

## **BILL ANALYSIS**

Senate Research Center  
80R16634 EJI-F

C.S.S.B. 900  
By: Deuell  
Government Organization  
4/25/2007  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Texas Historical Commission (commission) was founded in 1953 and is the state agency for historic preservation. The commission identifies, designates, preserves, and interprets historical resources in Texas; reviews proposed projects that impact historical resources; and provides assistance to communities and organizations for developing and preserving historical resources.

The commission is subject to the Sunset Act and will be abolished on September 1, 2007, unless continued by the legislature. C.S.S.B. 900 continues the commission for 12 years and enacts the recommendations of the Sunset Advisory Commission (SAC) relating to the Texas Historical Commission. The bill clearly defines the agency's relationship with Friends of the Texas Historical Commission, creates a statewide approach for historical markers, and contains several of SAC's across-the-board recommendations.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Historical Commission in SECTION 5 (Section 442.0055, Government Code) and SECTION 6 (Section 442.006, Government Code) of this bill.

Rulemaking authority previously granted to the Texas Historical Commission is rescinded in SECTION 7 (Section 442.009, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Sections 442.002(b) and (k), Government Code, as follows:

(b) Prohibits a person from serving as a public member of the Texas Historical Commission (commission), rather than provides that a person is not eligible for appointment to the commission, if the person or the person's spouse meets certain criteria. Includes a person who 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 to the list of people prohibited from serving as a public member of the commission. Makes nonsubstantive and conforming changes.

(k) Provides that the commission is abolished and this chapter expires on September 1, 2019, rather than 2007.

SECTION 2. Amends Section 442.0021, Government Code, as follows:

Sec. 442.0021. COMMISSION MEMBERS: TRAINING. (a) Prohibits a person who is appointed to and qualifies for office as a commission member from voting, deliberating, or being counted as a member in attendance of a meeting of the commission until the person completes a training program complying with this section. Deletes existing text providing that before a member of the commission is authorized to assume the member's duties and be confirmed by the senate one course of the training program established under this section must be completed.

(b) Provides that the training program must, rather than is required as established under this section, to provide the person, rather than member, with certain

information. Sets forth and deletes, respectively, certain information that must be provided to the person. Makes conforming changes.

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

SECTION 3. Amends Sections 442.0022(a) and (b), Government Code, as follows:

(a) Defines "Texas trade association." Deletes existing text prohibiting certain persons from being a member or employee of the commission.

(b) Prohibits a person from being a member or employee 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.) of the commission if certain circumstances exist. Deletes existing text prohibiting certain persons from being a member or employee of the commission.

SECTION 4. Amends Section 442.004, Government Code, by adding Subsection (b-1), as follows:

(b-1) Prohibits the executive director from serving as a voting director on the board of directors of an affiliated nonprofit organization formed under Section 442.005(p) (authorizing the commission to accept certain items to carry out any purpose of this chapter and to participate in the establishment and operation of an affiliated nonprofit organization whose purpose is to raise funds for or provide services or other benefits to the commission).

SECTION 5. Amends Subchapter A, Chapter 442, Government Code, by adding Section 442.0055, as follows:

Sec. 442.0055. AFFILIATED NONPROFIT ORGANIZATION; RULES; GUIDELINES. (a) Requires the commission to adopt rules governing the relationship between the commission and an affiliated nonprofit organization formed under Section 442.005(p), including rules that meet certain minimum conditions.

(b) Requires the commission to establish guidelines for identifying and defining the administrative and financial support the commission is authorized to provide for an affiliated nonprofit organization formed under Section 442.005(p).

SECTION 6. Amends Section 442.006, Government Code, by amending Subsection (b) and adding Subsection (h), as follows:

(b) Includes the development of statewide themes for the program related to the commission's preservation goals for the state and the establishment of a limit for the number of markers the commission awards annually to the activities the commission is required to undertake. Makes conforming changes.

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

SECTION 7. Amends Sections 442.009(a), (b), and (c), Government Code, as follows:

(a) Requires the commission to maintain a system to promptly and efficiently act on complaints filed with the commission. Requires the commission to 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, rather than prepare information of public interest describing the functions of the commission and the procedures by which complaints are filed with and resolved by the commission and requiring the commission to make the information available to the public and appropriate state agencies.

(b) Requires the commission to make information available describing its procedures for complaint investigation and resolution, rather than requiring the commission, by rule, to establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the commission for the purpose of directing complaints to the commission.

(c) Requires the commission to periodically notify complaint parties of the status of the complaint until final disposition, rather than keep certain information about each complaint filed with the commission.

SECTION 8. Amends Subchapter A, Chapter 442, Government Code, by adding Sections 442.022 and 442.023, to read as follows:

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

Sec. 442.023. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE PROCEDURES. Requires the commission to develop and implement the use of certain rulemaking and alternative dispute resolution procedures. Provides that 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. Requires the commission to designate a trained person to complete certain tasks.

SECTION 9. Repealer: Sections 442.0022(c) (providing parameters describing a Texas trade association for the purposes of this section) and 442.009(d) (requiring the commission to keep a file of each written complaint filed with the commission that the agency has the authority to resolve and requiring the commission to provide certain information to the person filing the complaint and the entities listed in the complaint), Government Code.

SECTION 10. Requires the commission to adopt the rules required by Sections 442.0055 and 442.006(h), Government Code, as added by this Act, not later than February 1, 2008.

SECTION 11. Makes application of the changes in law made by this Act in the prohibitions or qualifications applying to a member of the commission prospective to September 1, 2007. Makes application of the changes in law made by this Act to Section 442.009, Government Code, prospective to September 1, 2007.

SECTION 12. Effective date: September 1, 2007.