

BILL ANALYSIS

H.B. 3756
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Culture, Recreation & Tourism
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Many provisions of state law concerning the programs of the Texas State Library and Archives Commission have not been updated in more than 20 years. Definitions under the Library Systems Act are outdated and relate to programs and population groups that have long since changed. Additionally, future growth of the library systems and of the TexShare Library Consortium is based on allowing the agency and the systems the flexibility to expand the program. Finally, ongoing efforts by the agency to retrieve the lost archival treasures of Texas, such as claims for services or supplies provided to the Republic of Texas or reports of military activities during the Texas Revolution, have been hampered due to a lack of clarity in current statute about the state's right of recovery and limitations on the state's definition of a state archival record.

H.B. 3756 updates statutes related to the operations of the Texas State Library and Archives Commission by deleting obsolete provisions and modernizing definitions and terms to reflect current practices and standards related to the agency's Talking Book Program, the "Texas Reads" license plate, the Library Systems Act, the TexShare program, the local records division, and the archives division. The bill also enables the agency to expand the membership of the TexShare program and its advisory board and allows major and regional library systems to serve various types of libraries. The bill details the agency's right of recovery of state records and archival state records, broadens the definition of "state record," and grants the agency retroactive authority to retrieve Texas historical records from periods in which Texas was a province, colony, republic, or state. The bill removes language regarding the certification of county librarians.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas State Library and Archives Commission in SECTIONS 12, 20, 21, and 22 of this bill.

ANALYSIS

H.B. 3756 amends the Government Code to require the Texas State Library and Archives Commission to provide library services to persons with disabilities in cooperation with the federal government, in addition to other powers and duties. The bill provides that the commission is authorized to adopt a state plan for improving library services consistent with federal goals, rather than to adopt a state plan for improving services of and constructing county, municipal, and other public libraries. The bill requires the plan to include a procedure by which a library, rather than a county or municipal library, may apply for money under the plan. The bill renames the new millennium reading program as the Texas Reads program and makes conforming changes.

H.B. 3756 redefines "accreditation of libraries" to mean the evaluation and rating of libraries according to commission accreditation standards. The bill redefines "major resource center" to mean a large public library that is designated by the commission as the central library of a major resource system for cooperative service with other libraries in the system. The bill redefines

"major resource system" to mean a network of libraries attached to a major resource center. The bill redefines "regional library system" to mean a network of libraries established under provisions regarding library systems.

H.B. 3756 provides that provisions regarding state agency advisory committees do not apply to the composition of the library systems advisory board. The bill makes a library system advisory board member's reimbursement for actual and necessary expenses incurred in the performance of official duties subject to any applicable limitation on reimbursement provided by the General Appropriations Act.

H.B. 3756 requires the governing body of a public library that proposes to become a major resource center to submit to the commission-appointed director and librarian an annual plan of service for the major resource system made in consultation with the library systems advisory council and makes conforming changes. The bill adds a unit of federal government, an accredited non-public elementary or secondary school, and a special or research library to those entities operating a non-public library to which a major resource system is authorized to extend its membership. The bill requires a decision to extend major resource system membership to be, in addition to being approved by the commission, made in accordance with the bylaws of the library system and makes conforming changes. The bill authorizes a commission-accredited library to which a major resource system has extended its membership to join the system by resolution or agreement of its governing body or designee and makes conforming changes. The bill removes the authority of the commission to terminate the membership if the library fails to comply with obligations stated in the applicable resolution. The bill requires a library that joins a major resource system under the extended membership provisions to agree to loan materials without charge to users of other libraries in the system, and removes the requirement that such a library provide benefits to the public through its membership in the system that are sufficient to constitute fair value in exchange for the benefits received by the library through its membership in the system.

H.B. 3756 provides that the advisory council of each major resource system is composed of not more than 12 members, rather than six lay members, representing the member libraries of the system. The bill requires the commission to adopt rules to provide guidance to major resource systems on the administrative operation of advisory councils, and establishes that those systems will use this guidance to develop bylaw provisions for their councils. The bill removes the requirement that the governing body of each member library of the system shall elect or appoint a representative to elect council members, and removes provisions specifying the meeting schedule of the representatives, the representatives' duties, and the procedure for filling council vacancies. The bill removes the requirement that at all times, one member of the council be a representative of the major resource center.

