

1-1 By: Brimer S.B. No. 913
1-2 (In the Senate - Filed March 8, 2007; March 15, 2007, read
1-3 first time and referred to Committee on Government Organization;
1-4 March 27, 2007, reported favorably by the following vote: Yeas 6,
1-5 Nays 0; March 27, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the continuation and functions of the Texas State
1-9 Library and Archives Commission.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subsections (e) through (k) and (q), Section
1-12 441.001, Government Code, are amended to read as follows:

1-13 (e) A person may not be ~~[serve as]~~ a member of the commission
1-14 or act as the general counsel to the commission if the person is
1-15 required to register as a lobbyist under Chapter 305 because of the
1-16 person's activities for compensation on behalf of a profession
1-17 related to the operation of the commission.

1-18 (f) A person may not be a member of the commission and may
1-19 not be a commission employee employed in a "bona fide executive,
1-20 administrative, or professional capacity," as that phrase is used
1-21 for purposes of establishing an exemption to the overtime
1-22 provisions of the federal Fair Labor Standards Act of 1938 (29
1-23 U.S.C. Section 201 et seq.) if:

1-24 (1) the person is an ~~[An]~~ officer, employee, or paid
1-25 consultant of a Texas trade association in the field of library and
1-26 information science, archives management, or records management;
1-27 or

1-28 (2) the person's spouse is ~~[may not be a member of the~~
1-29 ~~commission or employee of the commission who is exempt from the~~
1-30 ~~state's position classification plan or is compensated at or above~~
1-31 ~~the amount prescribed by the General Appropriations Act for step 1,~~
1-32 ~~salary group 17, of the position classification salary schedule.~~

1-33 ~~[(g) A person who is the spouse of]~~ an officer, manager, or
1-34 paid consultant of a Texas trade association in the field of library
1-35 and information science, archives management, or records
1-36 management ~~[may not be a member of the commission and may not be an~~
1-37 ~~employee of the commission who is exempt from the state's position~~
1-38 ~~classification plan or is compensated at or above the amount~~
1-39 ~~prescribed by the General Appropriations Act for step 1, salary~~
1-40 ~~group 17, of the position classification salary schedule].~~

1-41 (h) In this section, "[For the purposes of this section, a
1-42 Texas trade association" means ~~[is]~~ a ~~[nonprofit,]~~ cooperative~~[,]~~
1-43 and voluntarily joined statewide association of business or
1-44 professional competitors ~~[or professionals]~~ in this state designed
1-45 to assist its members and its industry or profession in dealing with
1-46 mutual business or professional problems and in promoting their
1-47 common interest.

1-48 (i) It is a ground for removal from the commission if a
1-49 member:

1-50 (1) does not have at the time of taking office
1-51 ~~[appointment]~~ the qualifications required by Subsection (a);

1-52 (2) does not maintain during service on the commission
1-53 the qualifications required by Subsection (a);

1-54 (3) is ineligible for membership under ~~[violates a~~
1-55 ~~prohibition established by]~~ Subsection (e) or ~~[,]~~ (f) ~~[, or (g)]~~;

1-56 (4) cannot, because of illness or disability,
1-57 discharge the member's duties for a substantial part of the member's
1-58 term ~~[for which the member is appointed]~~; or

1-59 (5) is absent from more than half of the regularly
1-60 scheduled commission meetings that the member is eligible to attend
1-61 during a calendar year without an excuse approved ~~[unless the~~
1-62 ~~absence is excused]~~ by majority vote of the commission.

1-63 (j) The validity of an action of the commission is not
1-64 affected by the fact that it was taken when ~~[at a time]~~ a ground for

2-1 removal of a ~~[member of the]~~ commission member exists ~~[existed]~~.

2-2 (k) If the director and librarian has knowledge that a
2-3 potential ground for removal exists, the director and librarian
2-4 shall notify the presiding officer of the commission of the
2-5 potential ground. The presiding officer shall then notify the
2-6 governor and the attorney general that a potential ground for
2-7 removal exists. If the potential ground for removal involves the
2-8 presiding officer, the director and librarian shall notify the next
2-9 highest officer of the commission, who shall then notify the
2-10 governor and the attorney general that a potential ground for
2-11 removal exists.

2-12 (q) The Texas State Library and Archives Commission is
2-13 subject to Chapter 325 (Texas Sunset Act). Unless continued in
2-14 existence as provided by that chapter, the commission is abolished
2-15 September 1, 2019 ~~[2007]~~.

