

CHAPTER 651

S.B. No. 1002

An Act relating to the powers, duties, and funding of certain state agencies and local governmental entities that perform functions related to the commemoration of the Texas sesquicentennial; prohibiting certain acts; making a tax exemption; making appropriations; amending Chapter 84, Acts of the 66th Legislature, Regular Session, 1979, as amended (Article 6145-11, Vernon's Texas Civil Statutes), by amending Subsection (e) of Section 2 and Section 7 and adding Section 7A and Subsection (d) to Section 4; amending Section 1, Chapter 548, Acts of the 67th Legislature, Regular Session, 1981 (Article 6145-11a, Vernon's Texas Civil Statutes); adding Articles 6145-11b and 6145-14a to Title 106, Revised Statutes; adding Section 151.334 to the Tax Code; and amending Article 156.251, Tax Code.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subsection (e), Section 2, Chapter 84, Acts of the 66th Legislature, Regular Session, 1979 (Article 6145-11, Vernon's Texas Civil Statutes), is amended to read as follows:

"(e) An ex officio member or a member appointed by the speaker of the house of representatives or by the lieutenant governor may designate a representative to serve in the member's absence. A designated representative must be an officer or employee of the member's agency or organization, and for the executive committee may be another member of the board. The designated representative has all the powers and duties of the ex officio or legislative member."

SECTION 2. Section 4, Chapter 84, Acts of the 66th Legislature, Regular Session, 1979, as amended (Article 6145-11, Vernon's Texas Civil Statutes), is amended by adding Subsection (d) to read as follows:

"(d) There shall be created from the membership of the commission an executive committee composed of nine members: the chairman of the commission; two members designated by the governor from the governor's appointees; two members designated by the speaker of the house of representatives from the speaker's appointees; two members designated by the lieutenant governor from the lieutenant governor's appointees; the executive head of the Texas Tourist Development Agency; and the executive head of the Texas Commission on the Arts. Subject to disapproval by the commission, the executive committee may act on behalf of the commission for all purposes when the commission shall not be meeting, and shall have oversight and authority over all the activities of the commission and its employees in the full commission's absence."

SECTION 3. Chapter 84, Acts of the 66th Legislature, Regular Session, 1979, as amended (Article 6145-11, Vernon's Texas Civil Statutes), is amended by amending Section 7 and adding Section 7A to read as follows:

"Section 7. DUTIES. The commission shall:

"(1) encourage individuals, private organizations, and local governmental bodies to organize activities celebrating the state's sesquicentennial;

"(2) help individuals, private organizations, and local governmental bodies that organize sesquicentennial activities to coordinate the activities;

"(3) gather and disseminate information to the general public about sesquicentennial activities conducted in the state;

"(4) develop standards for sesquicentennial activities organized by individuals, private organizations, and local governmental bodies and sanction activities that comply with the standards;

"(5) invite national and international dignitaries to attend sesquicentennial activities conducted in the state;

"(6) encourage persons living outside the state to attend sesquicentennial activities conducted in the state;

"(7) develop and use an official state sesquicentennial [a] logo and register such logo in state and federal offices as a service mark or trademark and secure copyright on such logo and any other printed, visual, graphic, audio, or audiovisual materials developed hereunder [to be used by the commission and permit other persons to use the logo if the commission considers the use appropriate]; and

"(8) adopt rules to:

"(A) sanction official sponsors and official commemorative or promotional products; and

"(B) exclusively license the use of the official state sesquicentennial logo by official sponsors, including business and corporate sponsors, and producers of official commemorative or promotional products, in exchange for either a fee or royalties or both [sanction and may sell products, such as commemorative calendar or flag, commemorating the state's sesquicentennial].

"Section 7A. PROHIBITION. (a) An individual, company, association, or corporation that is not sanctioned or licensed by the commission may not use the official sesquicentennial logo in whole or in part, represent itself as a sponsor of the sesquicentennial, market a product as a commemorative or promotional product of the sesquicentennial or further violate any other provision of this Act.