H.B. 3756 authorizes bylaws adopted or a contract executed by a nonprofit corporation established by governing bodies of libraries within a regional library system to permit other libraries operated by certain units of government, educational institutions, or a special or research library to become members of the regional library system. The bill requires a library that joins a regional system under these provisions to agree to loan materials without charge to users of other libraries in the system.

H.B. 3756 requires the rules proposed by the commission-appointed director and librarian for the administration of the program of state grants established by the commission to be proposed and adopted according to the Administrative Procedure Act and makes conforming changes. The bill removes the requirement that the commission include requirements in its rules to ensure that the population served by the constituent member libraries of a major resource system be adequately represented in the development of a plan of service and on each system's advisory council.

H.B. 3756 removes language providing that editorial changes to local government records retention schedules that do not substantively change the description of a record or its retention

period, and changes to retention periods as the result of changes prescribed in a federal or state law, rule of court, or regulation, do not require approval of the local government records committee before adoption.

H.B. 3756 includes any recorded information created or received by a Texas government official in the conduct of official business, including officials from periods in which Texas was a province, colony, republic, or state the definition of "state record."

H.B. 3756 authorizes the commission-appointed director and librarian to demand the return of any state record or archival state record, rather than a state record of permanent value, in the private possession of any person. The bill authorizes certain persons to ask the attorney general to petition a district court in Travis County for the recovery of a state record or archival state record, rather than a state record only, if the person in possession of the record refuses to deliver it on demand, and requires the court to order the return of the record to the custody of the state if it finds that the record is a state record or archival state record.

H.B. 3756 expands the institutions authorized to participate in the TexShare consortium program to include any type of library and authorizes the commission, by rule, to admit other types of libraries as members or as affiliated members. The bill requires the commission to appoint a TexShare library consortium advisory board and to adopt rules regarding the organization and structure of the board, rather than requiring the commission to appoint an eleven-member advisory board. The bill requires the commission to adopt rules regarding the organization and structure of the board and makes conforming changes. The bill authorizes the commission to designate libraries, rather than public school libraries, that may participate in group purchasing agreements provided to the consortium and authorizes the commission to allow such libraries to participate in a group purchasing agreement only to the extent that the commission may do so efficiently and in a manner that enhances resource sharing services to the consortium members. The bill removes language providing that the commission is authorized to allow such participation only to the extent that the commission may do so in a manner that does not reduce services to consortium members. The bill authorizes the commission to grant money to consortium members, rather than only to institutions of higher education, to achieve the purposes of the consortium. The bill requires the commission to require a recipient of a grant to report to the commission information relating to best practices and performance outcomes.

H.B. 3756 sets out provisions relating to legislative intent.

H.B. 3756 amends the Local Government Code to remove language making a person ineligible for employment as a county librarian unless the person has first obtained from the commission a county librarian's certificate of qualification. The bill removes language that provides that a person who has received the certificate and has served as a county librarian does not require further examination and certification by the commission for employment or reemployment of the person as a county librarian. The bill requires the county librarian, on or before March 31 of each year, rather than October 1 of each year, to report to the commissioners court and the state librarian on the operation of the county library during the previous fiscal year. The bill removes the requirement that a commissioners court contract for library privileges from an established library provide that the librarian of the established library hold or secure a county librarian's certificate from the commission.

H.B. 3756 repeals provisions of the Government Code relating to area libraries and community libraries under the Library Systems Act; research fees for for-profit entities; and a local government records committee.

H.B. 3756 makes its provisions relating to the definition of "state record" and Texas' right to recover state records and archival state records applicable retroactively and applicable to all state records regardless of when the records were removed from the custody of Texas.

H.B. 3756 repeals the following sections of the Government Code:

- Sections 441.122(3) and (5)
- Sections 441.130(c), (d), (e), and (f)
- Section 441.133
- Section 441.134
- Sections 441.136(b) and (c)
- Section 441.139
- Section 441.158(d)
- Section 441.161
- Section 441.162
- Section 441.163
- Section 441.164
- Section 441.165
- Sections 441.226(c) and (e)

EFFECTIVE DATE

September 1, 2009.