic preservation.

(l) The commission shall develop and implement policies that clearly separate the policymaking responsibilities of the commission and the management responsibilities of the executive director and the staff of the commission.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 109, Sec. 4, eff. Aug. 30, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 4, eff. September 1, 2007.

Sec. 442.005. GENERAL POWERS AND DUTIES OF COMMISSION. (a) The commission shall furnish leadership, coordination, and services to county historical commissions, historical societies, and the organizations, agencies, institutions, museums, and individuals of this state interested in the preservation of archeological or historical heritage and shall act as a clearinghouse and information center for that work in this state.

(b) The commission is responsible for the administration of the Antiquities Code of Texas, Chapter 191, Natural Resources Code, and shall strive to establish effective working relationships among individuals primarily interested in history, architecture, and archeology.

(c) The commission shall furnish professional consultant services to museums and to agencies, individuals, and organizations interested in the preservation and restoration of archeological or historic structures, sites, or landmarks.

(d) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec. 25(41), eff. June 17, 2011.

(e) The commission shall administer the federal National Historic Preservation Act of 1966 and may prepare, maintain, and keep up to date a statewide comprehensive historic preservation plan.

(f) The commission by rule may establish a reasonable fee to recover its costs arising from review of a rehabilitation project on an income-producing property included in the National Register of Historic Places. Any fee established is payable by the applicant for the rehabilitation project.

(g) The commission may apply to any appropriate agency or officer of the United States for participation in any federal program pertaining to historic preservation.

(h) The commission may certify to another state agency the worthiness of preservation of any historic district, site, structure, or object significant in Texas or American history, architecture, archeology, or culture.

(i) The commission may provide matching grants to assist the preservation of a historic structure significant in Texas or American history, architecture, archeology, or culture.

(j) The commission shall use its facilities and leadership to stimulate the development and protection of archeological or historical resources in every locality of this state, emphasizing responsibility and privilege of local effort except in a case in which the project or problem clearly demands a broader approach.

(k) The commission may provide matching grants to preserve collections of small history museums in this state if the collections are significant in Texas or American history, architecture, archeology, or culture.

(l) The commission may conduct educational programs, seminars, and workshops throughout this state covering any phase of historic preservation.

(m) The commission shall continue cooperative studies and surveys of the various aspects of historical heritage.

(n) Not later than December 1 before each regular session of the legislature, the commission shall make a report of its activities to the governor and to the legislature.

(o) The commission may enter into contracts with other state agencies or institutions, qualified private institutions, and other persons, including for-profit corporations, to carry out the purposes of this chapter. A contract with a for-profit corporation under this chapter

181354

may not permit any property preserved, maintained, or administered by the commission under this chapter to display any corporate name, logo, or product other than a discreet plaque or similar acknowledgment that does not detract from the property's historic purpose.

(p) The commission may accept a gift, grant, devise, or bequest of money, securities, services, or property to carry out any purpose of this chapter, including funds raised or services provided by a volunteer or volunteer group to promote the work of the commission. The commission may 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 the commission.

(q) The commission may adopt rules as it considers proper for the effective administration of this chapter.

(r) The commission may establish advisory committees to advise the commission on archeological and historical matters, including an advisory committee to consider matters relating to Chapter 191, Natural Resources Code.

(s) The commission may promote the appreciation of historic sites, structures, or objects in the state through a program designed to develop tourism in the state.

(t) The commission shall promote heritage tourism by assisting persons, including local governments, organizations, and individuals, in the preservation, enhancement, and promotion of heritage and cultural attractions in this state. The program must include efforts to:

- (1) raise the standards of heritage and cultural attractions around this state;
- (2) foster heritage preservation and education;
- (3) encourage regional cooperation and promotion of heritage and cultural attractions;

and

- (4) foster effective local tourism leadership and organizational skills.

(u) The commission may:

- (1) maintain the historic character of the sites and structures entrusted to its care;
- (2) use its resources to develop the historic sites through promotional and educational activities, including the purchase of items for resale or donation and the purchase of plants and landscaping services; and

- (3) accept advertisements in selected agency publications, including print and electronic publications, at a rate that offsets development and production costs.

(v) The commission may accept a gift of real property, whether of historical value or not. When the gift is received, the commission may:

- (1) arrange for the preservation, maintenance, and public exhibition of the property;

or

- (2) at the commission's discretion, sell the property at fair market value and use the proceeds to carry out any purpose of this chapter.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 109, Sec. 5, eff. Aug. 30, 1995; Acts 1997, 75th Leg., ch. 428, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 461, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 377, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 25(41), eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 550 (S.B. 615), Sec. 1, eff. September 1, 2013.

Sec. 442.0051. FEES. The commission by rule may establish reasonable fees for commission purposes under this chapter, including an admission fee appropriate to a historic site under its jurisdiction.

Added by Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 5, eff. June 15, 2007.

Sec. 442.0052. VOLUNTEER SERVICES. (a) Except as provided by Subsection (b), the commission may use the services of volunteers to help carry out the duties and responsibilities of the commission.

(b) A volunteer may not enforce this code.

(c) The executive director may waive entrance fees and facility use fees for historic sites under the commission's jurisdiction for a volunteer to assist in the accomplishment of the volunteer's service to the commission.

(d) The executive director may expend funds appropriated to the commission from dedicated funding sources for:

- (1) the establishment of an insurance program to protect volunteers in the performance of volunteer service; and
- (2) recognition of the services of a volunteer or volunteer groups.

181354

Added by Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 5, eff. June 15, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 2, eff. June 17, 2011.

Sec. 442.0053. ELIGIBILITY CRITERIA FOR INCLUSION OF REAL PROPERTY IN STATE HISTORIC SITES SYSTEM. (a) The commission by rule shall adopt criteria for determining the eligibility of real property donated to the commission for inclusion in the historic sites system.

(b) The commission may accept a donation of real property that satisfies the criteria adopted under Subsection (a).

(c) The commission may renovate or restore donated real property, including improvements to the property, or construct new improvements on the donated real property as necessary and prudent.

Added by Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 5, eff. June 15, 2007.

Sec. 442.0054. DISCLOSURE OF PERSONAL CUSTOMER INFORMATION. (a) The name and address and a telephone, social security, driver's license, bank account, credit card, or charge card number of a person who purchases customer products, licenses, or services from the commission may not be disclosed except as authorized under this section.

(b) Chapter 552 does not apply to customer information described by Subsection (a).

(c) The commission by rule shall adopt policies relating to:

(1) the release of the customer information;

(2) the use of the customer information by the commission; and

(3) the sale of a mailing list consisting of the names and addresses of persons who purchase customer products, licenses, or services.

(d) The commission shall include in its policies a method for a person by request to exclude information about the person from a mailing list sold by the commission.

(e) The commission may disclose customer information to a federal or state law enforcement agency if the agency provides a lawfully issued subpoena.

(f) The commission and its officers and employees are immune from civil liability for an unintentional violation of this section.

(g) In this section, a reference to the commission includes a reference to an agent of the commission.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 3, eff. June 17, 2011.

Sec. 442.0055. AFFILIATED NONPROFIT ORGANIZATION; RULES; GUIDELINES. (a) The commission shall adopt rules governing the relationship between the commission and an affiliated nonprofit organization formed under Section 442.005(p), including rules that, at a minimum:

(1) define the extent to which commission employees with regulatory responsibilities, including the executive director, may participate in activities that raise funds for an affiliated nonprofit organization, which may not include the direct solicitation of funds; and

(2) define the relationship between commission employees and an affiliated nonprofit organization.

(b) The commission shall establish guidelines for identifying and defining the administrative and financial support the commission may provide for an affiliated nonprofit organization formed under Section 442.005(p).

Added by Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 6, eff. September 1, 2007.

Sec. 442.0056. ACQUISITION OF HISTORIC SITES. (a) The commission may acquire by purchase, gift, or other manner historic sites:

(1) where events occurred that represent an important aspect of the cultural, political, economic, military, or social history of the nation or state;

(2) significantly associated with the lives of outstanding historic persons or with an important event that represents a great ideal or idea;

(3) embodying the distinguishing characteristics of an architectural type that is inherently valuable for study of a period, style, or method of construction;

(4) that contribute significantly to the understanding of aboriginal humans in the nation or state; or

(5) that are of significant geologic interest relating to prehistoric animal or plant life.

(b) The commission shall restore and maintain each historic site acquired under this section for the benefit of the general public. The commission may enter into interagency

18135

contracts and contracts with other persons, including for-profit corporations, for this purpose.

(c) The commission shall formulate plans for the preservation and development of historic sites. Before formulating a plan for a specific site, the commission shall conduct an archeological survey of the site. In formulating plans, the commission shall:

- (1) consider the results from the archeological survey for the site if the plan is for a specific site; and
- (2) consider the resources necessary to manage a site.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 4, eff. June 17, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 550 (S.B. 615), Sec. 2, eff. September 1, 2013.

Sec. 442.0057. SOLICITATION, RECEIPT, AND TRANSFER OF LAND. (a) The commission may solicit and receive donations of land for public purposes and may refuse donations of land not acceptable for public purposes.

