

GOVERNMENT CODE
SUBTITLE D. HISTORY, CULTURE, AND EDUCATION
CHAPTER 441. LIBRARIES AND ARCHIVES
SUBCHAPTER A. TEXAS STATE LIBRARY AND ARCHIVES COMMISSION

Sec. 441.001. COMMISSION; MEMBERS. (a) The Texas State Library and Archives Commission is composed of seven members appointed by the governor with the advice and consent of the senate. All seven members must be representatives of the general public. A person is not eligible for appointment as a member of the commission if the person or the person's spouse:

(1) is registered, certified, or licensed by an occupational regulatory agency in the field of library or information science;

(2) is employed by or participates in the management of a business entity or other organization regulated by the commission or receiving funds from the commission;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the commission or receiving funds from the commission; or

(4) uses or receives a substantial amount of tangible goods, services, or funds from the commission, other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses.

(b) Members of the commission serve staggered terms of six years.

(c) A person appointed to fill a vacancy serves for the remainder of the term to which that person's predecessor was appointed.

(d) An appointment to the commission shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

(e) A person may not 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) An officer, employee, or paid consultant of a Texas trade association in the field of library and information science, archives management, or records management 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 the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

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

(h) For the purposes of this section, a Texas trade association is a nonprofit, cooperative, and voluntarily joined association of business competitors or professionals in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(i) It is a ground for removal from the commission if a member:

(1) does not have at the time of appointment the qualifications required by Subsection (a);

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

(3) violates a prohibition established by Subsection (e), (f), or (g);

(4) cannot because of illness or disability discharge the member's duties for a substantial part of the term for which the member is appointed; or

(5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the commission.

(j) The validity of an action of the commission is not affected by the fact that it was taken at a time a ground for removal

of a member of the commission existed.

(k) If the director and librarian has knowledge that a potential ground for removal exists, the director and librarian shall notify the presiding officer of the commission of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the director and librarian shall notify the next highest officer of the commission, who shall notify the governor and the attorney general that a potential ground for removal exists.

(l) The commission shall be assigned suitable offices in the Capitol area in which the commission shall hold at least one regular meeting annually and as many special meetings as are necessary.

(m) The governor shall designate a member of the commission as the presiding officer of the commission to serve in that capacity at the pleasure of the governor.

(n) A member of the commission may not receive compensation for services as a member but is entitled to the per diem provided by the General Appropriations Act for attending a meeting of the commission. A member is also entitled to reimbursement for actual expenses reasonably incurred in connection with the performance of those services, subject to any applicable limitation on reimbursement provided by the General Appropriations Act.

(o) The commission is subject to the open meetings law, Chapter 551, and the administrative procedure law, Chapter 2001.

(p) The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the commission.

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

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 2.05, eff. Nov. 12, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(50), (83), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 86, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 573, Sec. 1, eff. June 2, 1997; Acts 2003, 78th Leg., ch. 1170, Sec. 24.01, eff. Sept. 1, 2003.

Sec. 441.0011. TRAINING FOR COMMISSION MEMBERS. (a) Before a member of the commission may assume the member's duties and before the member may be confirmed by the senate, the member must complete at least one course of a training program that meets the requirements of this section.

(b) A training program under this section shall provide information to the member regarding:

(1) the enabling legislation that created the commission;

(2) the programs operated by the commission;

(3) the role and functions of the commission;

(4) the rules of the commission with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the commission;

(6) the results of the most recent formal audit of the commission;

(7) the requirements of the:

(A) open meetings law, Chapter 551;

(B) open records law, Chapter 552; and

(C) administrative procedure law, Chapter 2001;

(8) the requirements of the conflict of interest laws and other laws relating to public officials; and

(9) any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

Added by Acts 1995, 74th Leg., ch. 86, Sec. 2, eff. Sept. 1, 1995.

Sec. 441.002. DIRECTOR AND LIBRARIAN. (a) The commission shall appoint a director and librarian.

(b) The director and librarian is the executive and administrative officer of the commission and shall discharge the administrative and executive functions of the commission.

(c) To be appointed as the director and librarian, a person must have:

(1) at least two years of training in library science or experience in teaching or research or in a library that is the equivalent of two years of training in library science; and

(2) at least two years of administrative experience in the field of libraries or research or in a related field.

