

By: Hall, et al.

S.B. No. 618

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. Section 441.001(q), Government Code, is amended
6 to read as follows:

7 (q) The Texas State Library and Archives Commission is
8 subject to Chapter 325 (Texas Sunset Act). Unless continued in
9 existence as provided by that chapter, the commission is abolished
10 September 1, 2031 [~~2019~~].

11 SECTION 2. Section 441.0011, Government Code, is amended by
12 amending Subsection (b) and adding Subsection (d) to read as
13 follows:

14 (b) The training program must provide the person with
15 information regarding:

16 (1) the law governing [~~legislation that created the~~
17 commission operations];

18 (2) the programs, functions, rules, and budget of the
19 commission;

20 (3) the scope of and limitations on the rulemaking
21 authority of the commission;

22 (4) the results of the most recent formal audit of the
23 commission;

24 (5) [~~(4)~~] the requirements of:

1 (A) laws relating to open meetings, public
2 information, administrative procedure, and disclosing conflicts of
3 interest; and

4 (B) other laws applicable to members of a state
5 policymaking body in performing their duties; and

6 (6) [~~5~~] any applicable ethics policies adopted by
7 the commission or the Texas Ethics Commission.

8 (d) The director and librarian shall create a training
9 manual that includes the information required by Subsection (b).
10 The director and librarian shall distribute a copy of the training
11 manual annually to each member of the commission. Each member of
12 the commission shall sign and submit to the director and librarian a
13 statement acknowledging that the member received and has reviewed
14 the training manual.

15 SECTION 3. Section 441.006(b), Government Code, is amended
16 to read as follows:

17 (b) The commission may:

18 (1) purchase, as state property, any suitable book,
19 picture, or similar item, within the limits of the annual
20 legislative appropriation;

21 (2) receive a donation or gift of money, property, or
22 services on any terms and conditions it considers proper as long as
23 the state does not incur financial liability;

24 (3) accept, receive, and administer federal funds made
25 available by grant or loan to improve the public libraries of this
26 state;

27 (4) contract or agree with the governing body or head

1 of a county, city, or town of this state to meet the terms
2 prescribed by the United States and consistent with state law for
3 the expenditure of federal funds for improving public libraries;
4 ~~[and]~~

5 (5) participate in the establishment and operation of
6 an affiliated nonprofit organization whose purpose is to raise
7 funds for or provide services or other benefits to the commission;
8 and

9 (6) use general revenue, grants, donations, gifts,
10 and, if authorized by federal law, federal funds to advertise and
11 promote commission programs and increase participation in and
12 awareness of those programs.

13 SECTION 4. Subchapter A, Chapter 441, Government Code, is
14 amended by adding Section 441.0065 to read as follows:

15 Sec. 441.0065. ADVISORY COMMITTEES. (a) The commission
16 may establish an advisory committee to make recommendations to the
17 commission on programs, rules, and policies affecting the delivery
18 of information services in the state.

19 (b) In establishing an advisory committee under this
20 section, the commission shall adopt rules regarding:

21 (1) the purpose, role, responsibility, and goals of
22 the committee;

23 (2) the size and quorum requirement of the committee;

24 (3) qualifications for committee membership;

25 (4) appointment procedures for members;

26 (5) terms of service for members;

27 (6) training requirements for members;

1 (7) a periodic review process to evaluate the
2 continuing need for the committee; and

3 (8) a requirement that committee meetings be open to
4 the public.

5 SECTION 5. Sections 441.0945(a) and (b), Government Code,
6 are amended to read as follows:

7 (a) A county record may be destroyed if the record is listed
8 on a valid [the] records schedule and implementation plan [accepted
9 for filing by the director and librarian] and either its retention
10 period has expired or it has been microfilmed or stored
11 electronically in accordance with applicable law.