(b) If title to a site has vested in the commission and if ownership of the site is no longer in the best interest of the commission, the commission may transfer the title:

- (1) to another state commission, department, or institution requesting the site;
- (2) to the donor of the land if the donor requests the return of the site;
- (3) to the United States if it has undertaken the development of the site for public purposes;
- (4) to the grantor if the deed to the commission contains a reversion clause providing that title reverts to the grantor when the site is not used for the purposes for which it was acquired; or
- (5) to any legally authorized entity if the property is to be used for public purposes.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 4, eff. June 17, 2011.

Sec. 442.0058. SALE OR EXCHANGE OF LAND. (a) The executive director with the approval of the commission may execute a deed exchanging real property or an interest in real property either as all or partial consideration for other real property or interest in real property. The executive director with the approval of the commission may execute a deed selling real property or an interest in real property under the jurisdiction of the commission if ownership of the real property is no longer in the best interest of the commission.

(b) The commission shall receive a good and marketable title to all land exchanged under this section.

(c) All land to be received in the exchange must be appraised, and if the land to be received is of greater value, as determined by an independent and competent appraisal, than the state land exchanged, the commission may use funds available for land acquisitions as a partial consideration for the exchange.

(d) The receipts from the sale of land under this section shall be used for improving or acquiring other real property dedicated to the same purpose for which the land sold was dedicated.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 4, eff. June 17, 2011.

Sec. 442.0059. EMPLOYEE FUND-RAISING. (a) This section applies only to the solicitation or receipt of a gift, including money, that has a value of \$500 or more.

(b) The commission by rule shall adopt policies to govern fund-raising activities by commission employees on behalf of the commission. The rules must:

- (1) designate the types of employees who may solicit donations;
- (2) restrict where and how fund-raising may occur; and
- (3) establish requirements for reports by employees to the director.

(c) The executive director shall approve and manage fund-raising activities by commission employees on behalf of the commission in accordance with commission rules.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 4, eff. June 17, 2011.

Sec. 442.006. STATE HISTORICAL MARKER PROGRAM. (a) The commission shall give direction and coordination to the state historical marker program.

(b) The commission shall:

- (1) develop statewide themes for the program related to the commission's preservation goals for the state;
- (2) install markers recognizing districts, sites, individuals, events, structures, and objects significant in Texas or American history, architecture, archeology, or culture;

181354

(3) keep a register of those markers; and

(4) establish a limit for the number of markers the commission awards annually.

(c) To assure a degree of uniformity and quality of historical markers, monuments, and medallions in this state, the commission shall review and approve or reject the final form or dimensions of or text or illustrations on any marker, monument, or medallion before its fabrication by the state or by a county, county historical commission, incorporated city, individual, or organization in this state. The commission shall designate an approved marker as an Official Texas Historical Marker.

(d) The commission shall designate any structure receiving the Official Texas Historical Building Medallion as a Recorded Texas Historic Landmark that is considered worthy of preservation because of its history, culture, or architecture.

(d-1) The commission shall specially designate as a Texas Historical Use Building that is considered worthy of preservation because of its history, culture, or architecture a building that:

(1) is currently used regularly for a purpose that benefits the community in which the building is located, as determined by the commission; and

(2) has been used regularly for the purpose described by Subdivision (1) for at least 150 years.

(e) The commission by rule may establish a reasonable fee to recover its costs arising from review of a proposal for a historical marker, monument, or medallion. Any fee established is payable by the applicant for the marker, monument, or medallion.

(f) A person may not damage the historical or architectural integrity of a structure the commission has designated as a Recorded Texas Historic Landmark without notifying the commission at least 60 days before the date on which the action causing the damage is to begin. After receiving the notice, the commission may waive the waiting period or, if the commission determines that a longer period will enhance the chance for preservation, it may require an additional waiting period of not longer than 30 days. On the expiration of the time limits imposed by this section, the person may proceed, but must proceed not later than the 180th day after the date on which notice was given or the notice is considered to have expired.

(g) This chapter does not authorize the commission to review or determine the placement or location of an object in or on a Recorded Texas Historic Landmark if the placement or location does not result in substantial structural change or damage to the landmark.

(h) The commission by rule shall establish guidelines for an application for, and the commission's review of the application for, a historical marker, monument, or medallion. The guidelines must include criteria for ranking the applications. The commission shall give priority to the markers, monuments, and medallions that relate to the statewide themes developed by the commission.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 7, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 390 (S.B. 111), Sec. 1, eff. September 1, 2013.

Sec. 442.0065. GUIDE TO HISTORICAL MARKERS. (a) In this section, "department" means the Texas Department of Transportation.

(b) The department, in consultation with the commission, shall publish a guide to historical markers along roadways in this state that includes:

(1) a listing of the historical markers along roadways with identifying numbers assigned to each marker by the department; and

(2) a summary of the information on each marker.

(c) For each historical marker, the department shall erect and maintain, if practicable, signs informing users of the roadway of the marker and indicating the identifying number of the marker. The department shall erect a sign under this subsection approximately one mile preceding the historical marker if that placement is practicable.

(d) The department shall use information from the commission's Texas historical roadside marker restoration program and the state historical marker program under Section 442.006 in creating the guide to historical markers under Subsection (b).

(e) The department shall make available to the public the guide published under Subsection (b) at a reasonable price determined by the department. Revenue from sales of the guide shall be deposited to the credit of the state highway fund and is exempt from the application of Section 403.095.

(f) The department shall work with the commission to ensure that there is no duplication between publications currently available through the commission or other sources.

Added by Acts 2001, 77th Leg., ch. 649, Sec. 1, eff. June 13, 2001.

181354

Sec. 442.007. STATE ARCHEOLOGICAL PROGRAM. (a) The commission, through the state archeologist, shall direct the state archeological program.

(b) The program must include:

- (1) a continuing inventory of nonrenewable archeological resources;
- (2) evaluation of known sites through testing and excavation;
- (3) maintenance of extensive field and laboratory data, including data on collections of antiquities;
- (4) consultation with state agencies and organizations and local groups concerning archeological and historical problems; and
- (5) publication of the results of the program through various sources, including a regular series of reports.

(c) The commission may enter into contracts or cooperative agreements with the federal government, other state agencies, state or private museums or educational institutions, or qualified persons, including for-profit corporations, for prehistoric or historic archeological investigations, surveys, excavations, or restorations in this state.

(d) The state archeologist has general jurisdiction and supervision over archeological work, reports, surveys, excavations, and archeological programs of the commission and of cooperating state agencies.

(e) The duties of the state archeologist include:

- (1) maintaining an inventory of significant historic or prehistoric sites of archeological or historic interest;
- (2) providing public information and education in the fields of archeology and history;
- (3) conducting surveys and excavations with respect to significant archeological or historic sites in this state;
- (4) preparing reports and publications concerning the work of the office of the state archeologist;
- (5) doing cooperative and contract work in prehistoric and historic archeology with other state agencies, the federal government, state or private institutions, or individuals;
- (6) maintaining and determining the repository of catalogued collections of artifacts and other materials of archeological or historic interest; and
- (7) preserving the archeological and historical heritage of this state.

(f) The state archeologist shall withhold from disclosure to the public information relating to the location or character of archeological or historic resources if the state archeologist determines that the disclosure of the information may create a substantial risk of harm, theft, or destruction to the resources or to the area or place where the resources are located.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 9.009, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 550 (S.B. 615), Sec. 3, eff. September 1, 2013.

Sec. 442.0071. DUTIES REGARDING GOVERNOR'S MANSION. (a) The commission shall approve construction plans and monitor the work on the Governor's Mansion to ensure compliance with Chapter 191, Natural Resources Code, to ensure the historical and architectural integrity of the mansion's exterior, interior, contents, and grounds. A substantial addition, deletion, or other alteration may not be made to the mansion or its contents or grounds without the prior approval of the commission.

(b) The commission shall:

- (1) develop and maintain an inventory of the contents of the Governor's Mansion that includes all furnishings, fixtures, works of art, and decorative objects and states the owner of each of those items;
- (2) develop a plan for the acquisition, by purchase, donation, or loan, of furnishings, fixtures, works of art, and decorative objects for the mansion, especially early 19th-century American, museum-quality items and items having historical significance to the Governor's Mansion;
- (3) develop a plan for the disposition of furnishings, fixtures, works of art, and decorative objects that the commission determines are not needed or inappropriate; and
- (4) recommend and arrange for the conservation or restoration of furnishings, fixtures, works of art, and decorative objects in the mansion that are owned by the state.

(c) The commission may accept gifts, grants, or other donations on behalf of the Governor's Mansion. The commission shall contract with a nonprofit organization formed to assist in the

181354

preservation and maintenance of the Governor's Mansion to develop and implement a plan for the solicitation and acceptance of gifts, grants, devises, and bequests of money, other property, and services to be used in the acquisition of furnishings, fixtures, works of art, and decorative objects for the Governor's Mansion or for necessary landscaping, conservation, or restoration services. The commission also may contract with a nonprofit organization described by this subsection for the performance of any duty provided by Subsection (b). A contract under this subsection may not exceed a term of two years.

