

By: Brimer

S.B. No. 913

A BILL TO BE ENTITLED

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AN ACT

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

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

SECTION 1. Subsections (e) through (k) and (q), Section 441.001, Government Code, are amended to read as follows:

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

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

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

(2) the person's spouse is [may not be a member of the commission or employee of the commission who is exempt from the 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
28 term ~~[for which the member is appointed]~~; or

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

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

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

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

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

24 Sec. 441.0011. TRAINING FOR COMMISSION MEMBERS. (a) A
25 person who is appointed to and qualifies for office as a member of
26 the commission may not vote, deliberate, or be counted as a member
27 in attendance at a meeting of the commission until the person
28 completes a training program that complies with [~~Before a member of~~

1 ~~the commission may assume the member's duties and before the member~~
2 ~~may be confirmed by the senate, the member must complete at least~~
3 ~~one course of a training program that meets the requirements of]~~
4 this section.

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

8 (1) the [~~enabling~~] legislation that created the
9 commission;

10 (2) the programs, functions, rules, and budget of the
11 commission;

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

14 (4) [~~(3)~~] the requirements of laws relating to open
15 meetings, public information, administrative procedure, and
16 conflicts of interest [~~role and functions of the commission]~~; and

17 (5) [~~(4)~~] the rules of the commission with an emphasis
18 on the rules that relate to disciplinary and investigatory
19 authority;

20 [~~(5)~~] the current budget for the commission;

21 [~~(6)~~] the results of the most recent formal audit of the
22 commission;

23 [~~(7)~~] the requirements of the:

24 [~~(A)~~] open meetings law, Chapter 551;

25 [~~(B)~~] open records law, Chapter 552; and

26 [~~(C)~~] administrative procedure law, Chapter 2001;

27 [~~(8)~~] the requirements of the conflict of interest laws
28 and other laws relating to public officials; and

1 ~~[(9)]~~ any applicable ethics policies adopted by the
2 commission or the Texas Ethics Commission.

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

8 SECTION 3. Subsection (a), Section 441.006, Government
9 Code, is amended to read as follows:

10 (a) The commission shall:

11 (1) govern the Texas State Library;

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

15 (3) aid those studying problems to be dealt with by
16 legislation;

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

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

24 (6) give to any person contemplating the establishment
25 of a public library advice regarding matters such as maintaining a
26 public library, selecting books, cataloging, and managing a
27 library;

28 (7) conduct library institutes and encourage library

1 associations;

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

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

10 (10) aid and encourage, by adoption of policies and
11 programs, the development of effective records management and
12 preservation programs in state agencies and the local governments
13 of the state[~~, and~~

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

18 SECTION 4. Subchapter A, Chapter 441, Government Code, is
19 amended by adding Sections 441.018 through 441.022 to read as
20 follows:

21 Sec. 441.018. COMPLAINTS. (a) The commission shall
22 maintain a system to promptly and efficiently act on complaints
23 filed with the commission. The commission shall maintain
24 information about parties to the complaint, the subject matter of
25 the complaint, a summary of the results of the review or
26 investigation of the complaint, and its disposition.

27 (b) The commission shall make information available
28 describing its procedures for complaint investigation and

1 resolution.

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

4 Sec. 441.019. USE OF TECHNOLOGY. The commission shall
5 implement a policy requiring the commission to use appropriate
6 technological solutions to improve the commission's ability to
7 perform its functions. The policy must ensure that the public is
8 able to interact with the commission on the Internet.

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

12 (1) negotiated rulemaking procedures under Chapter
13 2008 for the adoption of commission rules; and

14 (2) appropriate alternative dispute resolution
15 procedures under Chapter 2009 to assist in the resolution of
16 internal and external disputes under the commission's
17 jurisdiction.

18 (b) The commission's procedures relating to alternative
19 dispute resolution must conform, to the extent possible, to any
20 model guidelines issued by the State Office of Administrative
21 Hearings for the use of alternative dispute resolution by state
22 agencies.

