

By: Howard of Travis

H.B. No. 3756

A BILL TO BE ENTITLED

AN ACT

relating to the Texas State Library and Archives Commission.

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

SECTION 1. Section 441.006(a), Government Code, is amended to read as follows:

(a) The commission shall:

(1) govern the Texas State Library;

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

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

(4) prepare and make available to the public and appropriate state agencies information of public interest describing the functions of the commission;

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

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

(7) conduct library institutes and encourage library associations;

(8) take custody of, preserve, and make available for

1 public use state records and other historical resources that
2 document the history and culture of Texas as a province, colony,
3 republic, or state;

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

8 (10) aid and encourage, by adoption of policies and
9 programs, the development of effective records management and
10 preservation programs in state agencies and the local governments
11 of the state; and

12 (11) provide library services to persons with
13 disabilities in cooperation with the federal government.

14 SECTION 2. The heading to Section 441.009, Government Code,
15 is amended to read as follows:

16 Sec. 441.009. STATE PLAN FOR LIBRARY SERVICES AND
17 TECHNOLOGY ~~[CONSTRUCTION]~~.

18 SECTION 3. Sections 441.009(a) and (c), Government Code,
19 are amended to read as follows:

20 (a) The commission may adopt a state plan for improving
21 library services consistent with federal goals ~~[of and constructing~~
22 ~~county, municipal, and other public libraries]~~.

23 (c) The plan must include a procedure by which a ~~[county or~~
24 ~~municipal]~~ library may apply for money under the plan and a
25 procedure for a fair hearing for a library whose application for
26 money is refused. Money from local, state, or federal sources may
27 be used. The money shall be administered according to local, state,

1 and federal requirements.

2 SECTION 4. The heading to Section 441.0092, Government
3 Code, is amended to read as follows:

4 Sec. 441.0092. TEXAS READS [~~NEW MILLENNIUM READING~~] PROGRAM
5 GRANTS.

6 SECTION 5. Section 441.0092(a), Government Code, is amended
7 to read as follows:

8 (a) From money in the Texas Reads [~~new millennium reading~~]
9 program account, the commission shall make grants to fund programs
10 to promote reading provided by public libraries.

11 SECTION 6. Sections 441.122(1), (10), (11), and (13),
12 Government Code, are amended to read as follows:

13 (1) "Accreditation of libraries" means the evaluation
14 and rating of [~~public~~] libraries [~~and library systems, and the~~
15 ~~evaluation and rating of libraries that are operated by a public~~
16 ~~school district, institution of higher education, or unit of state~~
17 ~~or local government but that are not public libraries,~~] according
18 to commission accreditation standards.

19 (10) "Major resource center" means a large public
20 library [~~serving a population of 200,000 or more within 4,000 or~~
21 ~~more square miles~~] that is designated by the commission as the
22 central library of a major resource system for [~~referral service~~
23 ~~from area libraries in the system, for~~] cooperative service with
24 other libraries in the system[~~, and for federated operations with~~
25 ~~other libraries in the system~~].

26 (11) "Major resource system" means a network of
27 libraries [~~library systems~~] attached to a major resource center[~~,~~

1 ~~consisting of area libraries joined cooperatively to the major~~
2 ~~resource center, community libraries joined cooperatively to area~~
3 ~~libraries or directly to the major resource center, and libraries~~
4 ~~that are not public libraries that join the system under Section~~
5 ~~441.1271].~~

6 (13) "Regional library system" means a network of
7 libraries [~~library systems~~] established under this subchapter.
8 [~~Notwithstanding other provisions of this subchapter, libraries~~
9 ~~operated by public school districts, institutions of higher~~
10 ~~education, and units of state or local government may become~~
11 ~~members of a regional library system to make the library resources~~
12 ~~freely accessible to all residents of the system.]~~

13 SECTION 7. Sections 441.124(a) and (d), Government Code,
14 are amended to read as follows:

15 (a) The commission shall appoint an advisory board composed
16 of five librarians qualified by training, experience, and interest
17 to advise the commission on the policy to be followed in applying
18 this subchapter. Chapter 2110 does not apply to the composition of
19 the advisory board.

