

By: McClendon, Truitt, Kolthorst,
Cook of Navarro, Flynn

H.B. No. 2845

Substitute the following for H.B. No. 2845:

By: Hilderbran

C.S.H.B. No. 2845

A BILL TO BE ENTITLED

1

AN ACT

2 relating to the continuation and functions of the Texas State
3 Library and Archives Commission.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Sections 441.001(e), (f), (g), (h), (i), (j),
6 (k), and (q), Government Code, are amended to read as follows:

7 (e) A person may not be ~~[serve as]~~ a member of the commission
8 or act as the general counsel to the commission if the person is
9 required to register as a lobbyist under Chapter 305 because of the
10 person's activities for compensation on behalf of a profession
11 related to the operation of the commission.

12 (f) A person may not be a member of the commission and may
13 not be a commission employee employed in a "bona fide executive,
14 administrative, or professional capacity," as that phrase is used
15 for purposes of establishing an exemption to the overtime
16 provisions of the federal Fair Labor Standards Act of 1938 (29
17 U.S.C. Section 201 et seq.) if:

18 (1) the person is an [An] officer, employee, or paid
19 consultant of a Texas trade association in the field of library and
20 information science, archives management, or records management;
21 or

22 (2) the person's spouse is [may not be a member of the
23 commission or employee of the commission who is exempt from the
24 state's position classification plan or is compensated at or above

1 ~~the amount prescribed by the General Appropriations Act for step 1,~~
2 ~~salary group 17, of the position classification salary schedule.~~

3 ~~[(g) A person who is the spouse of]~~ an officer, manager, or
4 paid consultant of a Texas trade association in the field of library
5 and information science, archives management, or records
6 management ~~[may not be a member of the commission and may not be an~~
7 ~~employee of the commission who is exempt from the state's position~~
8 ~~classification plan or is compensated at or above the amount~~
9 ~~prescribed by the General Appropriations Act for step 1, salary~~
10 ~~group 17, of the position classification salary schedule].~~

11 (h) In this section, " ~~[For the purposes of this section, a]~~
12 Texas trade association" means ~~[is]~~ a ~~[nonprofit,]~~ cooperative~~[,]~~
13 and voluntarily joined statewide association of business or
14 professional competitors ~~[or professionals]~~ in this state designed
15 to assist its members and its industry or profession in dealing with
16 mutual business or professional problems and in promoting their
17 common interest.

18 (i) It is a ground for removal from the commission if a
19 member:

20 (1) does not have at the time of taking office
21 ~~[appointment]~~ the qualifications required by Subsection (a);

22 (2) does not maintain during service on the commission
23 the qualifications required by Subsection (a);

24 (3) is ineligible for membership under ~~[violates a~~
25 ~~prohibition established by]~~ Subsection (e) or ~~[,]~~ (f) ~~[, or (g)]~~;

26 (4) cannot, because of illness or disability,
27 discharge the member's duties for a substantial part of the member's

1 term [~~for which the member is appointed~~]; or

2 (5) is absent from more than half of the regularly
3 scheduled commission meetings that the member is eligible to attend
4 during a calendar year without an excuse approved [~~unless the~~
5 ~~absence is excused~~] by majority vote of the commission.

6 (j) The validity of an action of the commission is not
7 affected by the fact that it was taken when [~~at a time~~] a ground for
8 removal of a [~~member of the~~] commission member exists [~~existed~~].

9 (k) If the director and librarian has knowledge that a
10 potential ground for removal exists, the director and librarian
11 shall notify the presiding officer of the commission of the
12 potential ground. The presiding officer shall then notify the
13 governor and the attorney general that a potential ground for
14 removal exists. If the potential ground for removal involves the
15 presiding officer, the director and librarian shall notify the next
16 highest officer of the commission, who shall then notify the
17 governor and the attorney general that a potential ground for
18 removal exists.

19 (q) The Texas State Library and Archives Commission is
20 subject to Chapter 325 (Texas Sunset Act). Unless continued in
21 existence as provided by that chapter, the commission is abolished
22 September 1, 2019 [~~2007~~].

23 SECTION 2. Section 441.0011, Government Code, is amended to
24 read as follows:

25 Sec. 441.0011. TRAINING FOR COMMISSION MEMBERS. (a) A
26 person who is appointed to and qualifies for office as a member of
27 the commission may not vote, deliberate, or be counted as a member

1 in attendance at a meeting of the commission until the person
2 completes a training program that complies with [~~Before a member of~~
3 ~~the commission may assume the member's duties and before the member~~
4 ~~may be confirmed by the senate, the member must complete at least~~
5 ~~one course of a training program that meets the requirements of]~~
6 this section.