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

24 (1) coordinate the implementation of the policy
25 adopted under Subsection (a);

26 (2) serve as a resource for any training needed to
27 implement the procedures for negotiated rulemaking or alternative
28 dispute resolution; and

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

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

7 (b) Not later than September 1, 2008, the commission and the
8 Texas Education Agency shall submit a joint written report
9 containing the findings of the study and the recommendations of the
10 commission and the education agency to the:

11 (1) governor;

12 (2) lieutenant governor;

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

14 (4) appropriate oversight committees of each house of
15 the legislature.

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

17 Sec. 441.022. COMPLIANCE WITH SUNSET RECOMMENDATIONS.

18 (a) The commission shall:

19 (1) comply with and implement any nonstatutory
20 recommendations regarding the commission adopted by the Sunset
21 Advisory Commission as a result of its review of the commission; and

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

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

27 SECTION 5. Subsection (b), Section 441.135, Government
28 Code, is amended to read as follows:

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

3 (1) system operation grants, to strengthen major
4 resource system services to member public libraries and regional
5 library system services to member libraries, including grants to
6 reimburse other libraries for providing specialized services to
7 major resource systems and regional library systems;

8 (2) incentive grants, to encourage public libraries to
9 join together into larger units of service in order to meet criteria
10 for major resource system membership or regional library system
11 membership;

12 (3) establishment grants, to help establish public
13 libraries that will qualify for major resource system membership or
14 regional library system membership in communities without public
15 library service;

16 (4) equalization grants, to help public libraries in
17 communities with relatively limited taxable resources to meet
18 criteria for major resource system membership or regional library
19 system membership; ~~and~~

20 (5) public information technology grants, to help
21 public libraries make state, local, and federal government
22 information that is accessible through the Internet or electronic
23 bulletin board systems available to the public through computer
24 terminals at a library; and

25 (6) competitive grants, to promote innovation by
26 public libraries and by libraries described by Section 441.1271(a)
27 and to encourage regional library systems and libraries to meet
28 commission and federal goals.

1 SECTION 6. Subsection (d), Section 441.138, Government
2 Code, is amended 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 Section 441.1381 to read as follows:

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

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

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

28 Sec. 441.205. ONLINE ACCESS TO CULTURAL RESOURCES. The

1 commission may:

2 (1) encourage Texas institutions, including
3 libraries, archives, museums, historical societies, and
4 governmental entities, to develop ways to provide Internet access
5 to digitized cultural resources; and

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

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

10 Sec. 336.104. QUALIFICATIONS OF EXECUTIVE DIRECTOR OR
11 LIBRARY DIRECTOR. The board shall ensure that the executive
12 director or a subordinate library director has all necessary
13 qualifications to oversee library services in the district. [~~The~~
14 ~~board shall require the executive director or a subordinate library~~
15 ~~director to meet the qualification requirements for a county~~
16 ~~librarian under Section 441.007, Government Code, and under any~~
17 ~~rules adopted by the Texas State Library and Archives Commission~~
18 ~~under that section.]~~

19 SECTION 10. The following provisions of the Government Code
20 are repealed:

- 21 (1) Section 441.007;
22 (2) Section 441.0071;
23 (3) Section 441.0072;
24 (4) Section 441.0073; and
25 (5) Section 441.0074.

26 SECTION 11. Not later than March 1, 2008, the Texas State
27 Library and Archives Commission shall adopt rules as required by
28 Subsection (d), Section 441.138, Government Code, as amended by

1 this Act.

2 SECTION 12. (a) The changes in law made by this Act in the
3 prohibitions or qualifications applying to a member of the Texas
4 State Library and Archives Commission do not affect the entitlement
5 of a member serving on the Texas State Library and Archives
6 Commission immediately before September 1, 2007, to continue to
7 serve and function as a member of the Texas State Library and
8 Archives Commission for the remainder of the member's term. Those
9 changes in law apply only to a member appointed on or after
10 September 1, 2007.

11 (b) Section 441.018, Government Code, as added by this Act,
12 relating to the investigation of a complaint filed with the Texas
13 State Library and Archives Commission, applies only to a complaint
14 filed on or after September 1, 2007. A complaint filed with the
15 commission before September 1, 2007, is governed by the law as it
16 existed immediately before that date, and the former law is
17 continued in effect for that purpose.

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