20 (d) A member of the board serves without compensation but is
21 entitled to reimbursement for actual and necessary expenses
22 incurred in the performance of official duties, subject to any
23 applicable limitation on reimbursement provided by the General
24 Appropriations Act.

25 SECTION 8. The heading to Section 441.126, Government Code,
26 is amended to read as follows:

27 Sec. 441.126. AUTHORITY TO ESTABLISH [~~MAJOR RESOURCE~~]

1 SYSTEMS.

2 SECTION 9. Section 441.127(c), Government Code, is amended
3 to read as follows:

4 (c) The governing body of a public library that proposes to
5 become a major resource center shall submit to the director and
6 librarian an annual [~~initial~~] plan of service for the major
7 resource system [~~and annually after the library becomes a major~~
8 ~~resource center shall submit a plan of system development~~] made in
9 consultation with the advisory council.

10 SECTION 10. The heading to Section 441.1271, Government
11 Code, is amended to read as follows:

12 Sec. 441.1271. EXTENDING MEMBERSHIP OF [~~MAJOR RESOURCE~~]
13 SYSTEMS TO CERTAIN NONPUBLIC LIBRARIES.

14 SECTION 11. Sections 441.1271(a), (b), (c), (d), and (e),
15 Government Code, are amended to read as follows:

16 (a) A major resource system may extend its membership to
17 include libraries that are not public libraries and that are
18 operated by one of the following:

- 19 (1) a public school district;
- 20 (2) an institution of higher education;
- 21 (3) a unit of local, state, or federal government;
- 22 [~~or~~]
- 23 (4) accredited nonpublic elementary or secondary
24 schools; or
- 25 (5) special or research libraries [~~a unit of local~~
26 ~~government~~].

27 (b) The decision to extend major resource system membership

1 under Subsection (a) must be:

2 (1) made in accordance with the bylaws of the library
3 ~~[on a two-thirds vote of the governing bodies of the members of the~~
4 ~~major resource]~~ system; and

5 (2) approved by the commission.

6 (c) A library that is a type of library to which a major
7 resource system has extended its membership under this section:

8 (1) must be accredited by the commission to be
9 eligible to join the system; and

10 (2) may join the system by resolution or agreement
11 ~~[ordinance]~~ of its governing body or designee ~~[and execution of~~
12 ~~interlibrary contracts for service].~~

13 (d) The commission may terminate the ~~[system]~~ membership of
14 a library that is not a public library and that joined a major
15 resource system under this section if the library[+

16 ~~(1)]~~ loses its accreditation by ceasing to meet the
17 minimum standards established by the commission[+or

18 ~~(2) fails to comply with obligations stated in the~~
19 ~~applicable resolution or ordinance or interlibrary contracts for~~
20 ~~service].~~

21 (e) A library that ~~[is not a public library that]~~ joins a
22 major resource system under this section must agree to loan
23 materials without charge to users of other libraries ~~[provide~~
24 ~~benefits to the public through its membership in the system that are~~
25 ~~sufficient to constitute fair value in exchange for the benefits~~
26 ~~received by the library through its membership]~~ in the system.

27 SECTION 12. Sections 441.130(a) and (b), Government Code,

1 are amended to read as follows:

2 (a) Each major resource system has an advisory council
3 composed of not more than 12 [~~six lay~~] members representing the
4 member libraries of the system.

5 (b) The commission [~~governing body of each member library of~~
6 ~~the system~~] shall adopt rules to provide guidance to [~~elect or~~
7 ~~appoint a representative to elect council members.~~ The
8 ~~representatives shall meet following their selection and shall~~
9 ~~elect the initial council from their group. The representatives in~~
10 ~~an annual meeting shall elect members of their group to fill council~~
11 ~~vacancies caused by expiration of terms of office. Other vacancies~~
12 ~~shall be filled for the unexpired term by the remaining members of~~
13 ~~the council. At all times one member of the council must be a~~
14 ~~representative of the~~] major resource systems on the administrative
15 operation of advisory councils. Major resource systems will use
16 this guidance to develop bylaw provisions for their advisory
17 councils [~~center~~].