7 (b) The [~~A~~] training program must provide the person with
8 information [~~under this section shall provide information to the~~
9 ~~member]~~ regarding:

10 (1) the [~~enabling~~] legislation that created the
11 commission;

12 (2) the programs, functions, rules, and budget of the
13 commission;

14 (3) the results of the most recent formal audit of
15 [~~programs operated by]~~ the commission;

16 (4) [~~3~~] the requirements of laws relating to open
17 meetings, public information, administrative procedure, and
18 conflicts of interest [~~role and functions of the commission]~~; and

19 (5) [~~4~~] the rules of the commission with an emphasis
20 on the rules that relate to disciplinary and investigatory
21 authority;

22 [~~5~~] the current budget for the commission;

23 [~~6~~] the results of the most recent formal audit of the
24 commission;

25 [~~7~~] the requirements of the:

26 [~~A~~] open meetings law, Chapter 551;

27 [~~B~~] open records law, Chapter 552; and

1 ~~[(C) administrative procedure law, Chapter 2001,~~
2 ~~[(8) the requirements of the conflict of interest laws~~
3 ~~and other laws relating to public officials; and~~
4 ~~[(9)]~~ any applicable ethics policies adopted by the
5 commission or the Texas Ethics Commission.

6 (c) A person appointed to the commission is entitled to
7 reimbursement, as provided by the General Appropriations Act, for
8 the travel expenses incurred in attending the training program
9 regardless of whether the attendance at the program occurs before
10 or after the person qualifies for office.

11 SECTION 3. Section 441.006(a), Government Code, is amended
12 to read as follows:

13 (a) The commission shall:

14 (1) govern the Texas State Library;

15 (2) adopt policies and rules to aid and encourage the
16 development of and cooperation among all types of libraries,
17 including public, academic, special, and other types of libraries;

18 (3) aid those studying problems to be dealt with by
19 legislation;

20 (4) prepare and make available to the public and
21 appropriate state agencies information of public interest
22 describing the functions of the commission ~~[and the commission~~
23 ~~procedures by which complaints are filed with and resolved by the~~
24 ~~commission]~~;

25 (5) deposit money paid to the commission under this
26 chapter subject to Subchapter F, Chapter 404;

27 (6) give to any person contemplating the establishment

1 of a public library advice regarding matters such as maintaining a
2 public library, selecting books, cataloging, and managing a
3 library;

4 (7) conduct library institutes and encourage library
5 associations;

6 (8) take custody of, preserve, and make available for
7 public use state records and other historical resources that
8 document the history and culture of Texas as a province, colony,
9 republic, or state;

10 (9) prepare and make available to the public a
11 complete list of every state symbol and place designation,
12 including state symbols and place designations made in accordance
13 with Chapter 391; and

14 (10) aid and encourage, by adoption of policies and
15 programs, the development of effective records management and
16 preservation programs in state agencies and the local governments
17 of the state[~~, and~~

18 [~~(11) establish by rule methods by which consumers and~~
19 ~~service recipients are notified of the name, mailing address, and~~
20 ~~telephone number of the commission for the purpose of directing~~
21 ~~complaints to the commission].~~

22 SECTION 4. Subchapter A, Chapter 441, Government Code, is
23 amended by adding Sections 441.018, 441.019, 441.020, 441.021, and
24 441.022 to read as follows:

25 Sec. 441.018. COMPLAINTS. (a) The commission shall
26 maintain a system to promptly and efficiently act on complaints
27 filed with the commission. The commission shall maintain

1 information about parties to the complaint, the subject matter of
2 the complaint, a summary of the results of the review or
3 investigation of the complaint, and its disposition.

4 (b) The commission shall make information available
5 describing its procedures for complaint investigation and
6 resolution.

7 (c) The commission shall periodically notify the complaint
8 parties of the status of the complaint until final disposition.

9 Sec. 441.019. USE OF TECHNOLOGY. The commission shall
10 implement a policy requiring the commission to use appropriate
11 technological solutions to improve the commission's ability to
12 perform its functions. The policy must ensure that the public is
13 able to interact with the commission on the Internet.

14 Sec. 441.020. NEGOTIATED RULEMAKING AND ALTERNATIVE
15 DISPUTE RESOLUTION POLICY. (a) The commission shall develop and
16 implement a policy to encourage the use of:

17 (1) negotiated rulemaking procedures under Chapter
18 2008 for the adoption of commission rules; and

19 (2) appropriate alternative dispute resolution
20 procedures under Chapter 2009 to assist in the resolution of
21 internal and external disputes under the commission's
22 jurisdiction.

