

CHAPTER 951

H.B. No. 2223

AN ACT

relating to the dedication of certain funds for the use of the Texas Commission on the Arts; making an appropriation.

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

SECTION 1. The heading for Subchapter B, Chapter 444, Government Code, is amended to read as follows:

SUBCHAPTER B. POWERS AND DUTIES; *FUNDING*

SECTION 2. Subsection (c), Section 444.024, Government Code, is amended to read as follows:

(c) *The commission by rule shall adopt equitable procedures for the distribution of grants to recipients who reflect the geographical, cultural, and ethnic diversity of the state's population [Grants of money shall be made without regard to the race, creed, sex, religion, or national origin of the applicant].*

SECTION 3. Section 444.025, Government Code, is amended to read as follows:

Sec. 444.025. **DONATIONS; APPROPRIATIONS; AUDIT.** (a) The commission may accept on behalf of the state donations of money, property, and art objects[, and historical relics] as it determines best further the orderly development of the artistic resources of the state. *Except as provided by Subsection (b), [All] money paid to the commission under this chapter shall be deposited in the Texas cultural endowment fund [state treasury].*

(b) *The commission may solicit donations from an appropriate source. A person may designate a donation as intended for the Texas cultural endowment fund or the Texas Commission on the Arts operating fund. If the person designates that a donation is intended for a specific fund, the donation shall be deposited in the designated fund.*

(c) *The commission by rule shall establish an acquisition policy for accepting property and art objects.*

(d) The legislature may make appropriations to the commission to carry out the purposes of this chapter.

(e) [(e)] The financial transactions of the commission are subject to audit by the state auditor in accordance with Chapter 321, Government Code.

SECTION 4. Subchapter B, Chapter 444, Government Code, is amended by adding Sections 444.026 through 444.028 to read as follows:

Sec. 444.026. **TEXAS CULTURAL ENDOWMENT FUND.** (a) *The Texas cultural endowment fund is a trust fund outside the state treasury.*

(b) *The legislature may not appropriate money in the endowment fund.*

(c) *Interest and income earned before September 1, 1994, on money deposited in the endowment fund shall be deposited to the credit of the endowment fund. Interest and income earned on or after September 1, 1994, on money deposited in the endowment fund shall be deposited to the credit of the endowment fund and then transferred by the commission on September 1 of each year to the Texas Commission on the Arts operating fund.*

(d) *This section is exempt from the application of Sections 403.094(h), 403.094(i), 403.095, and 404.071.*

Sec. 444.027. **TEXAS COMMISSION ON THE ARTS OPERATING FUND.** (a) *The Texas Commission on the Arts operating fund is a special fund in the state treasury.*

(b) *Money deposited to the credit of the operating fund may be appropriated only to carry out the commission's powers and duties under this chapter and for necessary administrative costs incurred by the commission under this chapter.*

(c) *The operating fund is exempt from the application of Sections 403.094(h), 403.094(i), 403.095, and 404.071. Interest received from investments of money in the operating fund shall be allocated monthly by the state treasurer to the operating fund.*

Sec. 444.028. **ENDOWMENT FUND INVESTMENT AND MANAGEMENT.** (a) *The commission shall appoint investment managers for the management and investment of the Texas cultural endowment fund by contracting for professional investment management services with one or more organizations that are in the business of managing investments.*

(b) *In choosing and contracting for professional investment management services and in continuing the use of an investment manager, the commission shall act prudently and in the interest of the beneficiaries of the endowment fund.*

(c) *In making and supervising investments of the endowment fund, an investment manager and the commission shall discharge their respective duties solely in the interest of the beneficiaries of the fund:*

(1) for the exclusive purposes of providing benefits for the beneficiaries of the fund and defraying reasonable expenses of administering this chapter;

(2) with the care, skill, prudence, and diligence under the prevailing circumstances that a prudent person acting in a like capacity and familiar with matters of the type would use in the conduct of an enterprise with a like character and like aims;

(3) by diversifying the investments of the fund to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

(4) in accordance with the documents and instruments governing the fund to the extent that the documents and instruments are consistent with this section.

(d) To be eligible for appointment under this section, an investment manager must be:

(1) registered under the Investment Advisors Act of 1940 (15 U.S.C. Section 80b-1 et seq.);

(2) a bank as defined by that Act that has a trust department; or

(3) an insurance company qualified to perform investment services under the laws of more than one state.

(e) In a contract made under this section, the commission shall specify any policies, requirements, or restrictions, including criteria for determining the quality of investments and for the use of standard rating services, that the commission adopts for investments of the endowment fund.

(f) A member of the commission is not liable for the acts or omissions of an investment manager appointed under Subsection (a). A member of the commission is not permitted or obligated to invest or otherwise to manage any asset of the fund subject to management by the investment manager.

