

SUBJECT: Amending provisions for preservation of state and local historic property

COMMITTEE: County Affairs — favorable, with amendment

VOTE: 5 ayes — Ramsay, B. Brown, Farabee, Salinas, Shields
0 nays
4 absent — G. Lewis, Chisum, Hilderbran, Krusee

WITNESSES: For — Jim Allison, County Judges and Commissioners Association of Texas; John Nau, Texas Historical Commission
Against — None
On — Larry Oaks, Texas Historical Commission

BACKGROUND: Government Code, sec. 442.015 authorizes the Texas Historical Commission (THC) to use money in the Texas Preservation Trust Fund to help public or private entities buy, restore, preserve, or conduct planning and educational activities leading to the preservation of historic property in Texas that is listed in the National Register of Historic Places or Recorded Texas Historic Landmarks, or that the commission deems eligible for such listing. Money deposited to the account specifically for architectural or archeological projects may be used only as specified. In the absence of such specification, 90 percent of the money must be used for historic architectural projects and 10 percent must be used for archeological projects. As a condition of providing financial assistance, the commission must require the creation of a preservation easement in the property in favor of the state or the creation of other appropriate covenants. THC must appoint a nine-member advisory board for the fund that must include one archeologist with substantial experience in Texas archeology and one director of a nonprofit historic preservation organization.

Under the Local Government Code, a county commissioners court may appoint a county historical commission to conduct programs suggested by the commissioners court or by THC to preserve the county's historical heritage. Commission members must be appointed in January of odd-numbered years for two-year terms. If the commissioners court fails to

appoint a commission by April 1 of each odd-numbered year, THC may appoint the commission after 30 days' written notice to the commissioners court. The commission must meet at least once a year at the county seat.

The county historical commission must conduct an ongoing survey of historic buildings and other sites, report the data collected to the commissioners court and THC, and compile the data in a county register. The commission also must submit an annual report of its activities and recommendations to the commissioners court and THC, including recommendations for acquiring properties of historical significance. The commission also may designate historical trails and other areas of historical interest, operate and manage any museum owned or leased by the county, acquire artifacts for the museum, and supervise museum employees. The commissioners court may pay the commission's necessary expenses.

DIGEST:

HB 10, as amended, would revise portions of the Government Code and Local Government Code relating to the duties and authorities of THC and county historical commissions. It would take effect September 1, 2001.

THC duties and authority. HB 10 would allow THC to accept a gift of real property, whether of historical value or not. The commission could arrange for the preservation, maintenance, and public exhibition of the property or could sell the property at fair market value and use the proceeds to carry out any of the commission's purposes.

The bill would require THC to administer a program to help cities, counties, museums, and county historical commissions acquire historical artifacts discovered in Texas that are significant to Texas or American history, in addition to helping these entities develop or improve museum facilities to display such artifacts, as required by current law.

HB 10 would delete the requirement that money deposited to the Preservation Trust Fund for an unspecified purpose be spent 90 percent on architectural projects and 10 percent on archeological projects. Instead, the bill would require such funds to be unencumbered and to accrue to the benefit of the account. As a condition of providing financial assistance, THC could require the designation of the property as a State Archeological Landmark rather than the creation of a preservation easement or other appropriate covenant. The advisory board would have to include two

archeologists and two directors of nonprofit historic preservation organizations, rather than one each.

HB 10 would encourage THC to establish a program to identify and preserve abandoned cemeteries across Texas, stating that THC should use volunteers to the maximum extent possible and to model the program on the General Land Office's (GLO) "Adopt-A-Beach" program, to the extent appropriate. The commission could accept gifts, grants, and in-kind donations from public and private entities to implement this program, and the Legislature could appropriate money to THC for this purpose. The commission could adopt rules reasonably necessary to implement the program.

THC would have to make orientation materials and training available to all county historical commissions. The bill would encourage county commissions to be represented at THC-sponsored informational or educational meetings at least twice a year. County commissions would have to carry out board and volunteer training with THC assistance.

County historical preservation programs. HB 10 would specify that county historical preservation programs suggested by THC would have to be consistent with the statewide preservation plan. In suggesting programs, THC would have to consider the county's fiscal and human resources available to conduct the programs.