23 (b) The commission's procedures relating to alternative
24 dispute resolution must conform, to the extent possible, to any
25 model guidelines issued by the State Office of Administrative
26 Hearings for the use of alternative dispute resolution by state
27 agencies.

1 (c) The commission shall designate a trained person to:

2 (1) coordinate the implementation of the policy
3 adopted under Subsection (a);

4 (2) serve as a resource for any training needed to
5 implement the procedures for negotiated rulemaking or alternative
6 dispute resolution; and

7 (3) collect data concerning the effectiveness of those
8 procedures, as implemented by the commission.

9 Sec. 441.021. PUBLIC SCHOOL LIBRARY STUDY. (a) The
10 commission and the Texas Education Agency shall conduct a joint
11 study to identify the needs of public school libraries in this state
12 and determine which needs each agency is best suited to address.

13 (b) Not later than December 31, 2008, the commission and the
14 Texas Education Agency shall submit a joint written report
15 containing the findings of the study and the recommendations of the
16 commission and the education agency to the:

17 (1) governor;

18 (2) lieutenant governor;

19 (3) speaker of the house of representatives; and

20 (4) appropriate oversight committees of each house of
21 the legislature.

22 (c) This section expires June 1, 2009.

23 Sec. 441.022. COMPLIANCE WITH SUNSET RECOMMENDATIONS. (a)
24 The commission shall:

25 (1) comply with and implement the management action
26 recommendations regarding the commission adopted by the Sunset
27 Advisory Commission on January 10, 2007, as a result of its review

1 of the commission; and

2 (2) report to the Sunset Advisory Commission not later
3 than November 1, 2008, the information the Sunset Advisory
4 Commission requires regarding the commission's implementation of
5 the recommendations under Subdivision (1).

6 (b) This section expires June 1, 2009.

7 SECTION 5. Section 441.135, Government Code, is amended to
8 read as follows:

9 Sec. 441.135. GRANTS. (a) Using state, federal, or other
10 funds, the [The] commission shall establish a program of [state]
11 grants within the limitations of funds appropriated by the
12 legislature. The commission shall adopt by rule the guidelines for
13 awarding grants[~~, except that any municipal library which lends~~
14 ~~more than 20,000 items per year to nonresidents cannot be denied any~~
15 ~~grant awarded after January 1, 1995, based solely upon the~~
16 ~~provision of services to nonresidents].~~

17 (b) The program of [state] grants shall include one or more
18 of the following:

19 (1) system operation grants, to:

20 (A) provide basic system support services to
21 member libraries;

22 (B) provide coordination and enable cooperation
23 with the commission and with other libraries in a region; and

24 (C) meet commission and federal goals

25 ~~[strengthen major resource system services to member public~~
26 ~~libraries and regional library system services to member libraries,~~
27 ~~including grants to reimburse other libraries for providing~~

1 ~~specialized services to major resource systems and regional library~~
2 ~~systems];~~

3 (2) incentive grants, to encourage public libraries to
4 join together into larger units of service to meet commission and
5 federal goals [~~in order to meet criteria for major resource system~~
6 ~~membership or regional library system membership];~~

7 (3) establishment grants, to help libraries establish
8 consortia or cooperatives that will enable [~~public~~] libraries to
9 better serve their [~~that will qualify for major resource system~~
10 ~~membership or regional library system membership in~~] communities
11 [~~without public library service];~~

12 (4) equalization grants, to help public libraries in
13 communities with relatively limited taxable resources to meet
14 commission and federal goals and qualify for [~~criteria for major~~
15 ~~resource system membership or regional~~] library system membership;
16 [~~and~~]

17 (5) public information technology grants, to help
18 public libraries make state, local, and federal government
19 information that is accessible through the Internet [~~or electronic~~
20 ~~bulletin board systems~~] available to the public through computers;

21 (6) competitive grants, to promote innovation by
22 public libraries and by libraries described by Section 441.1271(a)
23 and to encourage major resource systems or regional library systems
24 and libraries to meet commission and federal goals; and

25 (7) grants to aid local libraries, to provide
26 assistance to public libraries, and to help those libraries meet
27 commission and federal goals [~~computer terminals at a library].~~

1 SECTION 6. Section 441.138(d), Government Code, is amended
2 to read as follows:

3 (d) The commission by rule shall adopt a formula for
4 distributing system operation grants [~~Twenty-five percent of~~
5 ~~system operation grants shall be apportioned equally~~] among the
6 major resource systems and regional library systems. The formula
7 must include funding for basic system support services [~~that are~~
8 ~~operating under commission-approved programs of services, budgets,~~
9 ~~and bylaws or contracts, and the remaining 75 percent of these~~
10 ~~grants shall be apportioned among those systems on a per capita~~
11 ~~basis determined by the most recent decennial census or the most~~
12 ~~recent official population estimate of the U.S. Department of~~
13 ~~Commerce, Bureau of the Census~~].