(d) Repealed by Acts 2009, 81st Leg., R.S., Ch. 240, Sec. 3, eff. May 27, 2009.

(e) The State Preservation Board and the office of the governor may exercise the powers and shall perform the duties relating to the Governor's Mansion that are provided by applicable law, subject to the requirements of this section.

(f) Section 443.007 does not apply to this section.

Added by Acts 1989, 71st Leg., ch. 177, Sec. 1, eff. May 25, 1989.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 240 (S.B. 2307), Sec. 2, eff. May 27, 2009.

Acts 2009, 81st Leg., R.S., Ch. 240 (S.B. 2307), Sec. 3, eff. May 27, 2009.

Sec. 442.0072. PRESERVATION AND MAINTENANCE OF GETHSEMANE CHURCH AND CARRINGTON-COVERT HOUSE. (a) In this section:

(1) The Gethsemane Church includes the adjoining grounds of the church.

(2) The Carrington-Covert House includes the adjoining grounds of the house.

(b) The State of Texas owns the Gethsemane Church and the Carrington-Covert House.

(c) The church and the house are located at Congress Avenue and 16th Street on Lots 5, 6, 7, and 8, Outlot 46, Division "E" of the original City of Austin, Travis County, Texas.

(d) The commission shall preserve, maintain in a state of suitable repair, restore, and develop the church and the house, their contents, and their grounds, in the manner determined by the commission, for the beautification and cultural enhancement of the properties as a significant Texas historical site and in a manner consistent with development of the Capitol Complex.

(e) The commission shall spend the money the legislature appropriates for purposes of this section to accomplish those purposes.

(f) The commission may:

(1) accept gifts and donations for the church and the house; and

(2) use the gifts and donations in accordance with the donor's conditions and instructions that are consistent with this section.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 7.102, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 898 (H.B. 2621), Sec. 1, eff. September 1, 2007.

Sec. 442.0073. PRESERVATION AND MAINTENANCE OF CERTAIN STATE BUILDINGS. (a) The commission shall preserve, maintain, and restore Luther Hall, the Elrose Building, and the Christianson-Leberman Building, their contents, and their grounds.

(b) For purposes of this section, Luther Hall and the Elrose Building are located on 16th Street between Colorado Street and North Congress Avenue in Austin and the Christianson-Leberman Building is located at 1304 Colorado Street in Austin.

Added by Acts 2007, 80th Leg., R.S., Ch. 898 (H.B. 2621), Sec. 2, eff. September 1, 2007.

Sec. 442.008. COUNTY COURTHOUSES. (a) A county may not demolish, sell, lease, or damage the historical or architectural integrity of any building that serves or has served as a county courthouse without notifying the commission of the intended action at least six months before the date on which it acts.

(b) If the commission determines that a courthouse has historical significance worthy of preservation, the commission shall notify the commissioners court of the county of that fact not later than the 30th day after the date on which the commission received notice from the county. A county may not demolish, sell, lease, or damage the historical or architectural integrity of a courthouse before the 180th day after the date on which it received notice from the commission. The commission shall cooperate with any interested person during the 180-day period to preserve the historical integrity of the courthouse.

(c) A county may carry out ordinary maintenance of and repairs to a courthouse without notifying the commission.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 403, Sec. 3, eff. Sept. 1, 1999.

Sec. 442.0081. HISTORIC COURTHOUSE PRESERVATION AND MAINTENANCE PROGRAMS; GRANTS AND LOANS. (a) The commission shall administer a historic courthouse preservation program.

(b) A county or municipality that owns a historic courthouse may apply to the commission for a grant or loan for a historic courthouse project. The application must:

- (1) state the location of the courthouse;
- (2) state whether the courthouse is or is likely to become a historic structure;
- (3) state the amount of money or in-kind contributions that the county or municipality promises to contribute to the project;
- (4) state whether the courthouse is currently functioning as a courthouse;
- (5) include any plans, including a master preservation plan, that the county or municipality may have for the project; and
- (6) include any other information that the commission by rule may require.

(c) The commission may grant or loan money to a county or municipality that owns a historic courthouse, for the purpose of preserving or restoring the courthouse, if the county's or municipality's application meets the standards of the historic courthouse preservation program. In considering whether to grant an application, the commission shall consider the preferences and factors listed in this section as well as any other factors that it may provide by rule.

(d) In considering whether to grant an application, the commission shall give preference to:

- (1) a proposed project to preserve or restore a courthouse:
 - (A) that is or is likely to become a historic structure; and
 - (B) that:
 - (i) is still functioning as a courthouse;
 - (ii) was built before 1875; or
 - (iii) is subject to a conservation easement held by the commission; and
- (2) a county or municipality that will provide or has provided at least 15 percent of the project's costs, including:
 - (A) in-kind contributions; and
 - (B) previous expenditures for master planning and renovations on the courthouse that are the subject of the application.

(e) In considering whether to grant an application, the commission shall also consider the following factors:

- (1) the amount of money available for a grant or loan and the percentage of the costs that the county or municipality will contribute;
- (2) whether the county or municipality will contribute any in-kind contribution such as labor or materials;
- (3) the cost to preserve or restore the courthouse;
- (4) the architectural style of the courthouse;
- (5) the historic significance of the courthouse;
- (6) the county's or municipality's master preservation plan; and
- (7) any other factors that the commission by rule may provide.

(f) The commission shall adopt rules regarding the way in which it will consider the following factors in analyzing a county's or municipality's contribution to project costs under Subsection (d)(2):-

- (1) the period during which past expenditures can be considered;
- (2) the amount of past expenditures that can be considered; and
- (3) the amount and type of in-kind contributions that can be considered.

(g) The commission shall appoint a Texas Courthouse Preservation Program Advisory Committee. The committee shall assist the commission on matters relating to the historic courthouse preservation program. The commission may reimburse a committee member's travel expenses and provide a per diem for other expenses from funds appropriated to the commission, but not from funds in the historic courthouse preservation fund account created by this chapter. Chapter 2110 applies to the committee, but the committee must include:

- (1) members from the different geographical areas of the state;
- (2) an equal number of members from counties with a population of:
 - (A) 24,999 or less;
 - (B) 25,000 to 75,000; and
 - (C) 75,001 or more; and
- (3) at least the following members:
 - (A) one or more elected county officials;
 - (B) one or more members of historical organizations or persons with knowledge of

181354

181354

and experience in preservation who are not elected county officials; and

(C) one or more members of the general public who do not meet the requirements of Paragraph (A) or (B).

(g-1) To help protect courthouses that have benefited from the historic courthouse preservation program, the commission shall develop and implement a maintenance program to assist counties and municipalities receiving money under the preservation program in continuing to maintain, repair, and preserve the courthouses. The maintenance program may include offering to periodically inspect the courthouses and offering counties and municipalities technical assistance and information on best practices in maintaining the courthouses.

(h) The commission shall adopt rules necessary to implement the historic courthouse preservation and maintenance programs.

Added by Acts 1999, 76th Leg., ch. 403, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 646 (H.B. 2902), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 646 (H.B. 2902), Sec. 2, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 1100 (H.B. 3674), Sec. 2, eff. September 1, 2013.

Sec. 442.0082. HISTORIC COURTHOUSE PROJECT; REQUIREMENTS. (a) Before incurring any expenses payable from funds received from the commission under the historic courthouse preservation program, a county or municipality must have a master preservation plan for its historic courthouse project. The commission by rule shall prescribe the minimum standards for a master preservation plan.

(b) A county or municipality that receives money under the historic courthouse preservation program must use recognized preservation standards for work on a historic courthouse project. The commission by rule shall establish standards regarding the quality of the work performed on a historic courthouse project.

(c) A county or municipality that receives money under the historic courthouse preservation program for a historic courthouse project may use the money only for eligible preservation and restoration expenses that the commission by rule shall prescribe. Eligible expenses may include costs for:

(1) structural, mechanical, electrical, and plumbing systems and weather protection and emergency public safety issues not covered by insurance;

(2) code and environmental compliance, including complying with the federal Americans with Disabilities Act of 1990 and its subsequent amendments, Chapter 469, and other state laws relating to accessibility standards, hazardous materials mitigation rules, and other similar concerns;

(3) replication of a missing architectural feature;

(4) removal of an inappropriate addition or modification; and

(5) restoration of a courtroom or other significant public space in a functional and historically appropriate manner.

(d) A county's or municipality's expenditure of money received under this chapter for a historic courthouse project is subject to audit by the state auditor in accordance with Chapter 321.

(e) The commission by rule shall provide for oversight procedures on a project. These rules shall provide for reasonable inspections by the commission as well as periodic reports by a county or municipality on a project's progress.

Added by Acts 1999, 76th Leg., ch. 403, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1100 (H.B. 3674), Sec. 3, eff. September 1, 2013.