18 SECTION 13. Section 441.131, Government Code, is amended
19 by amending Subsection (b) and adding Subsections (b-1) and (b-2)
20 to read as follows:

21 (b) Governing bodies of libraries within a regional library
22 system may establish a nonprofit corporation under the Texas
23 Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's
24 Texas Civil Statutes) to administer the system or may contract with
25 a private business to administer the system. If the governing
26 bodies form a nonprofit corporation, they may select a board of
27 directors and adopt bylaws for the corporation. Bylaws adopted or a

1 contract executed under this section may permit other libraries
2 operated by the following entities to become members of the
3 regional library system:

4 (1) a public school district;

5 (2) an institution [~~districts, institutions~~] of
6 higher education;

7 (3) a unit [~~, and units~~] of local, state, or federal
8 [~~local~~] government;

9 (4) an accredited nonpublic elementary or secondary
10 school; or

11 (5) a special or research library [~~to become members~~
12 ~~of the regional library system~~].

13 (b-1) Bylaws adopted under Subsection (b) may provide for
14 reorganization, merger, division, and dissolution.

15 (b-2) A library that joins a regional system under this
16 section must agree to loan materials without charge to users of
17 other libraries in the system.

18 SECTION 14. Sections 441.136(a) and (d), Government Code,
19 are amended to read as follows:

20 (a) The director and librarian, with the advice of the
21 advisory board, shall propose [~~initial~~] rules necessary to the
22 administration of the program of state grants, including
23 qualifications for major resource system membership. The
24 [~~proposed~~] rules shall be [~~published in the official publication of~~
25 ~~the Texas State Library with notice of a public hearing before the~~
26 ~~commission on the~~] proposed and adopted according to Chapter 2001
27 [~~rules to be held on a specified date not less than 30 nor more than~~

1 ~~60 days after the date of the publication].~~

2 (d) The commission shall include requirements in its rules
3 to ensure that [~~both the population served and~~] the constituent
4 member libraries are adequately represented in the conduct of
5 system business relating to activities involved in the development
6 of a plan of service and adequately represented on each major
7 resource system advisory council. Rules adopted as required by
8 this subsection do not apply to the governing board or board of
9 directors of a regional library system governed by applicable
10 requirements of the Texas Business Corporation Act or the Texas
11 Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's
12 Texas Civil Statutes).

13 SECTION 15. Section 441.160, Government Code, is amended to
14 read as follows:

15 Sec. 441.160. REVISIONS TO RECORDS RETENTION SCHEDULES.
16 The records retention schedules may be revised and the revisions
17 take effect according to their terms when they are approved and
18 adopted in the same manner as provided by Section 441.158.
19 [~~However, editorial changes that do not substantively change the~~
20 ~~description of a record or its retention period and changes to~~
21 ~~retention periods as the result of changes to retention periods~~
22 ~~prescribed in a federal or state law, rule of court, or regulation~~
23 ~~do not require approval of the local government records committee~~
24 ~~before adoption.~~]

25 SECTION 16. Section 441.180(11), Government Code, is
26 amended to read as follows:

27 (11) "State record" means any written, photographic,

1 machine-readable, or other recorded information created or
2 received by or on behalf of a state agency or an elected state
3 official that documents activities in the conduct of state business
4 or use of public resources. The term includes any recorded
5 information created or received by a Texas government official in
6 the conduct of official business, including officials from periods
7 in which Texas was a province, colony, republic, or state. The term
8 does not include:

9 (A) library or museum material made or acquired
10 and maintained solely for reference or exhibition purposes;

11 (B) an extra copy of recorded information
12 maintained only for reference; or

13 (C) a stock of publications or blank forms.

14 SECTION 17. Sections 441.192(a), (b), and (c), Government
15 Code, are amended to read as follows:

16 (a) The governing body of a state agency may demand the
17 return of any state [~~government~~] record in the private possession
18 of a person if the removal of the state record from the state agency
19 or the agency's predecessor was not authorized by law.