14 SECTION 7. Subchapter I, Chapter 441, Government Code, is
15 amended by adding Sections 441.1381, 441.1382, and 441.1383 to read
16 as follows:

17 Sec. 441.1381. COMPETITIVE GRANTS; SYSTEM OPERATION
18 GRANTS. (a) The commission shall design and implement a
19 competitive grant program described by Section 441.135(b)(6) and
20 shall require a recipient of a competitive grant to report to the
21 commission information relating to best practices and performance
22 outcomes.

23 (b) The commission shall continue to provide system
24 operation grants to major resource systems and regional library
25 systems. The commission may not award system operation grants
26 through a competitive process.

27 Sec. 441.1382. ADDITIONAL FUNDING. (a) The commission may

1 authorize a major resource system or regional library system to
2 receive money in addition to the system operation grant, including
3 money from:

4 (1) gifts or grants from the federal government, local
5 or regional governments, private sources, or other sources;

6 (2) contracts for services;

7 (3) cost-sharing arrangements; or

8 (4) other fees.

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

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

17 (d) The commission by rule shall require that money received
18 under Subsection (a) must be held in a federally insured account.
19 Interest earned on money in the account shall be retained in the
20 account and is subject to the same terms and reporting requirements
21 as the corpus.

22 (e) The commission by rule may require periodic reporting
23 regarding money received under Subsection (a) and include this
24 information in the annual audit.

25 (f) Money generated through the use of state or federal
26 funds remains the property of the state. If the commission ceases
27 to contract with a major resource system or regional library

1 system, all money received under this section or described by this
2 subsection must be promptly returned to the commission for use in
3 regional library development programs.

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

10 SECTION 8. Subchapter L, Chapter 441, Government Code, is
11 amended by adding Section 441.205 to read as follows:

12 Sec. 441.205. ONLINE ACCESS TO CULTURAL RESOURCES. The
13 commission may:

14 (1) encourage Texas institutions, including
15 libraries, archives, museums, historical societies, and
16 governmental entities, to develop ways to provide Internet access
17 to digitized cultural resources; and

18 (2) provide leadership in collaborative efforts among
19 the institutions to achieve this goal.

20 SECTION 9. Section 336.104, Local Government Code, is
21 amended to read as follows:

22 Sec. 336.104. QUALIFICATIONS OF EXECUTIVE DIRECTOR OR
23 LIBRARY DIRECTOR. The board shall ensure that the executive
24 director or a subordinate library director has all necessary
25 qualifications to oversee library services in the district. [~~The~~
26 board shall require the executive director or a subordinate library
27 director to meet the qualification requirements for a county

1 ~~librarian under Section 441.007, Government Code, and under any~~
2 ~~rules adopted by the Texas State Library and Archives Commission~~
3 ~~under that section.]~~

4 SECTION 10. The following provisions of the Government Code
5 are repealed:

- 6 (1) Section 441.007;
- 7 (2) Section 441.0071;
- 8 (3) Section 441.0072;
- 9 (4) Section 441.0073; and
- 10 (5) Section 441.0074.

11 SECTION 11. Not later than March 1, 2008, the Texas State
12 Library and Archives Commission shall adopt rules as required by
13 Section 441.138(d), Government Code, as amended by this Act.

14 SECTION 12. (a) The changes in law made by this Act in the
15 prohibitions or qualifications applying to a member of the Texas
16 State Library and Archives Commission do not affect the entitlement
17 of a member serving on the Texas State Library and Archives
18 Commission immediately before September 1, 2007, to continue to
19 serve and function as a member of the Texas State Library and
20 Archives Commission for the remainder of the member's term. Those
21 changes in law apply only to a member appointed on or after
22 September 1, 2007.

23 (b) Section 441.018, Government Code, as added by this Act,
24 relating to the investigation of a complaint filed with the Texas
25 State Library and Archives Commission, applies only to a complaint
26 filed on or after September 1, 2007. A complaint filed with the
27 commission before September 1, 2007, is governed by the law as it

1 existed immediately before that date, and the former law is
2 continued in effect for that purpose.

3 SECTION 13. This Act takes effect September 1, 2007.