"(b) No sanctioned individual, private organization, local sesquicentennial committee, or governmental body may grant or license any sesquicentennial sponsorship or use the official state sesquicentennial logo in whole or in part without the express approval of the Texas 1986 Sesquicentennial Commission.

"(c) The attorney general on behalf of the commission or a private lawyer approved by the attorney general is authorized to institute civil action against any violation of this Act and in addition to securing an injunction to prevent further violations may also recover actual damages for

any violation and at the discretion of the court may recover statutory damages up to \$5,000 per violation and attorney fees are obtainable.”

SECTION 4. Section 1, Chapter 548, Acts of the 67th Legislature, Regular Session, 1981 (Article 6145-11a, Vernon's Texas Civil Statutes), is amended to read as follows:

“Section 1. **COUNTY SESQUICENTENNIAL COMMITTEES** [~~COMMEMORATIVE MEDALS~~]. (a) *The commissioners court of a county may appoint a committee to organize activities celebrating the state's sesquicentennial.*

“(b) *The commissioners court may appropriate funds from the general fund of the county that the committee may use to perform its functions.*

“(c) *The committee may accept donations, on behalf of the county, and use the donations to perform its functions.*

“(d) *The committee shall make quarterly reports of its activities to the commissioners court.*

“(e) *This Act expires on September 1, 1987* [~~The state treasurer may coin gold alloy medals commemorating the Texas sesquicentennial in one, one-half, one-fourth, and one-tenth of an ounce weights.~~

“(b) ~~The state treasurer shall sell any commemorative medals coined under this Act to the public at prices that are calculated to recover at least the costs of making and selling the medals.~~

“(e) ~~Sales of commemorative medals under this Act are exempt from state and local sales tax.~~

“(d) ~~If the state treasurer determines to coin commemorative medals under this Act, the Texas 1986 Sesquicentennial Commission shall conduct a contest to determine the design of the medals.~~

“(e) ~~In no event shall the sale issuance price of coined commemorative medals under this Act be less than the cost of production plus the cost of the gold and the intrinsic value.]”~~

SECTION 5. Title 106, Revised Statutes, is amended by adding Article 6145-11b to read as follows:

“Article 6145-11b. **SESQUICENTENNIAL FUND**

“Section 1. *Amounts received from the following sources shall be deposited in a special fund in the State Treasury to be known as the sesquicentennial fund and are appropriated for the purposes contained herein:*

“(1) *licensing fees and royalties authorized by Paragraph (B), Subdivision (8), Section 7, Chapter 84, Acts of the 66th Legislature, 1979 (Article 6145-11, Vernon's Texas Civil Statutes); and*

“(2) *proceeds from the sale of medallions designated by the Texas 1986 Sesquicentennial Commission as lone stars under Article 6145-14a, Revised Statutes.*

“Section 2. *After the expiration of Chapter 84, Acts of the 66th Legislature, 1979 (Article 6145-11, Vernon's Texas Civil Statutes), the comptroller of public accounts shall collect proceeds from royalties due under licenses granted by the Texas 1986 Sesquicentennial Commission.*

“Section 3. *As amounts from licensing fees, royalties, and the sale of medallions designated as lone stars by the Texas 1986 Sesquicentennial Commission are deposited in the fund:*

“(1) *the State Treasurer shall allocate the amounts equally between an account in the fund that may be used only by the Texas Tourist Development Agency and an account in the fund that may be used only by the Texas Commission on the Arts, until the account of the Texas Commission on the Arts has received \$1,261,244; and*

“(2) *after the account for the Texas Commission on the Arts has received \$1,261,244, the State Treasurer shall allocate the amounts only to the account of the Texas Tourist Development Agency until that account has received \$2,291,996; and*

“(3) *after the account for the Texas Tourist Development Agency has received \$2,291,996, the State Treasurer shall allocate the amounts equally among the account of the Texas Tourist Development Agency, the account of the Texas Commission on the Arts, and an account in the fund that may be used only by the Texas 1986 Sesquicentennial Commission, until the account of the Texas Commission on the Arts has received a total of \$7,095,846 from amounts allocated under this subsection and Subdivision (1) of this section;*

