

## **BILL ANALYSIS**

C.S.S.B. 913  
By: Brimer  
Culture, Recreation, & Tourism  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

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. To accomplish this mission, the agency performs three functions: providing financial and consulting assistance to individual libraries and library systems to promote library development and resource sharing; providing direct library services to Texans with disabilities; and ensuring access to important Texas documents by coordinating state and local records management, and acquiring and preserving archival documents.

The Texas State Library and Archives Commission is subject to the Sunset Act and will be abolished on September 1, 2007, unless continued by the Legislature. As a result of its review of the Commission, the Sunset Advisory Commission recommended continuation of the agency and several statutory modifications that are contained in this legislation.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas State Library and Archives Commission in SECTION 5, SECTION 6, SECTION 7, and SECTION 12 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Sections 441.001(e), (f), (g), (h), (i), (j), (k), and (q), Government Code, to update standard language developed by the Sunset Commission prohibiting Commission members, high-level employees, and spouses from serving as an officer or employee of a related Texas trade association. Updates standard language developed by the Sunset Commission specifying the grounds for removing a Commission member. Updates the Texas State Library and Archives Commission's Sunset date to September 1, 2019, which provides for the standard 12-year period.

SECTION 2. Amends Section 441.0011, Government Code, to update standard language developed by the Sunset Commission requiring members of the Commission to complete training before assuming their duties, and specifies that a person appointed to the Commission is eligible for reimbursement of travel expenses incurred while attending the training program, regardless of whether the training occurred before or after the person qualifies for office.

SECTION 3. Amends Section 441.006(a), Government Code, to delete the requirement that the Commission prepare and make available information about its complaint procedures. Deletes the requirement that the Commission establish methods by which consumers and service recipients are notified of the Commission's contact information for purposes of directing complaints to the Commission.

SECTION 4. Amends Subchapter A, Chapter 441, Government Code, to add Sections 441.018, 441.019, 441.020, 441.021, and 441.022, to add standard language developed by the Sunset Commission requiring the Commission to maintain information on all complaints and notify the parties about policies for and status of complaints, and requiring the Commission to make effective use of technology in its delivery of services and provision of information to the public. Requires the Commission to develop a policy that encourages the use of negotiated rulemaking and alternative dispute resolution (ADR); requires that the Commission's ADR policies conform, to the extent possible, to model guidelines issued by the State Office of Administrative Hearings;

and requires the Commission to designate a trained person to implement these policies, serve as a resource for training needed to implement procedures for negotiated rulemaking and ADR, and collect data concerning the effectiveness of these procedures. Requires the Commission and the Texas Education Agency to develop a joint study of public school library needs, to assess which needs each agency should address, and to report the findings of the study to the leadership and appropriate legislative oversight committees. Specifies that the joint study section of this Act expires June 1, 2009. Requires the Commission to comply with and implement the management action recommendations adopted by the Sunset Advisory Commission during its review of the Commission, and to report required information to the Sunset Advisory Commission by November 1, 2008. Specifies that the Sunset compliance section of this Act expires June 1, 2009.

SECTION 5. Amends Section 441.135, Government Code, to require the agency to establish a program of grants using state, federal or other funds, instead of just establishing state grants; deletes a provision regarding items lent per year by a municipal library; and redefines system operation grants, incentive grants, establishment grants, equalization grants, and public information technology grants. Adds competitive grants and grants to aid local libraries to the Commission's program of grants. This section requires the Commission to update, by rule, its guidelines for awarding grants.

SECTION 6. Amends Section 441.138(d), Government Code, to remove the library systems' funding formula and require the Commission to adopt a new formula in rule that includes funding for basic system support services.