2-16 SECTION 2. Section 441.0011, Government Code, is amended to
2-17 read as follows:

2-18 Sec. 441.0011. TRAINING FOR COMMISSION MEMBERS. (a) A
2-19 person who is appointed to and qualifies for office as a member of
2-20 the commission may not vote, deliberate, or be counted as a member
2-21 in attendance at a meeting of the commission until the person
2-22 completes a training program that complies with ~~[Before a member of~~
2-23 ~~the commission may assume the member's duties and before the member~~
2-24 ~~may be confirmed by the senate, the member must complete at least~~
2-25 ~~one course of a training program that meets the requirements of]~~
2-26 this section.

2-27 (b) The [A] training program must provide the person with
2-28 information ~~[under this section shall provide information to the~~
2-29 ~~member]~~ regarding:

2-30 (1) the [enabling] legislation that created the
2-31 commission;

2-32 (2) the programs, functions, rules, and budget of the
2-33 commission;

2-34 (3) the results of the most recent formal audit of
2-35 [programs operated by] the commission;

2-36 (4) ~~[(3)]~~ the requirements of laws relating to open
2-37 meetings, public information, administrative procedure, and
2-38 conflicts of interest ~~[role and functions of the commission]; and~~

2-39 (5) ~~[(4)]~~ the rules of the commission with an emphasis
2-40 on the rules that relate to disciplinary and investigatory
2-41 authority;

2-42 ~~[(5) the current budget for the commission;~~

2-43 ~~[(6) the results of the most recent formal audit of the~~
2-44 ~~commission;~~

2-45 ~~[(7) the requirements of the:~~

2-46 ~~[(A) open meetings law, Chapter 551;~~

2-47 ~~[(B) open records law, Chapter 552; and~~

2-48 ~~[(C) administrative procedure law, Chapter 2001;~~

2-49 ~~[(8) the requirements of the conflict of interest laws~~
2-50 ~~and other laws relating to public officials; and~~

2-51 ~~[(9)]~~ any applicable ethics policies adopted by the
2-52 commission or the Texas Ethics Commission.

2-53 (c) A person appointed to the commission is entitled to
2-54 reimbursement, as provided by the General Appropriations Act, for
2-55 the travel expenses incurred in attending the training program
2-56 regardless of whether the attendance at the program occurs before
2-57 or after the person qualifies for office.

2-58 SECTION 3. Subsection (a), Section 441.006, Government
2-59 Code, is amended to read as follows:

2-60 (a) The commission shall:

2-61 (1) govern the Texas State Library;

2-62 (2) adopt policies and rules to aid and encourage the
2-63 development of and cooperation among all types of libraries,
2-64 including public, academic, special, and other types of libraries;

2-65 (3) aid those studying problems to be dealt with by
2-66 legislation;

2-67 (4) prepare and make available to the public and
2-68 appropriate state agencies information of public interest
2-69 describing the functions of the commission ~~[and the commission~~

3-1 ~~procedures by which complaints are filed with and resolved by the~~
 3-2 ~~commission];~~

3-3 (5) deposit money paid to the commission under this
 3-4 chapter subject to Subchapter F, Chapter 404;

3-5 (6) give to any person contemplating the establishment
 3-6 of a public library advice regarding matters such as maintaining a
 3-7 public library, selecting books, cataloging, and managing a
 3-8 library;

3-9 (7) conduct library institutes and encourage library
 3-10 associations;

3-11 (8) take custody of, preserve, and make available for
 3-12 public use state records and other historical resources that
 3-13 document the history and culture of Texas as a province, colony,
 3-14 republic, or state;

3-15 (9) prepare and make available to the public a
 3-16 complete list of every state symbol and place designation,
 3-17 including state symbols and place designations made in accordance
 3-18 with Chapter 391; and

3-19 (10) aid and encourage, by adoption of policies and
 3-20 programs, the development of effective records management and
 3-21 preservation programs in state agencies and the local governments
 3-22 of the state[~~, and~~

3-23 [~~(11) establish by rule methods by which consumers and~~
 3-24 ~~service recipients are notified of the name, mailing address, and~~
 3-25 ~~telephone number of the commission for the purpose of directing~~
 3-26 ~~complaints to the commission].~~

3-27 SECTION 4. Subchapter A, Chapter 441, Government Code, is
 3-28 amended by adding Sections 441.018 through 441.022 to read as
 3-29 follows:

3-30 Sec. 441.018. COMPLAINTS. (a) The commission shall
 3-31 maintain a system to promptly and efficiently act on complaints
 3-32 filed with the commission. The commission shall maintain
 3-33 information about parties to the complaint, the subject matter of
 3-34 the complaint, a summary of the results of the review or
 3-35 investigation of the complaint, and its disposition.