Sec. 442.0083. FUNDING FOR HISTORIC COURTHOUSE PRESERVATION PROGRAM; HISTORIC COURTHOUSE PRESERVATION FUND ACCOUNT. (a) The historic courthouse preservation fund account is a separate account in the general revenue fund. The account consists of transfers made to the account, payments on loans made under the historic courthouse preservation program, grants and donations made for the purposes of the historic courthouse preservation program, and income earned on investments of money in the account. Appropriations to the commission for the historic courthouse preservation program shall be deposited to the credit of the account. Notwithstanding Section 404.071, income earned on money in the account shall be deposited to the credit of the account.

(b) Except as otherwise provided by Subsection (c), the commission may use money in the historic courthouse preservation fund account to provide a grant or loan to a county or municipality that owns a historic courthouse for a historic courthouse project. The grant or

181354

loan may be in the amount and according to the terms that the commission by rule shall determine.

(c) The commission may use money in the historic courthouse preservation fund account to provide a loan under the historic courthouse preservation program only to the extent that the legislature provides in the General Appropriations Act that money appropriated to the commission for the program may be used to make loans.

(d) As a condition for providing the money under this section, the commission may require creation of a conservation easement in the property, as provided by Chapter 183, Natural Resources Code, in favor of the state and may require creation of other appropriate covenants in favor of the state. The commission may take any necessary action to enforce repayment of a loan or any other agreements made under this section and Sections 442.0081 and 442.0082.

(e) A grant for a historic courthouse project may not exceed the greater of \$6 million or two percent of the amount appropriated for implementing the historic courthouse preservation program during the state fiscal biennium.

(f) Biennial appropriations to the commission for administering the historic courthouse preservation and maintenance programs during a state fiscal biennium, including providing oversight for historic courthouse projects, may not exceed 2-1/2 percent of the amount appropriated for implementing the historic courthouse preservation and maintenance programs during the state fiscal biennium.

(g) The commission by rule may set a limit on the loan amount for a historic courthouse project. This amount may be expressed as a dollar amount or as a percentage of the total amount appropriated for implementing the historic courthouse preservation program during the state fiscal biennium.

(h) The commission may accept a gift, grant, or other donation for the historic courthouse preservation program or a specific historic courthouse project.

Added by Acts 1999, 76th Leg., ch. 403, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 646 (H.B. 2902), Sec. 3, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 1100 (H.B. 3674), Sec. 4, eff. September 1, 2013.

Sec. 442.0084. **EQUITABLE REPRESENTATION IN MONUMENTS.** (a) In this section, "monument" has the meaning assigned by Section 443.015, as added by Chapter 1141, Acts of the 75th Legislature, Regular Session, 1997.

(b) To ensure that the diverse history of Texas is accurately represented on land owned by the state other than the Capitol Complex, the Texas Historical Commission shall:

(1) collect information relating to each monument on land owned by the state other than the Capitol Complex; and

(2) in cooperation with the chair of the history department at Prairie View A&M University, at The University of Texas at Austin, or at any other land grant university in the state, as determined by the commission, ensure the:

(A) historical accuracy of the monuments; and

(B) equitable representation of all Texans, including African slaves, African Americans, Hispanic Americans, Native Americans, women in Texas history, and Texans exemplifying military service and rural heritage in monuments on land owned by the state other than the Capitol Complex.

(c) The commission shall make the information collected under this section available to the public.

Added by Acts 2001, 77th Leg., ch. 1315, Sec. 1, eff. Sept. 1, 2001. Renumbered from Government Code Sec. 442.0087 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(60), eff. Sept. 1, 2003.

Sec. 442.0085. **STATE REGISTER OF HISTORIC PLACES.** (a) The commission shall develop and maintain a state register of historic places using existing statutory classifications of those places, including Recorded Texas Historic Landmarks, National Register listings, subject markers, and state archeological landmarks.

(b) The commission shall adopt rules to implement this section.

Added by Acts 1995, 74th Leg., ch. 109, Sec. 6, eff. Aug. 30, 1995.

Sec. 442.0086. **MILITARY SITES PROGRAM.** (a) The commission shall identify sites in and outside this state that are historically significant to this state because of:

(1) military action or service at the sites; or

(2) other significant events of a military nature at the sites that shaped the history of this state.

(b) In carrying out its duties under Subsection (a), the commission shall assist other governmental entities, including other states, institutions, organizations, and other entities in identifying military sites outside this state where Texans served with distinction.

(c) The commission may designate or encourage the designation of sites identified under Subsections (a) and (b) through existing history programs, including:

- (1) local community landmark programs;
- (2) the state historical marker program under Section 442.006;
- (3) the National Register of Historic Places;
- (4) the National Historic Landmarks program;
- (5) the World Heritage List; and
- (6) other appropriate programs.

(d) The commission may provide information regarding the significance of the sites designated under this section using:

- (1) historical markers and monuments;
- (2) publications and films; and
- (3) other appropriate media.

(e) The commission may seek assistance from other state and local governmental entities in carrying out the commission's duties under this section.

(f) The commission may seek and accept gifts, grants, and donations from public or private sources, including seeking available federal funds, to accomplish the purposes of this section.

Added by Acts 1995, 74th Leg., ch. 109, Sec. 7, eff. Aug. 30, 1995.

Sec. 442.0087. FORT BLISS MUSEUM AND STUDY CENTER. (a) The commission may assist Fort Bliss Military Reservation in El Paso in the establishment and operation at Fort Bliss of a museum and study center devoted to the history of the United States air defense system.

(b) To accomplish the purposes of this section, the commission may:

- (1) seek and accept gifts, grants, and donations of funds or property from public and private sources, including seeking available federal funds; and
- (2) contribute funds appropriated to the commission for the purpose.

(c) The commission may provide assistance and contribute funds under this section only if the commission receives appropriate assurances that, subject to the security requirements of the military reservation, the museum and study center will be open for use by the general public.

Added by Acts 2001, 77th Leg., ch. 312, Sec. 1, eff. May 23, 2001.

Sec. 442.009. CONSUMER INFORMATION AND COMPLAINTS. (a) The commission shall maintain a system to promptly and efficiently act on complaints filed with the commission. The commission shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) The commission shall make information available describing its procedures for complaint investigation and resolution.

(c) The commission shall periodically notify the complaint parties of the status of the complaint until final disposition.

(d) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1159, Sec. 46, eff. June 15, 2007.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 109, Sec. 8, eff. Aug. 30, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 8, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 46, eff. June 15, 2007.

Sec. 442.0095. PROGRAM AND FACILITY ACCESSIBILITY. The commission shall comply with federal and state laws related to program and facility accessibility. The executive director shall also prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the commission's programs and services.

Added by Acts 1995, 74th Leg., ch. 109, Sec. 9, eff. Aug. 30, 1995.

Sec. 442.010. AUDITS. (a) The financial transactions of the commission are subject to audit by the state auditor in accordance with Chapter 321.

(b) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec. 25(42), eff. June 17, 2011.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch.

584, Sec. 92, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 109, Sec. 10, eff. Aug. 30, 1995.

181354

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 7, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 25(42), eff. June 17, 2011.

Sec. 442.011. PENALTY. A person who violates this chapter or Chapter 191, Natural Resources Code, is subject to a civil penalty of not less than \$50 nor more than \$1,000 for each day of violation.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 312 (H.B. 2056), Sec. 1, eff. September 1, 2007.

Sec. 442.012. LAWSUITS. (a) The attorney general or any resident of this state may file suit in district court to restrain and enjoin a violation or threatened violation of this chapter or Chapter 191, Natural Resources Code, to recover on behalf of the state a civil penalty provided by this chapter, including a civil penalty provided for a violation of Chapter 191, Natural Resources Code, or for both injunctive relief and a civil penalty.

(b) Venue of the suit filed is in Travis County or the county in which the activity sought to be restrained or penalized is alleged to have occurred, be occurring, or be about to occur.

(c) If the attorney general substantially prevails in an action to recover a civil penalty under this section, the court shall award the attorney general reasonable expenses incurred in recovering the penalty, including court costs, reasonable attorney's fees, expert witness fees, and deposition expenses.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 312 (H.B. 2056), Sec. 2, eff. September 1, 2007.

Sec. 442.013. NO EFFECT ON OTHER ORGANIZATIONS AND ACTIVITIES. It is not the purpose of this chapter to duplicate or replace existing historical heritage organizations and activities, but to give leadership, coordination, and service as needed and desired.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 442.014. MAIN STREET PROGRAM. (a) The commission shall administer a main street program to assist municipalities with the development, restoration, and preservation of their central business districts.

(b) Each year the commission shall designate certain municipalities to participate in the program as official main street cities.

(c) The commission by rule shall prescribe qualification standards for participation in the program as a main street city or as an urban main street city. Any municipality not designated under Subsection (b) may apply with the commission to participate in the program under this subsection.

(d) The commission by rule shall prescribe a fee schedule for participation in the program under Subsection (c). The commission shall collect fees from the participating municipalities to recover the costs of participation in the program.