12 (b) The retention period of a record as listed on [director
13 and librarian or a person on the staff of the director and librarian
14 may reject] the records schedule and implementation plan must be at
15 least as long as [for a record if the retention period of the record
16 as listed on the plan is less than] the retention period for the
17 record established on a records retention schedule issued by the
18 commission [by the county records manual. If the plan is rejected,
19 the director and librarian or staff person shall file with the
20 custodian the rejected schedule and a statement of the reasons for
21 rejection not later than the 30th day after the date the director
22 and librarian or staff person received the records schedule and
23 implementation plan. If a schedule is rejected under this
24 subsection, the custodian may submit an amended schedule].

25 SECTION 6. Sections 441.095(d) and (e), Government Code,
26 are amended to read as follows:

27 (d) A custodian may dispose of a county record that is not

1 listed on a records retention schedule issued by the commission if,
2 not ~~[Not]~~ later than the 10th day before the date the ~~[a]~~ record is
3 destroyed, the custodian files and records ~~[shall file and record]~~
4 a notice with the county clerk. The notice must indicate the record
5 to be destroyed, how it is to be destroyed, and the date of its
6 destruction. On the day the notice is filed, the county clerk shall
7 post a copy of it in the same manner that a notice of a meeting is
8 posted under Chapter 551.

9 (e) The custodian may destroy the record at any time after
10 ~~[the director and librarian has approved the destruction and]~~ the
11 notice required by Subsection (d) has been posted for 10 days by the
12 county clerk.

13 SECTION 7. Section 441.153, Government Code, is amended by
14 amending Subsection (f) and adding Subsection (g) to read as
15 follows:

16 (f) Except as otherwise provided by Subsection (g), title
17 ~~[Title]~~ to historical resources placed in a depository by the
18 commission remains with the commission, and the historical
19 resources may not be intermingled with other holdings of the
20 institution that serves as a depository.

21 (g) A depository may apply to the commission to transfer to
22 the depository title to local historical resources placed in the
23 depository by the commission. The commission shall approve the
24 application only if the transfer of title is in the state's best
25 interest. The commission, in consultation with depositories, shall
26 adopt rules providing an application procedure and standards for
27 evaluating applications to transfer title to local historical

1 resources to depositories. This subsection does not authorize the
2 commission to transfer title to state historical resources.

3 SECTION 8. Subchapter L, Chapter 441, Government Code, is
4 amended by adding Sections 441.1815, 441.1935, 441.1936, 441.1965,
5 and 441.206 to read as follows:

6 Sec. 441.1815. STATE ARCHIVES STRATEGIC PLAN. The
7 commission, with input from interested persons, shall develop and
8 implement a comprehensive strategic plan regarding the state
9 archives. The commission shall update the strategic plan at least
10 once every five years. The strategic plan must include:

11 (1) an assessment of any current archives backlog;
12 (2) a prioritized list of projects and goals related
13 to the state archives;

14 (3) an evaluation of the resources needed to achieve
15 the commission's goals related to the state archives, including the
16 impact that different amounts of those resources are expected to
17 have on the commission's ability to achieve those goals;

18 (4) performance measures, targets, and timeframes for
19 achieving the commission's goals related to the state archives;

20 (5) a mechanism for regular reporting to the
21 commission on progress toward achieving the commission's goals
22 related to the state archives; and

23 (6) opportunities and standards for entering into
24 collaborative agreements with interested persons regarding the
25 state archives.

26 Sec. 441.1935. REQUIREMENTS FOR REQUESTS FOR INFORMATION
27 HELD BY STATE ARCHIVES PROGRAM. (a) The commission shall

1 promulgate a form that persons must use to request access to
2 information held by the state archives program. The form must allow
3 the requestor to designate the request as either a request for
4 public information made under Chapter 552 or as a research request
5 not subject to the requirements of that chapter. The form must
6 include:

7 (1) a plain-language explanation of the difference
8 between a request for public information made under Chapter 552 and
9 a research request not subject to the requirements of that chapter;

10 (2) the requirements for making and responding to each
11 type of request; and

12 (3) an option for the requestor to change the type of
13 request at any time.