3-36 (b) The commission shall make information available
 3-37 describing its procedures for complaint investigation and
 3-38 resolution.

3-39 (c) The commission shall periodically notify the complaint
 3-40 parties of the status of the complaint until final disposition.

3-41 Sec. 441.019. USE OF TECHNOLOGY. The commission shall
 3-42 implement a policy requiring the commission to use appropriate
 3-43 technological solutions to improve the commission's ability to
 3-44 perform its functions. The policy must ensure that the public is
 3-45 able to interact with the commission on the Internet.

3-46 Sec. 441.020. NEGOTIATED RULEMAKING AND ALTERNATIVE
 3-47 DISPUTE RESOLUTION POLICY. (a) The commission shall develop and
 3-48 implement a policy to encourage the use of:

3-49 (1) negotiated rulemaking procedures under Chapter
 3-50 2008 for the adoption of commission rules; and

3-51 (2) appropriate alternative dispute resolution
 3-52 procedures under Chapter 2009 to assist in the resolution of
 3-53 internal and external disputes under the commission's
 3-54 jurisdiction.

3-55 (b) The commission's procedures relating to alternative
 3-56 dispute resolution must conform, to the extent possible, to any
 3-57 model guidelines issued by the State Office of Administrative
 3-58 Hearings for the use of alternative dispute resolution by state
 3-59 agencies.

3-60 (c) The commission shall designate a trained person to:

3-61 (1) coordinate the implementation of the policy
 3-62 adopted under Subsection (a);

3-63 (2) serve as a resource for any training needed to
 3-64 implement the procedures for negotiated rulemaking or alternative
 3-65 dispute resolution; and

3-66 (3) collect data concerning the effectiveness of those
 3-67 procedures, as implemented by the commission.

3-68 Sec. 441.021. PUBLIC SCHOOL LIBRARY STUDY. (a) The
 3-69 commission and the Texas Education Agency shall conduct a joint

4-1 study to identify the needs of public school libraries in this state
 4-2 and determine which needs each agency is best suited to address.

4-3 (b) Not later than September 1, 2008, the commission and the
 4-4 Texas Education Agency shall submit a joint written report
 4-5 containing the findings of the study and the recommendations of the
 4-6 commission and the education agency to the:

4-7 (1) governor;
 4-8 (2) lieutenant governor;
 4-9 (3) speaker of the house of representatives; and
 4-10 (4) appropriate oversight committees of each house of
 4-11 the legislature.

4-12 (c) This section expires June 1, 2009.

4-13 Sec. 441.022. COMPLIANCE WITH SUNSET RECOMMENDATIONS.

4-14 (a) The commission shall:

4-15 (1) comply with and implement any nonstatutory
 4-16 recommendations regarding the commission adopted by the Sunset
 4-17 Advisory Commission as a result of its review of the commission; and

4-18 (2) report to the sunset commission the information
 4-19 that the sunset commission requires regarding the commission's
 4-20 implementation of the sunset commission's nonstatutory
 4-21 recommendations not later than November 1, 2008.

4-22 (b) This section expires June 1, 2009.

4-23 SECTION 5. Subsection (b), Section 441.135, Government
 4-24 Code, is amended to read as follows:

4-25 (b) The program of state grants shall include one or more of
 4-26 the following:

4-27 (1) system operation grants, to strengthen major
 4-28 resource system services to member public libraries and regional
 4-29 library system services to member libraries, including grants to
 4-30 reimburse other libraries for providing specialized services to
 4-31 major resource systems and regional library systems;

4-32 (2) incentive grants, to encourage public libraries to
 4-33 join together into larger units of service in order to meet criteria
 4-34 for major resource system membership or regional library system
 4-35 membership;

4-36 (3) establishment grants, to help establish public
 4-37 libraries that will qualify for major resource system membership or
 4-38 regional library system membership in communities without public
 4-39 library service;

4-40 (4) equalization grants, to help public libraries in
 4-41 communities with relatively limited taxable resources to meet
 4-42 criteria for major resource system membership or regional library
 4-43 system membership; ~~and~~

4-44 (5) public information technology grants, to help
 4-45 public libraries make state, local, and federal government
 4-46 information that is accessible through the Internet or electronic
 4-47 bulletin board systems available to the public through computer
 4-48 terminals at a library; and

4-49 (6) competitive grants, to promote innovation by
 4-50 public libraries and by libraries described by Section 441.1271(a)
 4-51 and to encourage regional library systems and libraries to meet
 4-52 commission and federal goals.