(g) An investment manager appointed under Subsection (a) shall acknowledge in writing the manager's fiduciary responsibilities to the endowment fund.

(h) The commission may at any time and shall frequently monitor the investments made by each investment manager for the endowment fund. The commission may contract for professional evaluation services to fulfill this requirement.

(i) The commission shall enter into an investment custody account agreement designating a bank or a depository trust company to serve as custodian for all assets allocated to or generated under a contract for professional investment management services.

(j) Under a custody account agreement, the commission shall require the designated custodian to perform the duties and assume the responsibilities for the endowment fund that are performed and assumed, in the absence of a contract, by the custodian of the endowment fund. The custodian shall furnish to the commission, annually or more frequently if required by commission rule, a sworn statement of the amount of the endowment fund assets in the custodian's custody.

(k) For purposes of this section, the beneficiaries of the Texas cultural endowment fund are the persons who appreciate art, artists, and arts organizations that benefit from the performance of the commission's powers and duties under this chapter.

SECTION 5. Section 444.026, Government Code, as added by Section 4 of this Act, is amended by adding Subsection (e) to read as follows:

(e) Notwithstanding Subsection (c), the commission may not transfer from the endowment fund the amount of interest or income earned on money deposited in the endowment fund under Section 7, H.B. 2223, 73rd Legislature, 1993, that is equal to the amount of private monetary donations made to the endowment fund during the fiscal year in which the interest or income was earned. Interest or income remaining in the endowment fund under this subsection becomes part of the corpus of the endowment fund. This subsection expires September 1, 2005.

SECTION 6. Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-1 et seq., Vernon's Texas Civil Statutes), is amended by adding Section 5m to read as follows:

Sec. 5m. (a) The department shall design and provide for the issuance of special Texas Commission on the Arts plates for passenger cars and light commercial motor vehicles having a manufacturer's rated carrying capacity of one ton or less.

(b) The license plates must bear the words "State of the Arts" and be of a color, quality, and design approved by the Texas Commission on the Arts.

(c) The department shall issue a license plate under this section to a person who:

(1) applies to the county tax collector in the county of the person's residence on a form provided by the department; and

(2) pays the fee prescribed by Subsection (e) of this section.

(d) A person applying for a license plate under this section may:

(1) have a license plate number assigned by the department; or

(2) apply for a personalized prestige license plate under Section 5c of this Act.

(e) The fee for issuance of a special license plate under this section is \$25 a year in addition to the regular registration fee for the vehicle imposed by Section 5 of this Act and, if a personalized prestige license plate is issued, in addition to the fee imposed by Section 5c of this Act.

(f) The department shall deposit \$20 of each fee collected under this section in the state treasury to the credit of the Texas Commission on the Arts operating fund established under Section 444.027, Government Code.

(g) The department shall deposit the remainder of each fee collected under this section after deposit as provided by Subsection (f) of this section in the state treasury to the credit of the State Highway Fund to be used only to defray the cost of administering this section.

(h) If a license plate issued under this section is lost, stolen, or mutilated, the owner of the vehicle for which the plate was issued may obtain a replacement plate from the department by paying a replacement fee of \$5. If the owner of a vehicle for which the plate was issued under this section disposes of the vehicle during a registration year, the person shall return the special license plate to the department.

(i) There is no limit to the number of passenger cars and light commercial motor vehicles for which a person may apply for issuance of a license plate under this section.

SECTION 7. (a) There is hereby appropriated to the Texas Cultural Endowment Fund established in this Act from the general revenue fund for the fiscal biennium ending August 31, 1995, the amount of \$2.2 million.

(b) The speaker of the house of representatives and the lieutenant governor are directed to appoint a joint interim committee to study the options available to provide a dedicated source of funding to the Texas Cultural Endowment Fund. The committee shall make a full report of its findings and recommendations to the 74th Legislature when it convenes in January, 1995.

SECTION 8. This Act takes effect September 1, 1993.

SECTION 9. 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 by the House on May 14, 1993, by a non-record vote; the House refused to concur in Senate amendments on May 28, 1993, and requested the appointment of a conference committee to consider the differences between the two houses; the House adopted the conference committee report on May 30, 1993, by a non-record vote; passed subject to the provisions of Article III, Section 49a, of the Constitution of the State of Texas; passed by the Senate, with amendments, on May 23, 1993, by a viva-voce vote; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; the Senate adopted

the conference committee report on May 30, 1993: Yeas 26, Nays 0; passed subject to the provisions of Article III, Section 49a, of the Constitution of the State of Texas.

Approved June 19, 1993.

Effective Sept. 1, 1993.