20 (b) The director and librarian may demand the return of any
21 state [~~government~~] record or archival state record [~~of permanent~~
22 ~~value~~] in the private possession of any person.

23 (c) If the person in possession of the state [~~government~~]
24 record or archival state record refuses to deliver the record on
25 demand, the director and librarian or the governing body of a state
26 agency may ask the attorney general to petition a district court in
27 Travis County for the recovery of the record as provided by this

1 section. If the court finds that the record is a state [~~government~~]
2 record or archival state record, the court shall order the return of
3 the record to the custody of the state. As part of the petition or
4 at any time after its filing, the attorney general may petition to
5 have the record seized pending the determination of the court if the
6 director and librarian or governing body finds the record is in
7 danger of being destroyed, mutilated, altered, secreted, or removed
8 from the state.

9 SECTION 18. Section 441.222, Government Code, is amended to
10 read as follows:

11 Sec. 441.222. CREATION OF CONSORTIUM. The commission shall
12 establish and maintain the TexShare consortium as a
13 resource-sharing consortium operated as a program within the
14 commission for libraries at institutions of higher education and[~~7~~]
15 for public libraries, [~~and for~~] libraries of nonprofit
16 corporations, and other types of libraries.

17 SECTION 19. Section 441.223, Government Code, is amended to
18 read as follows:

19 Sec. 441.223. FINDINGS; PURPOSE AND METHODS. The
20 legislature finds that it is necessary to assist libraries across
21 the state [~~at public and private or independent institutions of~~
22 ~~higher education, public libraries, designated public school~~
23 ~~libraries, and libraries of nonprofit corporations]~~ to promote the
24 public good by achieving the following public purposes through the
25 following methods:

26 (1) to promote the future well-being of the citizenry,
27 enhance quality teaching and research excellence at institutions of

1 higher education through the efficient exchange of information and
2 the sharing of library resources, improve educational resources in
3 all communities, and expand the availability of information about
4 clinical medical research and the history of medicine;

5 (2) to maximize the effectiveness of library
6 expenditures by enabling libraries to share staff expertise and to
7 share library resources in print and in an electronic form,
8 including books, journals, technical reports, and databases;

9 (3) to increase the intellectual productivity of
10 students and faculty at the participating institutions of higher
11 education by emphasizing access to information rather than
12 ownership of documents and other information sources;

13 (4) to facilitate joint purchasing agreements for
14 purchasing information services and encourage cooperative research
15 and development of information technologies; and

16 (5) to enhance the ability of public schools to
17 further student achievement and lifelong learning [~~through~~
18 ~~designated public school library participation in group purchasing~~
19 ~~agreements~~].

20 SECTION 20. Section 441.224(a), Government Code, is amended
21 to read as follows:

22 (a) Membership in the consortium is open to all institutions
23 of higher education, all public libraries that are members of the
24 state library system, and all libraries of nonprofit corporations.
25 The commission, by rule, may also admit other types of libraries as
26 members or as affiliated members.

27 SECTION 21. Sections 441.226(a) and (b), Government Code,

1 are amended to read as follows:

2 (a) The commission shall appoint an [~~eleven-member~~]
3 advisory board to advise the commission on matters relating to the
4 consortium. Composition of the board must be representative of the
5 various types of libraries comprising the membership. At least two
6 members must be representatives of the general public[, ~~at least~~
7 ~~two members must be affiliated with a four-year public university~~
8 ~~in the consortium, at least two members must be affiliated with a~~
9 ~~public community college in the consortium, at least two members~~
10 ~~must be affiliated with a private institution of higher education~~
11 ~~in the consortium, and at least two members must be affiliated with~~
12 ~~a public library in the consortium~~]. Members of the advisory board
13 must be qualified by training and experience to advise the
14 commission on policy to be followed in applying this subchapter.
15 Chapter 2110 does not apply to the composition of the advisory
16 board.