4-53 SECTION 6. Subsection (d), Section 441.138, Government
 4-54 Code, is amended to read as follows:

4-55 (d) The commission by rule shall adopt a formula for
 4-56 distributing system operation grants ~~[Twenty-five percent of~~
 4-57 ~~system operation grants shall be apportioned equally]~~ among the
 4-58 major resource systems and regional library systems. The formula
 4-59 must include funding for basic system support services ~~[that are~~
 4-60 ~~operating under commission-approved programs of services, budgets,~~
 4-61 ~~and bylaws or contracts, and the remaining 75 percent of these~~
 4-62 ~~grants shall be apportioned among those systems on a per capita~~
 4-63 ~~basis determined by the most recent decennial census or the most~~
 4-64 ~~recent official population estimate of the U.S. Department of~~
 4-65 ~~Commerce, Bureau of the Census].~~

4-66 SECTION 7. Subchapter I, Chapter 441, Government Code, is
 4-67 amended by adding Section 441.1381 to read as follows:

4-68 Sec. 441.1381. COMPETITIVE GRANTS; SYSTEM OPERATION
 4-69 GRANTS. (a) The commission shall design and implement a

5-1 competitive grant program described by Section 441.135(b)(6) and
5-2 shall require a recipient of a competitive grant to report to the
5-3 commission information relating to best practices and performance
5-4 outcomes.

5-5 (b) The commission shall continue to provide system
5-6 operation grants to major resource systems and regional library
5-7 systems. The commission may not award system operation grants
5-8 through a competitive process.

5-9 SECTION 8. Subchapter L, Chapter 441, Government Code, is
5-10 amended by adding Section 441.205 to read as follows:

5-11 Sec. 441.205. ONLINE ACCESS TO CULTURAL RESOURCES. The
5-12 commission may:

5-13 (1) encourage Texas institutions, including
5-14 libraries, archives, museums, historical societies, and
5-15 governmental entities, to develop ways to provide Internet access
5-16 to digitized cultural resources; and

5-17 (2) provide leadership in collaborative efforts among
5-18 the institutions to achieve this goal.

5-19 SECTION 9. Section 336.104, Local Government Code, is
5-20 amended to read as follows:

5-21 Sec. 336.104. QUALIFICATIONS OF EXECUTIVE DIRECTOR OR
5-22 LIBRARY DIRECTOR. The board shall ensure that the executive
5-23 director or a subordinate library director has all necessary
5-24 qualifications to oversee library services in the district. [~~The
5-25 board shall require the executive director or a subordinate library
5-26 director to meet the qualification requirements for a county
5-27 librarian under Section 441.007, Government Code, and under any
5-28 rules adopted by the Texas State Library and Archives Commission
5-29 under that section.~~]

5-30 SECTION 10. The following provisions of the Government Code
5-31 are repealed:

- 5-32 (1) Section 441.007;
- 5-33 (2) Section 441.0071;
- 5-34 (3) Section 441.0072;
- 5-35 (4) Section 441.0073; and
- 5-36 (5) Section 441.0074.

5-37 SECTION 11. Not later than March 1, 2008, the Texas State
5-38 Library and Archives Commission shall adopt rules as required by
5-39 Subsection (d), Section 441.138, Government Code, as amended by
5-40 this Act.

5-41 SECTION 12. (a) The changes in law made by this Act in the
5-42 prohibitions or qualifications applying to a member of the Texas
5-43 State Library and Archives Commission do not affect the entitlement
5-44 of a member serving on the Texas State Library and Archives
5-45 Commission immediately before September 1, 2007, to continue to
5-46 serve and function as a member of the Texas State Library and
5-47 Archives Commission for the remainder of the member's term. Those
5-48 changes in law apply only to a member appointed on or after
5-49 September 1, 2007.

5-50 (b) Section 441.018, Government Code, as added by this Act,
5-51 relating to the investigation of a complaint filed with the Texas
5-52 State Library and Archives Commission, applies only to a complaint
5-53 filed on or after September 1, 2007. A complaint filed with the
5-54 commission before September 1, 2007, is governed by the law as it
5-55 existed immediately before that date, and the former law is
5-56 continued in effect for that purpose.

5-57 SECTION 13. This Act takes effect September 1, 2007.

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