Members of the county historical commission would have to be people who broadly reflected the county's age, ethnic, and geographic diversity. Each member would have to have an interest in historic preservation and an understanding of local history and resources. The commissioners court would have to fill a vacancy on the commission for the remainder of an unexpired term and would have to give THC a list of appointed members and a mailing address for each member. The county judge would serve as commission chair during any interim period.

The county historical commission would have to meet at least four times a year, although not necessarily at the county seat. All meetings would have to be conducted in accordance with the Texas Open Meetings Act (Government Code, ch. 551).

HB 10 would change the word “shall” to “should” in the section of the Local Government Code dealing with the county historical commission’s ongoing survey of historical sites. The bill would add archaeological sites and collections and “important endangered properties” to the list of resources that the commission “should” survey and report to the commissioners court and THC. HB 10 would delete the requirement to compile the data in a county register but would encourage the commission to develop and maintain its inventory of surveyed individual properties and districts in accordance with THC standards. The bill would encourage the commission to establish a system for periodic review and assessment of the condition of designated properties in the county. It would encourage the commission to report the results of the review and assessment to THC.

HB 10 would delete authorization for the county historical commission to designate historical trails and other sites of historical interest and would replace it with a provision that the commission “should” strive to create countywide awareness and appreciation of historic preservation and its benefits and uses.

The commission’s annual report to the commissioners court and THC would have to include recommendations for both acquiring and designating properties of either historical or archeological significance.

HB 10 would authorize the commissioners court to make agreements with governmental agencies or with private organizations and to appropriate funds from the county’s general fund for:

- ! erecting historical markers and monuments;
- ! buying objects of historical significance to the county;
- ! preparing, publishing, and disseminating a history of the county;
- ! hiring professional staff and consultants;
- ! providing matching funds for grants; and
- ! funding other programs and activities suggested by the commissioners court and by the THC.

THC could make grants available to the commission for these purposes, subject to the budgetary authority and approval of the commissioners court. The bill would repeal a section of the Local Government Code that provides authority for the commissioners court in several of the areas bulleted above.

HB 10 would require a county historical commission to review applications for Official Texas Historical Markers to determine their accuracy, appropriateness, and completeness. It would encourage the commission to establish a system for the periodic review, assessment, and maintenance of Official Texas Historical Markers in the county and would encourage the commission to work to promote historic and cultural sites in the county to develop and sustain heritage tourism. In operating museums, the commission would have to adhere to professional standards in the care, collection, management, and interpretation of artifacts.

The bill would encourage the county historical commission to work in partnership with other preservation entities in the county to prepare a plan for preserving the county's historic and cultural resources. It would encourage the commission to rely on THC's statewide preservation plan for guidance.

**SUPPORTERS
SAY:**

HB 10 would facilitate the important partnership between THC and the state's county historical commissions. It would clarify the relationship between THC and these county commissions and would improve their coordination.

The nature of historic preservation has evolved over the years. HB 10 would update language to reflect more contemporary preservation terminology.

The bill would authorize THC to preserve and maintain real property donated to it by individuals or organizations. It also would allow THC to liquidate property and use the proceeds for THC programs selected by the donor. This legislation also would give the commission clear authority to acquire artifacts of historical significance.

HB 10 would dissolve the previous 90 percent architecture/10 percent archeology project funding split. This would enable THC to issue grants on merit rather than according to an imposed percentage. It would give the commission flexibility to fund the most critical projects, whether they were architecturally or archeologically related. Also, the bill would make State Archeological Landmarks eligible for these grants and would allow these funds to be used for historic resource surveys. It would require the Texas Preservation Trust Fund advisory board to have two archeologists and two directors of nonprofit historic preservation organizations, instead of one each, as in current law.

HB 10 would encourage THC to establish a program to identify and preserve abandoned cemeteries across the state and to model a volunteer program for the care of cemeteries on GLO's "Adopt-A-Beach" program. It would allow THC to accept gifts and donations to fund the program.

THC has received no objections to this legislation from any of the state's 254 counties.

OPPONENTS
SAY:

No apparent opposition.

NOTES:

The committee amendment would specify that THC could make grants available to a county historical commission "subject to the budgetary authority and approval of the commissioners court."

The companion bill, SB 1150 by Lindsay, was reported favorably as substituted by the Senate Intergovernmental Relations Committee on March 26 and was recommended for the Local and Uncontested Calendar. With the committee amendment, HB 10 is identical to SB 1150 as substituted.