17 (b) The commission [~~advisory board~~] shall adopt rules [~~meet~~
18 ~~regularly~~] regarding [~~consortium programs and plans at~~] the
19 organization and structure [~~call~~] of the advisory board [~~board's~~
20 ~~chairman or of the director and librarian~~].

21 SECTION 22. Sections 441.229(b) and (c), Government Code,
22 are amended to read as follows:

23 (b) The commission may designate [~~public school~~] libraries
24 that may participate in group purchasing agreements provided to the
25 consortium. The commission by rule shall establish criteria for
26 the participation.

27 (c) The commission may allow designated [~~public school~~]

1 libraries to participate in a group purchasing agreement only to
2 the extent that the commission may do so efficiently and [~~only~~] in a
3 manner that enhances resource sharing [~~does not reduce~~] services to
4 the consortium members.

5 SECTION 23. Section 441.230, Government Code, is amended to
6 read as follows:

7 Sec. 441.230. GRANTS TO MEMBERSHIP INSTITUTIONS. To
8 achieve the purposes of this subchapter, the commission may grant
9 money to consortium members [~~institutions of higher education~~].
10 The commission shall ensure that the commission or institutions in
11 the consortium receive benefits that are sufficient to constitute
12 fair value in return for any grant made by the commission. The
13 commission shall require a recipient of a grant to report to the
14 commission information relating to best practices and performance
15 outcomes.

16 SECTION 24. Sections 323.005(b) and (d), Local Government
17 Code, are amended to read as follows:

18 (b) [~~A person is not eligible for employment as a county~~
19 ~~librarian unless the person has first obtained from the Texas State~~
20 ~~Library and Archives Commission a county librarian's certificate of~~
21 ~~qualification. If a person has received the certificate and has~~
22 ~~served as a county librarian, further examination and certification~~
23 ~~by the commission is not required for employment or reemployment of~~
24 ~~the person as a county librarian.~~] Before beginning to perform
25 duties, a person employed as county librarian must file with the
26 county clerk the official oath and, at the discretion of the
27 commissioners court, execute a bond conditioned that the person

1 will faithfully perform the duties of the position. The bond must
2 be in an amount determined by the commissioners court and must be
3 purchased from sufficient sureties approved by the county judge.

4 (d) On or before March 31 [~~October 1~~] of each year, the
5 county librarian shall report to the commissioners court and the
6 state librarian on the operation of the county library during the
7 previous fiscal year [~~ending on the preceding August 31~~]. The
8 report must be made on a form furnished by the state librarian and
9 must contain a statement of the condition of the library and a
10 statement of its operation during the year and must contain
11 financial and book statistics customarily kept by well-regulated
12 libraries.

13 SECTION 25. Section 323.011(b), Local Government Code, is
14 amended to read as follows:

15 (b) The contract must provide that the established library
16 assume the functions of a county library within the county,
17 including municipalities in the county[~~, and must provide that the~~
18 ~~librarian of the established library hold or secure a county~~
19 ~~librarian's certificate from the Texas State Library and Archives~~
20 ~~Commission~~]. The commissioners court may contract to pay annually
21 to the established library out of the general fund of the county an
22 amount on which the parties may agree.

23 SECTION 26. The following provisions of the Government Code
24 are repealed:

- 25 (1) Sections 441.122(3) and (5);
26 (2) Sections 441.130(c), (d), (e), and (f);
27 (3) Section 441.133;

- 1 (4) Section 441.134;
- 2 (5) Sections 441.136(b) and (c);
- 3 (6) Section 441.139;
- 4 (7) Section 441.158(d);
- 5 (8) Section 441.161;
- 6 (9) Section 441.162;
- 7 (10) Section 441.163;
- 8 (11) Section 441.164;
- 9 (12) Section 441.165; and
- 10 (13) Sections 441.226(c) and (e).

11 SECTION 27. The changes in law made by this Act to Sections
12 441.180 and 441.192, Government Code, apply retroactively and apply
13 to all state records regardless of when the records were removed
14 from the custody of this state.

15 SECTION 28. This Act takes effect September 1, 2009.