Added by Acts 1989, 71st Leg., ch. 23, Sec. 1, eff. April 19, 1989.

Sec. 442.014~~5~~. TEXAS HISTORICAL ARTIFACTS PROGRAM; FUND. (a) The commission shall administer a program to assist municipalities, counties, museums, and county historical commissions with:

(1) the development or improvement of museum facilities used to display historical artifacts discovered in Texas that are significant in Texas or American history; and

(2) the acquisition of historical artifacts discovered in Texas that are significant in Texas or American history.

(b) The Texas Historical Artifacts Program fund is created as a separate account in the general revenue fund. The fund is composed of money appropriated to the fund, money deposited to the fund under Subsection (c), and interest received from investments of money in the fund that the comptroller shall allocate to the fund. Sections 403.095 and 404.071 do not apply to the fund or to interest received from investments of money in the fund. Money in the fund may be spent only as provided by the commission under this section.

(c) The commission may accept, for deposit in the Texas Historical Artifacts Program fund,

181354

grants or other donations from any source.

(d) The commission shall establish rules governing the use, administration, and distribution of the Texas Historical Artifacts Program fund. The rules must ensure that money in the fund is used only for the purposes prescribed by Subsection (a), including paying the expenses of administering the program.

Added by Acts 1999, 76th Leg., ch. 1370, Sec. 1, eff. June 19, 1999. Amended by Acts 2001, 77th Leg., ch. 377, Sec. 3, eff. Sept. 1, 2001.

Sec. 442.015. TEXAS PRESERVATION TRUST FUND ACCOUNT. (a) Notwithstanding Section 403.095, the Texas preservation trust fund account is a separate account in the general revenue fund. The account consists of transfers made to the account, loan repayments, grants and donations made for the purposes of this program, proceeds of sales, earnings on the account, and any other money received under this section. Distributions from the account may be used only for the purposes of this section and may not be used to pay operating expenses of the commission. Money allocated to the commission's historic preservation grant program shall be deposited to the credit of the account. Earnings on the account shall be deposited to the credit of the account.

(b) The commission may use distributions from the Texas preservation trust fund account to provide financial assistance to public or private entities for the acquisition, survey, restoration, or preservation, or for planning and educational activities leading to the preservation, of historic property in the state that is listed in the National Register of Historic Places or designated as a State Archeological Landmark or Recorded Texas Historic Landmark, or that the commission determines is eligible for such listing or designation. The financial assistance may be in the amount and form and according to the terms that the commission by rule determines. The commission shall give priority to property the commission determines to be endangered by demolition, neglect, underuse, looting, vandalism, or other threat to the property. Gifts and grants deposited to the credit of the account specifically for any eligible projects may be used only for the type of projects specified. If such a specification is not made, the gift or grant shall be unencumbered and accrue to the benefit of the Texas preservation trust fund account. If such a specification is made, the entire amount of the gift or grant may be used during any period for the project or type of project specified.

(c) As a condition of providing financial assistance under this section, the commission shall require the creation of a preservation easement in the property, as provided by Chapter 183, Natural Resources Code, in favor of the state, the designation of the property as a State Archeological Landmark, as provided by Chapter 191, Natural Resources Code, or the creation of other appropriate covenants in favor of the state. The commission may take any necessary action to enforce repayment of a loan made under this section.

(d) The commission, after considering the recommendations of the governor, lieutenant governor, and speaker of the house of representatives, shall appoint an advisory board composed of:

- (1) one representative of a bank or savings and loan association;
- (2) one attorney with a recognized background in historic preservation;
- (3) two architects with substantial experience in historic preservation;
- (4) two archeologists with substantial experience in Texas archeology;
- (5) one real estate professional with experience in historic preservation;
- (6) two persons with demonstrated commitment to historic preservation; and
- (7) two directors of nonprofit historic preservation organizations.

(e) Members of the advisory board serve two-year terms expiring February 1 of each odd-numbered year. A member of the advisory board is not entitled to compensation for the member's service on the advisory board but is entitled to reimbursement for reasonable expenses incurred in attending advisory board meetings, subject to any limit provided by the General Appropriations Act.

(f) The advisory board shall recommend to the commission rules for administering Subsections (a)-(e).

(g) The commission may accept grants or other donations of money or other property and services from any source. Money received under this subsection shall be deposited to the credit of the Texas preservation trust fund account.

(h) The comptroller shall manage the assets of the account. In managing the assets of the account, the comptroller may acquire, exchange, sell, supervise, manage, or retain, through procedures and subject to restrictions the comptroller considers appropriate, any kind of investment that a prudent investor, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances of the account then prevailing, taking into consideration the investment of all the assets of the account rather than a single investment.

181354

(i) The amount of a distribution shall be determined by the comptroller in a manner intended to provide a stable and predictable stream of annual distributions and to maintain over time the purchasing power of account investments and annual distributions from the account. If the purchasing power of account investments for any 10-year period is not preserved, the comptroller may not increase annual distributions from the account until the purchasing power of account investments is restored.

(j) An annual distribution made by the comptroller from the account during a fiscal year may not exceed an amount equal to seven percent of the average net fair market value of the investment assets of the account as determined by the comptroller.

(k) The expenses of managing account investments shall be paid from the account.

(l) On request, the comptroller shall fully disclose all details concerning the investments of the account.

Added by Acts 1989, 71st Leg., ch. 366, Sec. 1, eff. Sept. 1, 1989. Renumbered from Sec. 442.0071 by Acts 1990, 71st Leg., 6th C.S., ch. 12, Sec. 2(6), eff. Sept. 6, 1990. Amended by Acts 1995, 74th Leg., ch. 109, Sec. 11, eff. Aug. 30, 1995; Acts 1999, 76th Leg., ch. 461, Sec. 2, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 377, Sec. 4, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 9, eff. June 15, 2007.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 22.01, eff. November 1, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 22.02, eff. November 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1218 (S.B. 1546), Sec. 1, eff. September 1, 2013.

Sec. 442.0155. FUNDS SUBJECT TO STATE FUNDS REFORM ACT. All money paid to the commission under this chapter is subject to Subchapter F, Chapter 404.

Added by Acts 1995, 74th Leg., ch. 109, Sec. 12, eff. Aug. 30, 1995.

Sec. 442.016. LIABILITY FOR ADVERSELY AFFECTING HISTORIC STRUCTURE OR PROPERTY. (a) In this section, "historic structure or property" means a historic structure or a structure or property that is designated as historic by a political subdivision of the state, the state, or the federal government.

(b) A person is liable to the commission for damages if the person:

(1) demolishes, causes to be demolished, or otherwise adversely affects the structural, physical, or visual integrity of a historic structure or property that is not located in a municipality that has a demolition permit and a building permit procedure; and

(2) does not obtain written permission from the commission before beginning to demolish, cause the demolition of, or otherwise adversely affect the structural, physical, or visual integrity of the structure or property.

(c) If the structural, physical, or visual integrity of the structure or property is adversely affected to the extent that it is not feasible to restore the structural, physical, or visual integrity substantially to its former level, the damages are equal to the cost of constructing, using as many of the original materials as possible, a new structure or property that is a reasonable facsimile of the historic structure or property and the cost of attorney's, architect's, and appraiser's fees and other costs related to the enforcement of this section. If it is feasible to restore the structural, physical, or visual integrity of the structure or property substantially to its former level, the damages are equal to the cost of the restoration, using as many of the original materials as possible, and the cost of attorney's, architect's, and appraiser's fees and other costs related to the enforcement of this section.

(d) Instead of accepting monetary damages, the commission may permit the liable person to construct, using as many of the original materials as possible, a structure or property that is a reasonable facsimile of the demolished historic structure or property or to restore, using as many of the original materials as possible, the historic structure or property and to pay the cost of attorney's, architect's, and appraiser's fees and other costs related to the enforcement of this section.

(e) Damages recovered under this section shall be deposited in the Texas preservation trust fund account.

(f) The construction of a facsimile structure or property under Subsection (d) must be undertaken at the location designated by the commission, which may be the same location as that of the demolished historic structure or property.

(g) The commission may make contracts and adopt rules as necessary to carry out this section.

(h) The commission shall file in the real property records of the county clerk's office in each county in which a historic structure or property that is included on the National Register

181354

of Historic Places or that is designated as a Recorded Texas Historic Landmark is located a verified written instrument listing each structure or property located in that county by:

- (1) the street address, if available in the commission files;
 - (2) the legal description of the real property on which the structure or property is located; and
 - (3) the name of the owner of the real property, if available in the commission files.
- (i) Subsections (a) through (g) of this section apply only to a historic structure or property on or after the date the instrument has been filed under Subsection (h) and indexed.

Added by Acts 1991, 72nd Leg., ch. 594, Sec. 2, eff. Sept. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 109, Sec. 13, eff. Aug. 30, 1995.

Sec. 442.017. IDENTIFICATION AND PRESERVATION OF ABANDONED CEMETERIES. (a) The commission should establish a program to identify and preserve abandoned cemeteries across the state.

