

BILL ANALYSIS

Senate Research Center

S.B. 913
By: Brimer
Government Organization
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas State Library and Archives Commission (commission) works to improve the availability and quality of library services across the state, and to preserve and provide access to historic Texas documents. The commission is subject to the Sunset Act and will be abolished on September 1, 2007, unless continued by the legislature. The Sunset Advisory Commission has made several specific recommendations relating to the modernization of the commission, and has suggested that the commission be continued with those changes.

S.B. 913 amends Chapter 441 (Texas State Library and Archives Commission), Government Code, to implement the suggestions of the Sunset Advisory Commission regarding the commission and to continue the existence of the commission for another 12 years.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas State Library and Archives Commission in SECTION 6 (Section 441.138, Government Code) and SECTION 7 (Section 441.1382, Government Code) of this bill.

Rulemaking authority previously granted to the Texas State Library and Archives Commission is modified in SECTION 3 (Section 441.006, Government Code) and SECTION 5 (Section 441.135, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 441.001(e), (f), (g), (h), (i), (j), (k), and (q), Government Code, as follows:

(e) Prohibits a person from being, rather than serving as, a member of the Texas State Library and Archives Commission (commission) or acting as counsel to the commission if the person is required to register as a lobbyist under Chapter 305 (Registration of Lobbyists), Government Code.

(f) Prohibits a person from being a member of the commission and from being employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938, if the person or the person's spouse has a certain affiliation with a Texas trade association in certain fields. Deletes existing text in Subsections (f) and (g) prohibiting a person or a person's spouse with said affiliation from being a commission member or an employee of the commission who is exempt from the state's position classification plan or is compensated at or above a certain amount prescribed by the General Appropriations Act.

(g) Redesignates existing text as Subsection (f).

(h) Redefines "Texas trade association."

(i) Sets forth certain grounds for removal of a member from the commission.

(j) Makes nonsubstantive grammatical changes.

(k) Requires a certain member of the commission, upon hearing from the director or librarian of a potential ground of removal for the presiding officer of the commission, to then notify the governor and the attorney general of the existence of said ground.

(q) Provides that the commission, unless continued in existence as provided by Chapter 325 (Texas Sunset Act), Government Code, is abolished September 1, 2019, rather than September 1, 2007.

SECTION 2. Amends Section 441.0011, Government Code, as follows:

Sec. 441.0011. TRAINING FOR COMMISSION MEMBERS. (a) Prohibits a person who is appointed to and qualifies for office as a commission member from voting, deliberating, or being counted in attendance at a commission meeting until the person completes a training program that complies with this section. Deletes existing text requiring the new member to complete at least one course of a training program before the person is confirmed by the senate and is to assume the member's duties.

(b) Sets forth certain required information to be provided to the person in the training program.

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

SECTION 3. Amends Section 441.006(a), Government Code, by deleting existing text requiring the commission to prepare and make available to the public and appropriate state agencies the procedures by which complaints are filed with and resolved by the commission, and by deleting existing text requiring the commission to establish, by rule, methods by which consumers and service recipients are notified of certain contact information for the commission for the purpose of directing complaints to the commission.

SECTION 4. Amends Subchapter A, Chapter 441, Government Code, by adding Sections 441.018, 441.019, 441.020, 441.021, and 441.022, as follows:

Sec. 441.018. COMPLAINTS. (a) Requires the commission to maintain a system to promptly and efficiently act on complaints filed with the commission. Requires the commission to maintain certain information related to a given complaint.

(b) Requires the commission to make information available describing its procedures for complaint investigation and resolution.

(c) Requires the commission to periodically notify the complaint parties of the status of the complaint until final disposition.

Sec. 441.019. 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. Requires said policy to ensure that the public is able to interact with the commission on the Internet.

Sec. 441.020. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION POLICY. (a) Requires the commission to develop and implement a policy to encourage the use of negotiated rulemaking procedures under Chapter 2008 (Negotiated Rulemaking), Government Code, for the adoption of commission rules, and appropriate alternative dispute resolution procedures under Chapter 2009 (Alternative Dispute Resolution for Use by Governmental Bodies), Government Code, in the resolution of disputes under the commission's jurisdiction.

(b) Requires the commission's procedures for alternative dispute resolution to conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for such procedures.

(c) Requires the commission to designate a trained person to coordinate the implementation of a policy adopted under Subsection (a), to serve as a resource for any training needed to implement procedures for negotiated rulemaking or alternative dispute resolution, and to collect data regarding the effectiveness of these procedures.

Sec. 441.021. PUBLIC SCHOOL LIBRARY STUDY. (a) Requires the commission and the Texas Education Agency (TEA) to jointly conduct a study to identify the needs of this state's public school libraries and to determine which state agency can best meet those needs.

(b) Requires the commission and TEA to submit a joint written report containing study findings and resultant recommendations to certain elected officials and legislative bodies not later than December 1, 2008.

(c) Provides that this section expires June 1, 2009.