14 (b) Notwithstanding any other law, a request for
15 information held by the state archives program is considered to be a
16 request for public information under Chapter 552 only if the
17 requestor makes the request using the form described by Subsection
18 (a) and on the form designates the request as a request for public
19 information under Chapter 552.

20 Sec. 441.1936. ELECTION TO DISCLOSE LEGISLATIVE
21 CORRESPONDENCE. (a) The commission shall promulgate a form that a
22 member of the legislature or lieutenant governor may use before
23 leaving office to elect to disclose records described by Section
24 306.003, communications described by Section 306.004, or
25 communications, information, advice, or opinions described by
26 Section 323.017 created or received during the member's or
27 lieutenant governor's term of office. The form must include a

1 plain-language description of state law relating to
2 confidentiality of that information and the effects of electing to
3 disclose that information.

4 (b) The commission by rule shall adopt policies and
5 procedures relating to distributing, collecting, and reviewing
6 forms described by Subsection (a). The rule must describe the roles
7 and responsibilities of the commission, house and senate records
8 management officers, and the offices of members of the legislature
9 and lieutenant governor in making elections described by Subsection
10 (a).

11 (c) The commission shall maintain the confidentiality of
12 information described by Subsection (a) unless the appropriate
13 member of the legislature or lieutenant governor elects to disclose
14 the information.

15 Sec. 441.1965. SALE OF REPLICAS FROM STATE ARCHIVES. (a)
16 The commission may sell replicas of archival state records and
17 other historical resources in its custody subject to the approval
18 of the commission.

19 (b) Money received from the sale of replicas under
20 Subsection (a) shall be deposited in the general revenue fund and
21 may be appropriated only to the commission for the purposes of
22 preservation, digitization, archives information services, and
23 education.

24 Sec. 441.206. RECORDS OF MEMBER OF LEGISLATURE. (a) A
25 member of the legislature may apply to the commission to place
26 records of the member's legislative office created or received
27 during the member's term of office in a depository other than the

1 Texas State Library and Archives.

2 (b) The commission shall:

3 (1) create a list of preapproved depositories in which
4 members of the legislature may place records of their legislative
5 offices, including regional historical resource depositories
6 described by Section 441.153; and

7 (2) by rule adopt policies and procedures to approve
8 additional depositories.

9 (c) Ownership of records described by Subsection (a) placed
10 in a depository other than the Texas State Library and Archives
11 remains with the commission. The records may not be intermingled
12 with other holdings of the institution that serves as a depository.

13 SECTION 9. Section 202.001(a), Local Government Code, is
14 amended to read as follows:

15 (a) A local government record may be destroyed if:

16 (1) the record is listed on a valid records control
17 schedule [~~accepted for filing by the director and librarian as~~
18 ~~provided by Section 203.041~~] and either its retention period has
19 expired or it has been microfilmed or stored electronically in
20 accordance with the requirements of Chapters 204 and 205;

21 (2) the record appears on a list of obsolete records
22 [~~approved by the director and librarian~~] as provided by Section
23 203.044; or

24 (3) the [~~a destruction request is filed with and~~
25 ~~approved by the director and librarian as provided by Section~~
26 ~~203.045 for a~~] record is not listed on a records retention [~~an~~
27 ~~approved control~~] schedule issued by the commission.

1 SECTION 10. Section 203.002, Local Government Code, is
2 amended to read as follows:

3 Sec. 203.002. DUTIES AND RESPONSIBILITIES OF ELECTED COUNTY
4 OFFICERS AS RECORDS MANAGEMENT OFFICERS. The elected county
5 officer shall:

6 (1) develop policies and procedures for the
7 administration of an active and continuing records management
8 program;

9 (2) administer the records management program so as to
10 reduce the costs and improve the efficiency of recordkeeping;

11 (3) ~~[prepare and file with the director and librarian~~
12 ~~the records control schedules and amended schedules required by~~
13 ~~Section 203.041 and the list of obsolete records as provided by~~
14 ~~Section 203.044,~~