(b) The commission is encouraged to use volunteers to the maximum extent possible to implement the program and to model the program to the extent appropriate on the "Adopt-A-Beach" program conducted by the General Land Office.

(c) The commission may accept gifts, grants, and in-kind donations from public and private entities for the implementation of the program. The legislature may appropriate money to the commission to implement the program.

(d) The commission may adopt rules reasonably necessary to implement the program.

Added by Acts 2001, 77th Leg., ch. 377, Sec. 5, eff. Sept. 1, 2001.

Sec. 442.018. IDENTIFICATION AND PRESERVATION OF TEXAS UNDERGROUND RAILROAD HISTORICAL SITES. (a) The commission should establish a program to identify and preserve Texas Underground Railroad Historical Sites.

(b) The commission is encouraged to use volunteers to the maximum extent possible to implement the program and to model the program to the extent appropriate on the "Adopt-A-Beach" program conducted by the General Land Office.

(c) The commission may accept gifts, grants, and in-kind donations from public and private entities for the implementation of the program. The legislature may appropriate money to the commission to implement the program.

(d) The commission may adopt rules reasonably necessary to implement the program.

Added by Acts 2001, 77th Leg., ch. 377, Sec. 6, eff. Sept. 1, 2001.

Sec. 442.020. TEXAS TREASURE AWARDS. (a) The commission shall create the Texas Treasure Award program to honor businesses that have existed in this state providing employment and supporting the Texas economy for 50 years or more.

(b) Any person may nominate a business that meets the criteria described by Subsection (a) to the commission for consideration to receive the award.

(c) The commission shall establish separate levels of recognition for businesses that have existed in this state providing employment and supporting the Texas economy for at least 50 years, at least 75 years, at least 100 years, and at least 125 years.

(d) The commission shall periodically select businesses to receive Texas Treasure Awards for the various levels of recognition as the commission considers appropriate considering the significance of the contribution of each business to this state. The commission shall honor the recipient of a Texas Treasure Award by presenting the recipient with a suitable plaque that includes the business's level of recognition and other appropriate information.

(e) The commission shall notify the state senator and state representative in whose districts a recipient's principal place of business in this state is located. The commission, the recipient, and the state senator and state representative shall cooperate in determining whether the ceremony at which the plaque honoring the recipient will be presented will be held in the hall of the senate, in the hall of the house of representatives, in the municipality or general area in which the recipient's principal place of business in this state is located, or in another suitable location.

Added by Acts 2005, 79th Leg., Ch. 850 (S.B. 920), Sec. 1, eff. June 18, 2005.

Renumbered from Government Code, Section 442.019 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(28), eff. September 1, 2007.

Sec. 442.021. EL CAMINO REAL DE LOS TEJAS NATIONAL HISTORIC TRAIL. (a) In cooperation with the National Park Service, the commission shall administer and coordinate the efforts of

state and local public and private entities in this state regarding the preservation of El Camino Real de los Tejas National Historic Trail.

(b) The commission shall develop educational and interpretative programs relating to El Camino Real de los Tejas National Historic Trail.

(c) The commission shall cooperate with the Texas Department of Transportation to designate, interpret, and market the El Camino Real de los Tejas National Historic Trail as a Texas historic highway.

(d) To supplement revenue available for the purposes under Subsection (c), the commission and the Texas Department of Transportation may pursue federal funds dedicated to highway enhancement.

(e) A designation of the El Camino Real de los Tejas National Historic Trail as a Texas historic highway may not be construed as a designation under the National Historic Preservation Act (16 U.S.C. Section 470 et seq.).

(f) The Texas Department of Transportation is not required to design, construct, or erect a marker under this section unless a grant or donation of funds is made to the department to cover the cost of the design, construction, and erection of the marker. Money received to cover the cost of the marker shall be deposited to the credit of the state highway fund.

Added by Acts 2005, 79th Leg., Ch. 1316 (H.B. 3269), Sec. 1, eff. June 18, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 461 (S.B. 1831), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 838 (H.B. 3421), Sec. 1, eff. September 1, 2011.

Sec. 442.022. USE OF TECHNOLOGY. The commission shall implement a policy requiring the commission to use appropriate technological solutions to improve the commission's ability to perform its functions. The policy must ensure that the public is able to interact with the commission on the Internet.

Added by Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 10, eff. September 1, 2007.

Sec. 442.023. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE PROCEDURES. (a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of commission rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the commission's jurisdiction.

(b) The commission's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The commission shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the commission.

Added by Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 10, eff. September 1, 2007.

Sec. 442.024. SCENIC LOOP ROAD--BOERNE STAGE ROAD--TOUTANT BEAUREGARD ROAD HISTORIC CORRIDOR. (a) The commission shall designate as a historic corridor the corridor that follows part of the Old Spanish Trail automobile highway in Bexar County and consists of four legs. The first leg begins at State Highway 16 in Helotes and continues north on the Scenic Loop Road to the intersection of the Boerne Stage Road and the Toutant Beauregard Road. The second leg begins at the Boerne Stage Road in Leon Springs and continues west to the intersection of the Scenic Loop Road and the Toutant Beauregard Road. The third leg begins at the intersection of the Scenic Loop Road, the Boerne Stage Road, and the Toutant Beauregard Road and continues west on the Toutant Beauregard Road to the Kendall County line. The fourth leg begins at the intersection of the Scenic Loop Road, the Boerne Stage Road, and the Toutant Beauregard Road and continues north on the Boerne Stage Road to the Kendall County line.

(b) The historic corridor designated by the commission shall be known as the Scenic Loop Road--Boerne Stage Road--Toutant Beauregard Road Historic Corridor.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1137 (H.B. 1499), Sec. 1, eff. September 1, 2011.

18135

Sec. 442.025. TEXAS HISTORIC ROADS AND HIGHWAYS PROGRAM. (a) The commission shall cooperate with the Texas Department of Transportation to establish a program for the identification, designation, interpretation, and marketing of Texas historic roads and highways.

(b) The designation of a road or highway under a program established under this section is not, and may not be considered to be, a designation under the National Historic Preservation Act (16 U.S.C. Section 470 et seq.).

(c) To supplement revenue available for the program, the commission and the Texas Department of Transportation may pursue federal funds dedicated to highway enhancement for the program.

(d) The Texas Department of Transportation is not required to construct or erect a marker under this section unless a grant or donation of funds is made to cover the cost of the design, construction, and erection of the marker. Money received to cover the cost of a marker under this subsection shall be deposited to the credit of the state highway fund.

Added by Acts 2009, 81st Leg., R.S., Ch. 685 (H.B. 2642), Sec. 1, eff. September 1, 2009.

Sec. 442.026. BANKHEAD HIGHWAY AS TEXAS HISTORIC HIGHWAY. (a) The commission shall cooperate with the Texas Department of Transportation to identify, designate, interpret, and market the Bankhead Highway as a Texas historic highway, for the portion of the Bankhead Highway located in this state.

(b) To supplement revenue available for the purposes under Subsection (a), the commission and the Texas Department of Transportation may pursue federal funds dedicated to highway enhancement.

(c) A designation of the Bankhead Highway as a Texas historic highway may not be construed as a designation under the National Historic Preservation Act (16 U.S.C. Section 470 et seq.).

(d) The Texas Department of Transportation is not required to design, construct, or erect a marker under this section unless a grant or donation of funds is made to the department to cover the cost of the design, construction, and erection of the marker. Money received to cover the cost of the marker shall be deposited to the credit of the state highway fund.

Added by Acts 2009, 81st Leg., R.S., Ch. 1315 (H.B. 2644), Sec. 1, eff. September 1, 2009.

Sec. 442.027. STATE HIGHWAY 20 AS TEXAS HISTORIC HIGHWAY. (a) The commission shall cooperate with the Texas Department of Transportation to designate, interpret, and market State Highway 20 as a Texas historic highway.

(b) To supplement revenue available for the purposes under Subsection (a), the commission and the Texas Department of Transportation may pursue federal funds dedicated to highway enhancement.

(c) A designation of State Highway 20 as a Texas historic highway may not be construed as a designation under the National Historic Preservation Act (16 U.S.C. Section 470 et seq.).

(d) The Texas Department of Transportation is not required to design, construct, or erect a marker under this section unless a grant or donation of funds is made to the department to cover the cost of the design, construction, and erection of the marker. Money received to cover the cost of the marker shall be deposited to the credit of the state highway fund.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1287 (H.B. 1866), Sec. 1, eff. September 1, 2011.

Text of section as added by Acts 2013, 83rd Leg., R.S., Ch. 376 (H.B. 3211), Sec. 1

For text of section as added by Acts 2013, 83rd Leg., R.S., Ch. 704 (H.B. 3070), Sec. 1, see other Sec. 442.028.

Sec. 442.028. HISPANIC HERITAGE CENTER OF TEXAS. The commission may:

- (1) assist the Hispanic Heritage Center of Texas in establishing a facility to educate Texans regarding the contributions and historical significance of Hispanic persons to this state;
- (2) solicit and accept gifts, donations, and grants of money or property from any public or private source to be used for the purposes of this section; and
- (3) use money appropriated to the commission for the purposes of this section to assist the Hispanic Heritage Center of Texas as described by Subdivision (1).