Sec. 441.022. COMPLIANCE WITH SUNSET RECOMMENDATIONS. (a) Requires the commission to comply with and implement the management action recommendations stemming from the Sunset Advisory Commission's (sunset commission) review of the commission on January 10, 2007, and to report to the sunset commission the information the sunset commission requires regarding the implementation of the above recommendations not later than November 1, 2008.

(b) Provides that this section expires June 1, 2009.

SECTION 5. Amends Section 441.135, Government Code, as follows:

Sec. 441.135. GRANTS. (a) Requires the commission, using state, federal, or other funds, establish a program of grants within the limitations of funds appropriated by the legislature. Deletes existing text excepting any municipal library which lends more than 20,000 items per year to nonresidents from being denied, under commission rule, any grant awarded after January 1, 1995, based solely upon the provision of services to nonresidents.

(b) Requires the program of grants to include one or more of certain grants as set forth in this subsection.

SECTION 6. Amends Section 441.138(d), Government Code, as follows:

(d) Requires the commission by rule to adopt a formula for distributing system operation grants among the major resource systems and regional library systems. Requires the formula to include funding for basic system support services. Deletes existing text providing certain percentages of distribution for such a formula.

SECTION 7. Amends Subchapter I, Chapter 441, Government Code, by adding Sections 441.1381, 441.1382, and 441.1383, as follows:

Sec. 441.1381. COMPETITIVE GRANTS; SYSTEM OPERATION GRANTS. (a) Requires the commission to design and implement a competitive grant program described in Section 441.135(b)(6), Government Code, and to require the recipient of said grant to report information relating to best practices and performance outcomes to the commission.

(b) Requires the commission to continue to provide system operation grants to major resource systems and regional library systems. Prohibits the commission from awarding those grants through a competitive process.

Sec. 441.1382. **ADDITIONAL FUNDING.** (a) Authorizes the commission to authorize a major resource system or regional library system to receive money in addition to the system operation grant, including certain money set forth in this subsection.

(b) Authorizes the commission to authorize a major resource system or regional library system to use money received under Subsection (a) to initiate, expand, or enhance activities approved by the commission that meet commission and federal goals.

(c) Authorizes the commission to authorize a major resource system or regional library system to retain money received under Subsection (a) remaining at the end of a fiscal year for activities approved by the commission that meet commission and federal goals.

(d) Requires the commission by rule to require money received under Subsection (a) to be held in a federally insured account. Requires interest earned on money in the account to be retained in the account and provides that it is subject to the same terms and reporting requirements as the corpus.

(e) Authorizes the commission by rule to require periodic reporting regarding money received under Subsection (a) and to include this information in the annual audit.

(f) Provides that money generated through the use of state or federal funds remains the property of the state. Requires all money received under this section or described by this subsection, if the commission ceases to contract with a major resource system or regional library system, to be promptly returned to the commission for use in regional library development programs.

Sec. 441.1383. **GRANTS TO AID LOCAL LIBRARIES.** Requires the commission to design and implement a program of grants to aid local libraries as described by Section 441.135(b)(7) and to require a recipient of a grant under that program to report to the commission information relating to best practices and performance outcomes.

SECTION 8. Amends Section 441.186, Government Code, by adding Subsection (k) to require the record, if a disagreement exists between an institution of higher education, as defined by Section 61.003, Education Code, and a county over custody of a record that has been in existence for more than 50 years and the commission determines that further negotiations between the institution and the commission are unlikely to resolve the disagreement, to be transferred to the custody of the commission and treated as an archival state record.

SECTION 9. Amends Subchapter L, Chapter 441, Government Code, by adding Section 441.205, as follows:

Sec. 441.205. **ONLINE ACCESS TO CULTURAL RESOURCES.** Authorizes the commission to encourage certain Texas institutions to develop ways to provide Internet access to digitized cultural resources, and to provide leadership in collaborative efforts among those institutions to achieve this goal.

SECTION 10. Amends Section 336.104, Local Government Code, by deleting existing text requiring the board of trustees for a multi-jurisdictional library district to require the executive director or a subordinate library director of said district to meet the qualification requirements for a county librarian under Section 441.007 (Certification of County Librarians), Government Code, and under rules adopted by the commission under that section.

SECTION 11. Repealer: (1) Section 441.007 (Certification of County Librarians); (2) Section 441.0071 (Certificate Renewal); (3) Section 441.0072 (Certificates from Other States); (4) Section 441.0073 (Certificate Expiration Dates); and (5) Section 441.0074 (Disciplinary Actions), Government Code.

SECTION 12. Requires the commission to adopt rules required by Section 441.138(d), Government Code, as amended by this Act, not later than March 1, 2008.

SECTION 13. (a) Makes application of this Act toward the prohibitions or qualifications applying to a commission member prospective to those members serving on the commission before the effective date of the Act.

(b) Makes application of this Act toward the investigation of a complaint filed with the commission prospective to complaints filed before the effective date of this Act.

SECTION 14. Effective date: September 1, 2007.