15 ~~[(4) prepare requests for authorization to destroy~~
16 ~~records not on an approved control schedule as provided by Section~~
17 ~~203.045, requests to destroy the originals of permanent records~~
18 ~~that have been microfilmed as provided by Section 204.008, and~~
19 ~~electronic storage authorization requests as provided by Section~~
20 ~~205.007,~~

21 ~~[(5)]~~ identify and take adequate steps to preserve
22 records that are of permanent value;

23 (4) ~~[(6)]~~ identify and take adequate steps to protect
24 the essential records of the office;

25 (5) ~~[(7)]~~ ensure that the maintenance, preservation,
26 microfilming, destruction, or other disposition of records is
27 carried out in accordance with the policies and procedures of the

1 records management program and the requirements of this subtitle
2 and rules adopted under it; and

3 (6) [~~(8)~~] cooperate with the commission in its conduct
4 of statewide records management surveys.

5 SECTION 11. Sections 203.005(d), (f), and (g), Local
6 Government Code, are amended to read as follows:

7 (d) A plan establishing or relating to a records management
8 program adopted before September 1, 1989, must be amended if any
9 provision of the plan is in conflict with this subtitle or a rule
10 adopted under it. [~~A copy of the amended plan shall be filed with~~
11 ~~the director and librarian as provided by Subsection (c).~~]

12 (f) The director and librarian or the designee of the
13 director and librarian shall within a reasonable time bring to the
14 attention of the elected county officer in writing any aspect of a
15 plan [~~filed in the office of the director and librarian or~~] that
16 [~~otherwise~~] comes to the attention of the director and librarian
17 that is inconsistent with requirements of this subtitle or rules
18 adopted under it.

19 (g) An elected county officer is authorized, instead of or
20 in conjunction with adopting [~~submitting~~] a plan and establishing
21 an independent records program for the elective office, to
22 participate in a county program established as provided by
23 Subchapter B or in one or more specific components of a county
24 program and to authorize the records management officer of the
25 county program to act as the records management officer for the
26 records of the elective office.

27 SECTION 12. Section 203.023, Local Government Code, is

1 amended to read as follows:

2 Sec. 203.023. DUTIES OF RECORDS MANAGEMENT OFFICER. The
3 records management officer in each local government shall:

4 (1) assist in establishing and developing policies and
5 procedures for a records management program for the local
6 government;

7 (2) administer the records management program and
8 provide assistance to custodians for the purposes of reducing the
9 costs and improving the efficiency of recordkeeping;

10 (3) in cooperation with the custodians of the
11 records, ~~+~~

12 ~~[(A)]~~ prepare ~~[and file with the director and~~
13 ~~librarian]~~ the records control schedules and amended schedules
14 required by Section 203.041 and the list of obsolete records as
15 provided by Section 203.044 ~~[, and~~

16 ~~[(B) prepare or direct the preparation of~~
17 ~~requests for authorization to destroy records not on an approved~~
18 ~~control schedule as provided by Section 203.045, of requests to~~
19 ~~destroy the originals of permanent records that have been~~
20 ~~microfilmed as provided by Section 204.008, and of electronic~~
21 ~~storage authorization requests as provided by Section 205.007];~~

22 (4) in cooperation with custodians, identify and take
23 adequate steps to preserve local government records that are of
24 permanent value;

25 (5) in cooperation with custodians, identify and take
26 adequate steps to protect essential local government records;

27 (6) in cooperation with custodians, ensure that the

1 maintenance, preservation, microfilming, destruction, or other
2 disposition of records is carried out in accordance with the
3 policies and procedures of the local government's records
4 management program and the requirements of this subtitle and rules
5 adopted under it;

6 (7) disseminate to the governing body and custodians
7 information concerning state laws, administrative rules, and the
8 policies of the government relating to local government records;
9 and

10 (8) in cooperation with custodians, establish
11 procedures to ensure that the handling of records in any context of
12 the records management program by the records management officer or
13 those under the officer's authority is carried out with due regard
14 for:

15 (A) the duties and responsibilities of
16 custodians that may be imposed by law; and

17 (B) the confidentiality of information in
18 records to which access is restricted by law.