Added by Acts 2013, 83rd Leg., R.S., Ch. 376 (H.B. 3211), Sec. 1, eff. September 1, 2013.

Text of section as added by Acts 2013, 83rd Leg., R.S., Ch. 704 (H.B. 3070), Sec. 1

For text of section as added by Acts 2013, 83rd Leg., R.S., Ch. 376 (H.B. 3211), Sec. 1, see

other Sec. 442.028.

181354

Sec. 442.028. U.S. HIGHWAY 80 AS TEXAS HISTORIC HIGHWAY. (a) The commission shall cooperate with the Texas Department of Transportation to designate, interpret, and market the portion of U.S. Highway 80 in Gregg and Upshur Counties as a Texas historic highway.

(b) To supplement revenue available for the purposes under Subsection (a), the commission and the Texas Department of Transportation may pursue federal funds dedicated to highway enhancement.

(c) A designation of a portion of U.S. Highway 80 as a Texas historic highway may not be construed as a designation under the National Historic Preservation Act (16 U.S.C. Section 470 et seq.).

(d) The Texas Department of Transportation is not required to design, construct, or erect a marker under this section unless a grant or donation of funds is made to the department to cover the cost of the design, construction, and erection of the marker. Money received to cover the cost of the marker shall be deposited to the credit of the state highway fund.

Added by Acts 2013, 83rd Leg., R.S., Ch. 704 (H.B. 3070), Sec. 1, eff. September 1, 2013.

SUBCHAPTER B. NATIONAL MUSEUM OF THE PACIFIC WAR

Sec. 442.051. MUSEUM DEFINITION; JURISDICTION. (a) In this subchapter, "museum" means the National Museum of the Pacific War.

(b) The museum is under the jurisdiction of the commission.

Redesignated from Parks and Wildlife Code, Subchapter Q, Chapter 22 and amended by Acts 2005, 79th Leg., Ch. 1259 (H.B. 2025), Sec. 3, eff. June 18, 2005.

Sec. 442.052. POWERS OF COMMISSION. With respect to the museum and in addition to its other powers and duties, the commission:

(1) shall foster and commemorate the memory of the era of supreme United States naval power upon the seas and the men and women of the armed services whose gallant and selfless dedication to duty made this era possible;

(2) shall administer the museum at Fredericksburg;

(3) shall act in any other capacity relative to preserving naval documents, relics, and other items of historical interest;

(4) may employ and discharge a museum director and other employees it deems necessary to fulfill its duties and responsibilities within the limits of funds available;

(5) may accept on behalf of the State of Texas donations of money, property, and historical relics related to the museum's theme; and

(6) may acquire property and historical relics by purchase within the limits of funds available.

Redesignated from Parks and Wildlife Code, Subchapter Q, Chapter 22 and amended by Acts 2005, 79th Leg., Ch. 1259 (H.B. 2025), Sec. 3, eff. June 18, 2005.

Sec. 442.053. REVENUE BONDS FOR MUSEUM. (a) The commission by resolution may request the Texas Public Finance Authority to issue revenue bonds or other revenue obligations to finance the repair, renovation, improvement, expansion, and equipping of the museum for one or more projects not to exceed an aggregated estimated cost of \$9 million.

(b) On receipt of a request by the commission under this section, the Texas Public Finance Authority shall promptly issue the bonds or other revenue obligations under and in accordance with Chapter 1232.

(c) The commission shall deposit the proceeds of revenue bonds or other revenue obligations issued under this section to the credit of the National Museum of the Pacific War account and may use the proceeds only to finance the repair, renovation, improvement, expansion, and equipping of the museum.

(d) Notwithstanding any other law, the commission may contract with the Admiral Nimitz Foundation for the administration and operation of the museum, including any necessary renovation, improvement, or expansion of the museum.

(e) The commission may accept contributions from the Admiral Nimitz Foundation and other sources in connection with the repair, renovation, improvement, expansion, equipping, or operation of the museum.

Redesignated from Parks and Wildlife Code, Subchapter Q, Chapter 22 and amended by Acts 2005, 79th Leg., Ch. 1259 (H.B. 2025), Sec. 3, eff. June 18, 2005.

Sec. 442.054. NATIONAL MUSEUM OF THE PACIFIC WAR ACCOUNT. (a) The National Museum of the Pacific War account is a separate account in the general revenue fund.

(b) The account consists of:

- (1) transfers made to the account;
- (2) revenue from the operation of the museum;
- (3) grants and donations made by the Admiral Nimitz Foundation and other sources; and
- (4) income earned on investments of money in the account.

(c) Appropriations to the commission for the preservation, operation, or maintenance of the museum shall be deposited to the credit of the account.

(d) The commission may use money in the account to administer this subchapter, including to support the preservation, repair, renovation, improvement, expansion, equipping, operation, or maintenance of the museum or acquisition of historical items appropriate to the museum.

(e) Any money in the account not used in a fiscal year remains in the account. The account is exempt from the application of Section 403.095.

Redesignated from Parks and Wildlife Code, Subchapter Q, Chapter 22 and amended by Acts 2005, 79th Leg., Ch. 1259 (H.B. 2025), Sec. 3, eff. June 18, 2005.

Sec. 442.055. GRANTS; DONATIONS. The commission may accept a grant or donation for any program or purpose of the museum.

Redesignated from Parks and Wildlife Code, Subchapter Q, Chapter 22 and amended by Acts 2005, 79th Leg., Ch. 1259 (H.B. 2025), Sec. 3, eff. June 18, 2005.

SUBCHAPTER C. CERTAIN HISTORIC SITES

Sec. 442.071. DEFINITION. In this subchapter, "historic site" means a site or park listed under Section 442.072.

Added by Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 11, eff. June 15, 2007.

Sec. 442.072. JURISDICTION. (a) The following historic sites and parks formerly under the jurisdiction of the Parks and Wildlife Department 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) Fort Griffin State Historic Site;
- (8) Fort Lancaster State Historic Site;
- (9) Fort McKavett State Historic Site;
- (10) Fulton Mansion State Historic Site;
- (11) Landmark Inn State Historic Site;
- (12) Levi Jordan State Historic Site;
- (13) Magoffin Home State Historic Site;
- (14) Sabine Pass Battleground State Historic Site;
- (15) Sam Bell Maxey House State Historic Site;
- (16) San Felipe State Historic Site;
- (17) Starr Family Home State Historic Site;
- (18) Varner-Hogg Plantation State Historic Site.

(b) This subsection applies to a historic site that the state is required to operate in a particular manner or for a particular purpose, such as a site improved with federal money subject to federal restrictions on the purposes for which the improved site may be used or a site donated to the state subject to a reversion clause providing that the title reverts to the grantor when the site is not used for the purposes for which it was acquired. The commission has all powers necessary to operate the site in the required manner or for the required purpose.

(c) The commission may enter into an agreement with a nonprofit or for-profit corporation, foundation, association, or other nonprofit or for-profit entity for the expansion, renovation, management, operation, or financial support of a historic site.

Added by Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 11, eff. June 15, 2007.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 550 (S.B. 615), Sec. 4, eff. September 1, 2013.

181354

Sec. 442.073. HISTORIC SITE ACCOUNT. (a) The historic site account is a separate account in the general revenue fund.

(b) The account consists of:

- (1) credits made to the commission under Section 151.801, Tax Code;
- (2) transfers to the account;
- (3) interest earned on the account;
- (4) fees and other revenue from operation of a historic site; and
- (5) grants and donations accepted under Section 442.074.

(c) A fee or other revenue generated at a historic site must be credited to the account.

(d) Money in the account may be used only to administer, operate, preserve, repair, expand, or otherwise maintain a historic site or to acquire a historical item appropriate to a historic site.

(e) Any money in the account not used in a fiscal year remains in the account. The account is exempt from the application of Section 403.095.

Added by Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 11, eff. June 15, 2007.

Sec. 442.074. GRANTS; DONATIONS. (a) The commission may seek and accept grants and donations for a historic site from any appropriate source.

(b) Money accepted under this section shall be deposited to the credit of the historic site account.

Added by Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 11, eff. June 15, 2007.

Sec. 442.075. TRANSFER OF HISTORIC SITES FROM PARKS AND WILDLIFE. (a) Section 442.071 does not apply to this section.

(b) By interagency agreement, a historic site under the jurisdiction of the Parks and Wildlife Department may be transferred to the commission.

(c) If jurisdiction over a historic site is transferred under this section, all rights, powers, duties, obligations, functions, activities, property, and programs of the Parks and Wildlife Department relating to the site are transferred to the commission.

(d) On or after the transfer of jurisdiction over a historic site, the commission may enter into an agreement with a nonprofit or for-profit corporation, including the Admiral Nimitz Foundation, for the expansion, renovation, management, operation, or financial support of the site.