“(4) *after the account for the Texas Commission on the Arts has received a total of \$7,095,846 from amounts allocated under Subdivisions (1) and (3) of this section, the State Treasurer shall allocate the amounts equally between the accounts of the Texas Tourist Development Agency and the Texas 1986 Sesquicentennial Commission until the account of the Texas 1986 Sesquicentennial Commission has received a total of \$10,000,000 from amounts allocated under this subdivision and Subdivision (3) of this section or until January 31, 1987, whichever shall first occur.*

"(5) after the Texas 1986 Sesquicentennial Commission has received a total of \$10,000,000 from the amounts allocated under Subdivisions (3) and (4) of this section, the State Treasurer shall allocate the amounts only to the account of the Texas Tourist Development Agency until the account of the Texas Tourist Development Agency has received a total of \$15,145,604; and

"(6) after the Texas Tourist Development Agency has received a total of \$15,145,604 from amounts allocated under this section, the State Treasurer shall allocate the amounts only to the account of the State Preservation Board.

"Section 4. (a) Money in the fund allocated to the Texas Tourist Development Agency under Subdivisions (1) and (2) of Section 3 of this article shall be used to publish an official tour guide of the sesquicentennial or for promotional activities for the Texas 1986 Sesquicentennial Commission.

"(b) Money in the fund allocated to the Texas Tourist Development Agency under Subdivisions (3), (4), and (5) of Section 3 of this article shall be used to advertise and promote the sesquicentennial both in and out of the state and for other activities as provided by law.

"(c) Money in the fund allocated to the Texas Commission on the Arts under Section 3 of this article shall be used for funding and supporting sesquicentennial projects and programs and to perform any of the functions of the commission.

"(d) Not less than one-half the money in the fund allocated to the Texas 1986 Sesquicentennial Commission shall be distributed to local official sesquicentennial committees sanctioned by the commission according to procedures adopted by the commission.

"(e) Money in the fund allocated to the Texas 1986 Sesquicentennial Commission that is not distributed to local official sesquicentennial committees under Subsection (d) of this section or used to reimburse the comptroller of public accounts for audit services provided under Section 5 of this article shall be used to advertise and promote the sesquicentennial both in and out of state through interagency contracts with the Texas Tourist Development Agency.

"Section 5. The Texas 1986 Sesquicentennial Commission may audit any official sesquicentennial licensee or product manufacturer. At the request of the commission, the comptroller of public accounts shall perform the audit. The comptroller of public accounts shall be reimbursed for services provided under this section from money provided for that purpose under Subsection (e) of Section 4 of this article."

SECTION 6. Title 106, Revised Statutes, is amended by adding Article 6145-14a to read as follows:

"Article 6145-14a. **LONE STAR MEDALLIONS.** (a) The Texas 1986 Sesquicentennial Commission shall designate a one ounce silver lone star medallion and one, one-half, one-fourth, and one-tenth ounce gold lone star medallions as official commemorative medallions of the sesquicentennial.

"(b) The board shall contract for the production, marketing, and distribution of the medallions.

"(c) The board shall deposit the proceeds from the sale of medallions to the credit of the sesquicentennial fund."

SECTION 7. Subchapter H, Chapter 151, Tax Code, is amended by adding Section 151.334 to read as follows:

"Section 151.334. **LONE STAR MEDALLIONS.** Medallions designated as lone stars by the Texas 1986 Sesquicentennial Commission under Article 6145-14a, Revised Statutes, are exempted from the taxes imposed by this chapter."

SECTION 8. Article 156.251, Tax Code, is amended to read as follows:

"Article 156.251. **REVENUE DEPOSITED IN GENERAL REVENUE FUND.** (a) The revenue from the tax imposed by this chapter shall be deposited in the state treasury to the credit of the general revenue fund.