19 SECTION 13. Sections 203.026(d) and (f), Local Government
20 Code, are amended to read as follows:

21 (d) An ordinance or order establishing or relating to a
22 records management program adopted before September 1, 1989, must
23 be amended if any provision of the ordinance or order is in conflict
24 with this subtitle or a rule adopted under it. [~~A copy of the
25 amended ordinance or order shall be filed with the director and
26 librarian as provided by Subsection (c).~~]

27 (f) The director and librarian or the designee of the

1 director and librarian shall within a reasonable time bring to the
2 attention of the governing body in writing any aspect of an
3 ordinance or order [~~filed in the office of the director and~~
4 ~~librarian or~~] that [~~otherwise~~] comes to the attention of the
5 director and librarian that is inconsistent with the requirements
6 of this subtitle or rules adopted under it.

7 SECTION 14. The heading to Section 203.041, Local
8 Government Code, is amended to read as follows:

9 Sec. 203.041. PREPARATION [~~AND FILING~~] OF RECORDS CONTROL
10 SCHEDULES.

11 SECTION 15. Sections 203.041(a), (c), (d), (f), and (g),
12 Local Government Code, are amended to read as follows:

13 (a) On or before January 4, 1999, the records management
14 officer shall prepare [~~and file with the director and librarian.~~

15 ~~(1)~~] a records control schedule listing the following
16 records and establishing a retention period for each as provided by
17 Section 203.042:

18 (1) [~~(A)~~] all records created or received by the local
19 government or elective county office;

20 (2) [~~(B)~~] any record no longer created or received by
21 the local government or elective county office that is still in its
22 possession and for which the retention period on a records
23 retention schedule issued by the commission has not expired; and

24 (3) [~~(C)~~] any record no longer created or received by
25 the local government or elective county office that is still in its
26 possession and for which the retention period on a records
27 retention schedule issued by the commission has expired but which

1 will not be destroyed as provided by Section 203.044[~~or~~

2 [~~(2) the records management officer, in lieu of filing~~
3 ~~a records control schedule, may file with the director and~~
4 ~~librarian a written certification of compliance that the local~~
5 ~~government or the elective county office has adopted records~~
6 ~~control schedules that comply with the minimum requirements~~
7 ~~established on records retention schedules issued by the~~
8 ~~commission].~~

9 (c) A records management officer, in lieu of preparing
10 [~~filing~~] an amended records control schedule, may [~~file with the~~
11 ~~director and librarian an amended written certification of~~
12 ~~compliance that the local government or the elective county office~~
13 ~~has adopted amended records control schedules to]~~ comply with the
14 minimum requirements established on records retention schedules
15 issued by the commission including any revised schedules issued by
16 the commission.

17 (d) The records management officer shall review the records
18 control schedules of the local government or elective county office
19 and prepare amendments to the schedules as needed to reflect new
20 records created or received by the government or office or
21 revisions to retention periods established in a records retention
22 schedule issued by the commission. [~~Amendments to records control~~
23 ~~schedules shall be filed with the director and librarian in the same~~
24 ~~manner as the original schedules.]~~

25 (f) Records control schedules may be prepared [~~filed~~] on an
26 office-by-office basis or on a department-by-department basis
27 within each office.

1 (g) A local government that intends to retain all records
2 permanently or that destroys only those records for which no
3 retention periods have been established in a records retention
4 schedule established under Section 441.158, Government Code, is not
5 required to prepare [~~submit~~] a records control schedule under this
6 section.

7 SECTION 16. Section 204.007(a), Local Government Code, is
8 amended to read as follows:

9 (a) The [~~Except as provided by Section 204.008, the~~]
10 original of a record that has been microfilmed pursuant to this
11 chapter and rules adopted under it may be destroyed before the
12 expiration of its retention period on a records retention schedule
13 issued by the commission.