(e) The legislature may adjust the percentages allocated to the commission and the Parks and Wildlife Department under Section 151.801(c), Tax Code, in future appropriations to reflect the transfer of a site under this section and the associated savings or costs to each agency.

Added by Acts 2005, 79th Leg., Ch. 1259 (H.B. 2025), Sec. 2, eff. June 18, 2005.

Renumbered from Government Code, Section 442.019 and amended by Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 12, eff. June 15, 2007.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 550 (S.B. 615), Sec. 5, eff. September 1, 2013.

SUBCHAPTER D. OPERATION OF HISTORIC SITES

Sec. 442.101. AUTHORITY TO CONTRACT. (a) For the purpose of carrying out the powers, duties, and responsibilities of the commission related to historic sites described by Subchapter C, the executive director or the executive director's designee may negotiate, contract, or enter an agreement for:

- (1) professional services relating to a commission project, including project management, design, bid, and construction administration; and
- (2) construction, restoration, renovation, or preservation of any building, structure, or landscape.

(b) The commission may contract with any appropriate entity, including a for-profit corporation, for services necessary to carry out its responsibilities regarding historic sites described by Subchapter C.

(c) The commission by rule shall adopt policies and procedures consistent with Subchapter A, Chapter 2254, and other applicable state procurement practices for soliciting and awarding contracts under this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 5, eff. June 17, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 550 (S.B. 615), Sec. 6, eff. September 1, 2013.

181354

Sec. 442.102. CONSTRUCTION OF ROADS BY TEXAS DEPARTMENT OF TRANSPORTATION. (a) The commission may contract with the Texas Transportation Commission for the construction and paving of roads in and adjacent to historic sites described by Subchapter C.

(b) Agreements under this section must be made in conformity with Chapter 771.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 5, eff. June 17, 2011.

Sec. 442.103. LEASE OF LANDS AND IMPROVEMENTS. (a) The commission may lease any land or improvement that is part of a historic site described by Subchapter C to a municipality, county, special district, nonprofit organization, or political subdivision. After the execution of the lease, the leased area may not be referred to as a state facility and state funds may not be used to operate or maintain the property.

(b) The conditions and duration of the lease agreement are determined by the agreement of the commission and the lessee.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 5, eff. June 17, 2011.

Sec. 442.104. LEASE OF GRAZING RIGHTS; SALE OF PRODUCTS. (a) The commission may lease grazing rights on any historic site described by Subchapter C and may lease from other parties grazing rights necessary for proper livestock management. The commission may harvest and sell, or sell in place, any timber, hay, livestock, or other product grown on any historic site described by Subchapter C that the commission finds to be in excess of natural resource management, educational, or interpretive objectives. Timber may be harvested only for forest pest management, salvage, or habitat restoration and consistent with good forestry practices and the advice of the Texas Forest Service.

(b) The commission may agree to accept materials, supplies, or services instead of money as part or full payment for a sale or lease under this subchapter. The commission may not assign to the materials, supplies, or services accepted as payment under this subsection a value that exceeds their actual market value.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 5, eff. June 17, 2011.

Sec. 442.105. ESTABLISHMENT OF FEES; REVENUE. (a) In setting the amounts of the fees for entering, reserving, or using a historic site described by Subchapter C, the commission:

- (1) shall establish reasonable and necessary fees for the administration of commission programs; and
- (2) may not set fees in amounts that permit the commission to maintain unnecessary fund balances.

(b) The commission may sell any item in the possession of the commission in which the state has title, or acquire and resell items if a profit can be made, to provide funding for programs administered by the commission.

(c) The commission may set and charge a fee for the use of a credit card to pay a fee imposed by the commission in an amount reasonable and necessary to reimburse the commission for the costs involved in the use of the card.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 5, eff. June 17, 2011.

Sec. 442.106. CONCESSIONS. The commission may operate or grant contracts to operate concessions on the grounds of historic sites described by Subchapter C. The commission may make rules governing the granting or operating of concessions. The commission may establish and operate staff concessions, including salaries, consumable supplies and materials, operating expenses, rental and other equipment, and other capital outlays.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 5, eff. June 17, 2011.

Sec. 442.107. PUBLICATIONS ON HISTORIC SITES. (a) The commission may provide or sell information about historic sites described by Subchapter C to the public, including books, magazines, photographs, prints, and bulletins.

(b) The commission may enter into contractual agreements for publication of information concerning historic sites described by Subchapter C.

18135

(c) The commission may receive royalties on commission-owned materials that are sold or supplied to others by the commission for publication.

(d) Money received under this section shall be deposited in the state treasury to the credit of the account from which expenses for the publication were paid.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 5, eff. June 17, 2011.

Sec. 442.108. DEPOSIT OF RECEIPTS. The commission shall deposit to the credit of the historic site account all revenue, less allowable costs, received from the following sources:

- (1) the operation of concessions at historic sites described by Subchapter C;
- (2) lease of grazing rights on a historic site;
- (3) sale of products grown on a historic site;
- (4) fines received from violations of rules governing historic sites under Subchapter E; and
- (5) any other source.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 5, eff. June 17, 2011.

Sec. 442.109. MISTAKEN DEPOSIT. (a) Any funds deposited in the state treasury under this subchapter by the commission by mistake of fact or mistake of law shall be refunded by warrant issued against the fund and credited against the account in the state treasury into which the money was deposited. Refunds necessary to make the proper correction shall be appropriated by the General Appropriations Act.

(b) The comptroller may require written evidence from the executive director of the commission to indicate the reason for the mistake of fact or law before issuing the refund warrant authorized by Subsection (a).

(c) This section does not apply to any funds that have been deposited under a written contract.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 5, eff. June 17, 2011.

Sec. 442.110. PROGRAMS FOR THE DEVELOPMENT OF HISTORIC SITES AND STRUCTURES. (a) The commission may apply to any appropriate agency or officer of the United States for participation in or the receipt of aid from any federal program involving the planning, acquisition, and development of historic sites and structures described by Subchapter C.

(b) The commission may contract with the United States to plan, acquire, and develop historic sites and structures described by Subchapter C in conformity with any federal act concerning the development of historic sites and structures.

(c) The commission shall keep financial and other records relating to programs under this section and shall furnish to appropriate officials and agencies of the United States and of this state all reports and information reasonably necessary for the administration of the programs.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 5, eff. June 17, 2011.

Sec. 442.111. FINANCING OF HISTORIC SITE PROGRAMS. (a) The operation, maintenance, and improvement of historic sites described by Subchapter C shall be financed from the general revenue fund, the historic site account, other accounts that may be authorized by law, and donations, grants, and gifts received by the commission for these purposes.

(b) A donation, grant, or gift accruing to the state or received by the commission for the purpose of operating, maintaining, improving, or developing historic sites described by Subchapter C may not be used for any purpose other than the operation, maintenance, or developing of historic sites.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 5, eff. June 17, 2011.

SUBCHAPTER E. RULES GOVERNING HISTORIC SITES

Sec. 442.201. AUTHORIZATION. The commission may adopt rules governing the health, safety, and protection of persons and property in historic sites described by Subchapter C under the control of the commission, including public water within historic sites.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 5, eff. June 17, 2011.

Sec. 442.202. SCOPE OF RULES. The rules may govern:

- (1) the conservation, preservation, and use of state property, whether natural features or constructed facilities;
- (2) the abusive, disruptive, or destructive conduct of persons;
- (3) the activities of site visitors, including camping, swimming, boating, fishing, or other recreational activities;
- (4) the possession of pets or animals;
- (5) the regulation of traffic and parking; and
- (6) conduct that endangers the health or safety of site visitors or their property.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 5, eff. June 17, 2011.

Sec. 442.203. POSTING OF RULES. All specific or general rules applying to a historic site described by Subchapter C must be posted in a conspicuous place at the site. A copy of the rules shall be made available on request to persons visiting the site.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 5, eff. June 17, 2011.

Sec. 442.204. REMOVAL FROM SITE. (a) Any person directly or indirectly responsible for disruptive, destructive, or violent conduct that endangers property or the health, safety, or lives of persons or animals may be removed from a historic site described by Subchapter C for a period not to exceed 48 hours.

(b) Before removal under this section, the person must be given notice of the provisions of this section and an opportunity to correct the conduct justifying removal.

(c) A court of competent jurisdiction may enjoin a person from reentry to the historic site described by Subchapter C, on cause shown, for any period set by the court.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 5, eff. June 17, 2011.

Sec. 442.205. ENFORCEMENT OF RULES. Rules adopted under this subchapter may be enforced by any peace officer. A notice to appear may be issued by a peace officer for violation of a rule on a form prescribed by the commission.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 5, eff. June 17, 2011.

Sec. 442.206. EFFECT OF RULES. A rule adopted under this subchapter does not amend or repeal any penal law of this state.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 5, eff. June 17, 2011.

Sec. 442.207. PENALTY. A person who violates a rule adopted under this subchapter commits an offense that is a Class C misdemeanor.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1245 (S.B. 1518), Sec. 5, eff. June 17, 2011.