AN ACT
relating to the powers and duties of the Texas Historical Commission; imposing a penalty.

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

SECTION 1. Subchapter F, Chapter 411, Government Code, is amended by adding Section 411.1146 to read as follows:

Sec. 411.1146. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS HISTORICAL COMMISSION. (a) The Texas Historical Commission is entitled to obtain criminal history record information maintained by the department or the identification division of the Federal Bureau of Investigation that relates to a person who is:

(1) an employee, volunteer, or intern;
(2) an applicant to be an employee, volunteer, or intern; or
(3) a contractor or subcontractor for the commission.

(b) Criminal history record information obtained by the Texas Historical Commission under this section may not be released or disclosed to any person except on court order or with the consent of the person who is the subject of the information.

(c) The Texas Historical Commission shall collect and destroy criminal history record information that relates to a person immediately after the commission uses the information to make an employment or other decision related to the person or take a
personnel action relating to the person who is the subject of the
criminal history record information.

(d) The Texas Historical Commission may not obtain criminal
history record information under this section unless the commission
first adopts policies and procedures that provide that evidence of
a criminal conviction or other relevant information obtained from
the criminal history record information does not automatically
disqualify an individual from obtaining employment or another
position or contract with the commission. The policies and
procedures developed under this section must provide that the
hiring official will determine whether the individual is qualified
for employment based on factors including:

(1) the specific duties of the position;
(2) the number of offenses committed by the
individual;
(3) the nature and seriousness of each offense;
(4) the length of time between the offense and the
employment decision;
(5) the efforts by the individual at rehabilitation;
and
(6) the accuracy of the information on the
individual's employment application.

SECTION 2. Section 442.0052, Government Code, is amended by
adding Subsections (c) and (d) to read as follows:

(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
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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.

SECTION 3. Subchapter A, Chapter 442, Government Code, is
amended by adding Section 442.0054 to read as follows:

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.

SECTION 4. Subchapter A, Chapter 442, Government Code, is amended by adding Sections 442.0056, 442.0057, 442.0058, and 442.0059 to read as follows:

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.
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(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 contracts 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
archaeological survey of the site. In formulating plans, the
commission shall:

(1) consider the results from the archaeological survey
for the site if the plan is for a specific site; and

(2) consider the resources necessary to manage a site.

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
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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.
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.
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.

SECTION 5. Chapter 442, Government Code, is amended by adding Subchapters D and E to read as follows:

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 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.

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.

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.

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
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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.

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.

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.

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.
(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.

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.

Sec. 442.109. MISTAKEN DEPOSIT. (a) Any funds deposited
in the state treasury under this subchapter by the commission by
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1 mistake of fact or mistake of law shall be refunded by warrant
2 issued against the fund and credited against the account in the
3 state treasury into which the money was deposited. Refunds
4 necessary to make the proper correction shall be appropriated by
5 the General Appropriations Act.
6
(b) The comptroller may require written evidence from the
7 executive director of the commission to indicate the reason for the
8 mistake of fact or law before issuing the refund warrant authorized
9 by Subsection (a).
10
(c) This section does not apply to any funds that have been
11 deposited under a written contract.

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.

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.

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.

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
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.

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.

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.

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

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

SECTION 6. Section 651.004, Government Code, is amended by adding Subsection (g) to read as follows:
The Texas Historical Commission is not required to comply with management-to-staff ratio requirements of this section with respect to employees located in field-based operations.

SECTION 7. Subsection (a), Section 2166.003, Government Code, is amended to read as follows:

(a) Unless otherwise provided, this chapter does not apply to:

(1) a project constructed by and for the Texas Department of Transportation;
(2) a project constructed by and for a state institution of higher education;
(3) a pen, shed, or ancillary building constructed by and for the Department of Agriculture for the processing of livestock before export;
(4) a project constructed by the Parks and Wildlife Department;
(5) a repair or rehabilitation project, except a major renovation, of buildings and grounds on the commission inventory;
(6) a repair and rehabilitation project of another using agency, if all labor for the project is provided by the regular maintenance force of the using agency under specific legislative authorization and the project does not require the advance preparation of working plans or drawings;
(7) a repair and rehabilitation project involving the use of contract labor, if the project has been excluded from this chapter by commission rule and does not require the advance preparation of working plans or drawings;
(8) an action taken by the Texas Commission on Environmental Quality under Subchapter F or I, Chapter 361, Health and Safety Code;

(9) a repair, rehabilitation, or construction project on property owned by the Texas Department of Housing and Community Affairs or the Texas State Affordable Housing Corporation; [ex]

(10) a project constructed by and for the Veterans' Land Board; or

(11) a project constructed by and for the Texas Historical Commission.

SECTION 8. Subsection (a), Section 13.001, Parks and Wildlife Code, is amended to read as follows:

(a) Except as otherwise provided by law, the following are under the department's control and custody:

(1) all recreational and natural areas designated as state parks; and

(2) all historical sites under the jurisdiction of [acquired by] the department.

SECTION 9. Section 13.0052, Parks and Wildlife Code, is amended to read as follows:

Sec. 13.0052. REPORTS. The department shall periodically prepare reports on plans to preserve and develop historical sites under the jurisdiction of the department in this state.

SECTION 10. Section 13.010, Parks and Wildlife Code, is amended to read as follows:

Sec. 13.010. HISTORIC SITES. The department and the Texas Historical Commission may cooperate to locate, designate, and
suitably mark historic grounds, battlefields, and other historic spots in Texas as historic sites. Fitting markers may be erected; however, no expense may be incurred in the name of the state for this project.

SECTION 11. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.
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David Dewhurst
President of the Senate

Joe Straus
Speaker of the House

I hereby certify that S.B. No. 1518 passed the Senate on April 7, 2011, by the following vote: Yeas 31, Nays 0.

Betty Law
Secretary of the Senate

I hereby certify that S.B. No. 1518 passed the House on May 19, 2011, by the following vote: Yeas 146, Nays 2, one present not voting.

Robert Haney
Chief Clerk of the House

Approved:

17 JUN '11

Rick Perry
Governor

FILED IN THE OFFICE OF THE SECRETARY OF STATE
JUN 17 2011

Secretary of State