14 SECTION 17. Sections 205.008(a) and (c), Local Government
15 Code, are amended to read as follows:

16 (a) The source document, if any, for electronically stored
17 local government record data covered by rules adopted under Section
18 205.003(a) [~~205.007(a)~~] may be destroyed or returned to the person
19 who filed it for record [~~if the electronic storage authorization~~
20 ~~request is approved~~].

21 (c) The source document, if any, for electronically stored
22 local government record data not covered by rules adopted under
23 Section 205.003(a) [~~205.007(a)~~] may be destroyed before the
24 expiration of the retention period for the source document in a
25 records retention schedule issued by the commission if the magnetic
26 tape, optical disk, or similar medium and hardware and software
27 necessary to provide access to local government record data on the

1 media are retained for the retention period in the schedule.
2 Conversely, the magnetic tape, optical disk, or similar medium may
3 be erased, written over, or destroyed before the expiration of the
4 retention period for a source document for local government record
5 data not covered by rules adopted under Section [205.003\(a\)](#)
6 [~~205.007(a)~~], if the source document, if any, is retained until the
7 expiration of its retention period or, if the source document has
8 already been destroyed, paper or microfilm copies are generated
9 from the magnetic tape, optical disk, or similar medium before
10 destruction or erasure and retained until the expiration of the
11 retention period for the source document.

12 SECTION 18. (a) The following provisions of the Government
13 Code are repealed:

- 14 (1) Section [441.094\(e\)](#);
- 15 (2) Section [441.0945\(c\)](#);
- 16 (3) Sections [441.095\(a\)](#), (b), and (c); and
- 17 (4) Section [441.167](#).

18 (b) The following provisions of the Local Government Code
19 are repealed:

- 20 (1) Sections [203.005\(c\)](#) and (e);
- 21 (2) Sections [203.026\(c\)](#) and (e);
- 22 (3) Section [203.041\(h\)](#);
- 23 (4) Section [203.042\(c\)](#);
- 24 (5) Section [203.043](#);
- 25 (6) Sections [203.044\(c\)](#) and (d); and
- 26 (7) Sections [203.045](#), [204.008](#), and [205.007](#).

27 SECTION 19. (a) Except as provided by Subsection (b) of

1 this section, Section 441.0011, Government Code, as amended by this
2 Act, applies to a member of the Texas State Library and Archives
3 Commission who is appointed before, on, or after the effective date
4 of this Act.

5 (b) A member of the Texas State Library and Archives
6 Commission who, before the effective date of this Act, completed
7 the training program required by Section 441.0011, Government Code,
8 as that law existed before the effective date of this Act, is only
9 required to complete additional training on the subjects added by
10 this Act to the training program required by Section 441.0011,
11 Government Code. A commission member described by this subsection
12 may not vote, deliberate, or be counted as a member in attendance at
13 a meeting of the commission held on or after December 1, 2019, until
14 the member completes the additional training.

15 (c) Not later than March 1, 2020, the Texas State Library
16 and Archives Commission shall promulgate a form as required by
17 Section 441.1935, Government Code, as added by this Act.

18 (d) Not later than September 1, 2020, the Texas State
19 Library and Archives Commission shall:

20 (1) adopt rules providing an application process and
21 standards for transfer of title to local historical resources under
22 Section 441.153(g), Government Code, as added by this Act;

23 (2) develop a strategic plan for the state archives
24 program as required by Section 441.1815, Government Code, as added
25 by this Act;

26 (3) create a list of preapproved depositories and
27 adopt rules for approving additional depositories as required by

1 Section 441.206, Government Code, as added by this Act; and

2 (4) promulgate a form and adopt rules relating to the
3 procedure for electing to disclose legislative correspondence as
4 required by Section 441.1936, Government Code, as added by this
5 Act.

6 (e) Rules adopted under Section 441.206, Government Code,
7 as added by this Act, apply only to a member of the legislature
8 leaving office after September 1, 2020.

9 SECTION 20. This Act takes effect September 1, 2019.