"(b) For the purposes of S.B. 1002, 69th Legislature, Regular Session, the comptroller of public accounts shall prepare, no later than September 18, 1985, a forecast of hotel and motel tax revenue for the first five three-month periods of the 1986-1987 biennium. The total of such forecasts shall not exceed the January, 1985, revenue estimates for hotel and motel tax revenue of \$70,751,000 for Fiscal Year 1986 and \$76,057,000 for Fiscal Year 1987. Amounts actually collected from the hotel and motel tax for Fiscal Year 1986 in excess of the estimate, not to exceed \$5,000,000, are hereby appropriated for the biennium ending August 31, 1987, to the Texas Tourist Development Agency for media advertising and other marketing activities. The following or some similar procedure shall be used by the comptroller of public accounts in calculating the quarterly transfers:

"(i) if at the end of the second three-month period, actual hotel and motel tax receipts for the first quarter exceed the estimate previously established for that quarter and the actual receipts for the second quarter are at least equal to the sum of the estimate for the second quarter and any amounts received in the first quarter in excess of the estimate for that quarter, then there is hereby appropriated as of March 2, 1986, from the General Revenue Fund to the Texas Tourist

Development Agency the amount by which receipts for the first quarter exceed the estimate for that quarter;

“(ii) if at the end of the third three-month period, actual hotel and motel tax receipts for the second quarter exceed the estimate previously established for that quarter and the actual receipts for the third quarter are at least equal to the sum of the estimate for the third quarter and any amounts received in the second quarter in excess of the estimate for that quarter, then there is hereby appropriated as of June 2, 1986, from the General Revenue Fund to the Texas Tourist Development Agency the amount by which receipts for the second quarter exceed the estimate for that quarter;

“(iii) if at the end of the fourth three-month period, actual hotel and motel tax receipts for the third quarter exceed the estimate previously established for that quarter and the actual receipts for the fourth quarter are at least equal to the sum of the estimate for the fourth quarter and any amounts received in the third quarter in excess of the estimate for that quarter, then there is hereby appropriated as of September 2, 1986, from the General Revenue Fund to the Texas Tourist Development Agency the amount by which receipts for the third quarter exceed the estimate for that quarter;

“(iv) if at the end of the fifth three-month period, actual hotel and motel tax receipts for the fourth quarter exceed the estimate previously established for that quarter and the actual receipts for the fifth quarter are at least equal to the sum of the estimate for the fifth quarter and any amounts received in the fourth quarter in excess of the estimate for that quarter, then there is hereby appropriated as of December 2, 1986, from the General Revenue Fund to the Texas Tourist Development Agency the amount by which receipts for the fourth quarter exceed the estimate for that quarter.

“(c) Except with respect to appropriations authority for the 1987 fiscal year, Subsection (b) expires as of December 31, 1986.”

SECTION 9. EFFECT OF PARTIAL INVALIDITY. (a) The legislature declares that it would not have enacted this Act without the inclusion of Sections 1 and 2 of this Act to the extent those sections provide for broad representation on the commission and for executive committee management of commission affairs between commission meetings. If the appointments provided by this Act are for any reason held invalid by a final judgment of a court of competent jurisdiction, the remainder of this Act and Chapter 84, Acts of the 66th Legislature, 1979 (Article 6145-11, Vernon's Texas Civil Statutes), are void.

(b) Except as provided by Subsection (a) of this section, this Act is severable as provided by Chapter 45, Acts of the 63rd Legislature, Regular Session, 1973 (Article 11a, Vernon's Texas Civil Statutes).

SECTION 10. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on April 25, 1985, by the following vote: Yeas 30, Nays 0; May 25, 1985, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 26, 1985, House granted request of the Senate; May 27, 1985, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0; passed subject to provisions of Article III, Section 49a of the Constitution of Texas; passed the House, with amendments, on May 22, 1985, by the following vote: Yeas 135, Nays 0, six present not voting; May 26, 1985, House granted request of the Senate for appointment of Conference Committee; May 27, 1985, House adopted Conference Committee Report by the following vote: Yeas 140, Nays 3, one present not voting; passed subject to the provisions of Article III, Section 49a of the Constitution of Texas.

Approved: June 14, 1985

Effective: August 26, 1985