SECTION 7. Amends Subchapter I, Chapter 441, Government Code, to add Sections 441.1381, 441.1382, and 441.1383 to require the Commission to design and implement a competitive grant program that requires grant recipients to report best practices and performance outcomes. Requires the Commission to continue providing system operation grants and prohibits the Commission from awarding system operation grants through a competitive process. Authorizes the Commission to allow major resource or regional library systems to receive and spend funding in addition to system operation grants, and to retain program revenue remaining at the end of a fiscal year for activities approved by the Commission. Requires the Commission to require, by rule, that any of this additional funding received by systems be held in a federally insured account. Authorizes the Commission to require, by rule, periodic reporting on this additional funding. Specifies that money generated through the use of state or federal funds remains the property of the state, and that if the Commission ceases to contract with a system, all of this money must be promptly returned to the Commission. Requires the Commission to design and implement a program of grants to aid local libraries, and require recipients of these grants to report best practices and performance outcomes.

SECTION 8. Amends Section 441.186, Government Code, to add Subsection (h), to specify that if an institution of higher education, as defined by Section 61.003 of the Education Code, and a county disagree over the custody of a record that is more than 50 years old, and if the Commission determines that further negotiation over the record is futile, then the record shall be transferred to the Commission's custody and treated as an archival state record.

SECTION 9. Amends Subchapter L, Chapter 441, Government Code, to add Section 441.205, to authorize the Commission to encourage, and provide leadership to, collaboration between a wide range of Texas institutions to develop Internet access to digitized cultural resources.

SECTION 10. Amends Section 336.104, Local Government Code, to delete the requirement that the board of directors of a multi-jurisdictional library district require the executive director or a subordinate library director to meet the Commission's county librarian certification qualifications.

SECTION 11. Repeals Sections 441.007, 441.0071, 441.0072, 441.0073, and 441.0074, Government Code, to eliminate the Commission's county librarian certification program.

SECTION 12. Requires the Commission to adopt by rule a formula for distributing library system operation grants no later than March 1, 2008.

SECTION 13. Provides that changes made by this Act in the prohibitions or qualifications of Commission members do not affect the entitlement of a member serving on the Commission before September 1, 2007, to continue to serve the remainder of the member's term. Specifies that those changes apply only to a member appointed on or after September 1, 2007. Provides that changes made by this Act relating to the investigation of a complaint filed with the Commission apply only to a complaint filed on or after September 1, 2007.

SECTION 14. Effective date: September 1, 2007.

#### **EFFECTIVE DATE**

September 1, 2007.

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The substitute changes the date by which the Commission and the Texas Education Agency must submit a joint report that identifies the needs of public school libraries from September 1, 2008, to December 31, 2008.

The substitute updates Sunset compliance language by changing the term nonstatutory to management action, and by adding the date January 10, 2007, to specify the date on which the Sunset Advisory Commission adopted the recommendations which the Commission must implement.

The substitute changes existing Commission law to require the agency to establish a program of grants using state, federal or other funds, instead of just establishing state grants; deletes a provision regarding items lent per year by a municipal library; and redefines system operation grants, incentive grants, establishment grants, equalization grants, and public information grants. The substitute changes language in the original bill to specify that major resource systems, in addition to regional library systems, may receive competitive grants, and adds grants to aid local libraries to the Commission's program of grants.

The substitute adds language authorizing the Commission to allow major resource or regional library systems to receive and spend funding in addition to system operation grants, and to retain program revenue remaining at the end of a fiscal year for activities approved by the Commission. Requires the Commission to require, by rule, that any of this additional funding received by systems be held in a federally insured account. Authorizes the Commission to require, by rule, periodic reporting on this additional funding. Specifies that money generated through the use of state or federal funds remains the property of the state, and that if the Commission ceases to contract with a system, all of this money must be promptly returned to the Commission. Requires the Commission to design and implement a program of grants to aid local libraries, and require recipients of these grants to report best practices and performance outcomes.

The substitute adds language specifying that if an institution of higher education and a county disagree over the custody of a record that is more than 50 years old, and if the Commission determines that further negotiation over the record is futile, the record shall be transferred to the Commission's custody and treated as an archival state record.