

By: McClendon

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 September 1, 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 any nonstatutory  
26 recommendations regarding the commission adopted by the Sunset  
27 Advisory Commission as a result of its review of the commission; and



1           (2) report to the sunset commission the information  
2 that the sunset commission requires regarding the commission's  
3 implementation of the sunset commission's nonstatutory  
4 recommendations not later than November 1, 2008.

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

6           SECTION 5. Section 441.135(b), Government Code, is amended  
7 to read as follows:

8           (b) The program of state grants shall include one or more of  
9 the following:

10           (1) system operation grants, to strengthen major  
11 resource system services to member public libraries and regional  
12 library system services to member libraries, including grants to  
13 reimburse other libraries for providing specialized services to  
14 major resource systems and regional library systems;

15           (2) incentive grants, to encourage public libraries to  
16 join together into larger units of service in order to meet criteria  
17 for major resource system membership or regional library system  
18 membership;

19           (3) establishment grants, to help establish public  
20 libraries that will qualify for major resource system membership or  
21 regional library system membership in communities without public  
22 library service;

23           (4) equalization grants, to help public libraries in  
24 communities with relatively limited taxable resources to meet  
25 criteria for major resource system membership or regional library  
26 system membership; ~~and~~

27           (5) public information technology grants, to help

1 public libraries make state, local, and federal government  
2 information that is accessible through the Internet or electronic  
3 bulletin board systems available to the public through computer  
4 terminals at a library; and

5 (6) competitive grants, to promote innovation by  
6 public libraries and by libraries described by Section 441.1271(a)  
7 and to encourage regional library systems and libraries to meet  
8 commission and federal goals.

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

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

22 SECTION 7. Subchapter I, Chapter 441, Government Code, is  
23 amended by adding Section 441.1381 to read as follows:

24 Sec. 441.1381. COMPETITIVE GRANTS; SYSTEM OPERATION  
25 GRANTS. (a) The commission shall design and implement a  
26 competitive grant program described by Section 441.135(b)(6) and  
27 shall require a recipient of a competitive grant to report to the

1 commission information relating to best practices and performance  
2 outcomes.

3 (b) The commission shall continue to provide system  
4 operation grants to major resource systems and regional library  
5 systems. The commission may not award system operation grants  
6 through a competitive process.

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

9 Sec. 441.205. ONLINE ACCESS TO CULTURAL RESOURCES. The  
10 commission may:

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

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

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

19 Sec. 336.104. QUALIFICATIONS OF EXECUTIVE DIRECTOR OR  
20 LIBRARY DIRECTOR. The board shall ensure that the executive  
21 director or a subordinate library director has all necessary  
22 qualifications to oversee library services in the district. [~~The~~  
23 ~~board shall require the executive director or a subordinate library~~  
24 ~~director to meet the qualification requirements for a county~~  
25 ~~librarian under Section 441.007, Government Code, and under any~~  
26 ~~rules adopted by the Texas State Library and Archives Commission~~  
27 ~~under that section.]~~

1           SECTION 10. The following provisions of the Government Code  
2 are repealed:

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

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

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

20           (b) Section 441.018, Government Code, as added by this Act,  
21 relating to the investigation of a complaint filed with the Texas  
22 State Library and Archives Commission, applies only to a complaint  
23 filed on or after September 1, 2007. A complaint filed with the  
24 commission before September 1, 2007, is governed by the law as it  
25 existed immediately before that date, and the former law is  
26 continued in effect for that purpose.

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