(d) The director and librarian serves at the will of the commission.

(e) Repealed by Acts 2003, 78th Leg., ch. 285, Sec. 31(14).

(f) Based on the sworn account of the director and librarian showing expenses in detail, the director and librarian is entitled to reimbursement for actual expenses incurred when traveling in the service of the commission.

(g) Under the direction of the commission, the director and librarian shall:

(1) record the commission's proceedings;

(2) keep an accurate account of the commission's financial transactions;

(3) have charge of the state library and any book, picture, document, newspaper, manuscript, archive, relic, memento, flag, or similar item contained in the library;

(4) administer programs to carry out the duties of the commission and the director and librarian under Subtitle C, Title 6, Local Government Code, and Subchapters J and L;

(5) ascertain the condition of all public libraries in this state and report the results to the commission; and

(6) perform any other duty the commission assigns.

(h) Under the direction of the commission, the director and librarian may:

(1) spend money appropriated for that purpose to purchase any book relating to Texas;

(2) approve the voucher for any expenditure made in connection with the state library; and

(3) withhold from any library a public document furnished the commission for distribution or an interlibrary loan the library desires if the library refuses or neglects to furnish an annual report or other information the librarian requests.

(i) Repealed by Acts 1997, 75th Leg., ch. 873, Sec. 8(1), eff. Sept. 1, 1997.

(j) The commission shall develop and implement policies that clearly separate the policy-making responsibilities of the commission and the management responsibilities of the director and librarian and the staff of the commission.

(k) The commission shall comply with federal and state laws related to program and facility accessibility. The director and librarian shall also prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the commission's programs and services.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 36, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 86, Sec. 3, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 873, Sec. 3, 8, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 285, Sec. 31(14), eff. Sept. 1, 2003.

Sec. 441.003. EMPLOYEES. (a) Subject to the approval of the commission, the director and librarian shall appoint an assistant state librarian, a state archivist, a state records administrator, and other assistants and employees necessary to fulfill the duties of the commission and the director and librarian as prescribed by law.

(b) The assistant state librarian has the rank of a department head. In the absence of the director and librarian, the assistant may sign and certify accounts and documents in the same manner and with the same legal authority as the director and librarian. The assistant shall take the official oath.

(c) To be eligible for appointment as state archivist, a person must have appropriate training and experience in the administration of a government archive, but is not required to have technical library school training or library experience to be appointed state archivist.

(d) To be eligible for appointment as state records administrator, a person must have appropriate training and experience in the administration of a government records management program, but is not required to have technical library training or library experience to be appointed state records administrator.

(e) The director and librarian may designate a staff member to serve as both state archivist and state records administrator. In that event, any provision of Subchapter L requiring joint action by the state archivist and the state records administrator requires only the action of the person designated.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 873, Sec. 4, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 285, Sec. 17, eff. Sept. 1, 2003.

Sec. 441.004. CAREER LADDER; PERFORMANCE EVALUATIONS. (a) The director and librarian or the director and librarian's designee shall develop an intra-agency career ladder program that addresses opportunities for mobility and advancement for employees within the commission. The program must require intra-agency posting of all positions concurrently with any public posting.

(b) The director and librarian or the director and librarian's designee shall develop a system of annual performance evaluations that are based on documented employee performance. All merit pay for commission employees must be based on the system established under this subsection.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 4, eff. Sept. 1, 1995.

Sec. 441.005. STANDARDS OF CONDUCT; EQUAL EMPLOYMENT OPPORTUNITY. (a) The director and librarian or the director and librarian's designee shall provide to members of the commission and to commission employees, as often as necessary, information regarding their qualification for office or employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

(b) The director and librarian or the director and librarian's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel that are in compliance with requirements of Chapter 21, Labor Code;

(2) a comprehensive analysis of the commission workforce that meets federal and state guidelines;

(3) procedures by which a determination can be made about the extent of underuse in the commission workforce of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to address those areas of underuse appropriately.

(c) A policy statement prepared under Subsection (b) must cover an annual period, be updated annually, be reviewed by the Commission on Human Rights for compliance with Subsection (b)(1), and be filed with the governor's office.

(d) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (c). The report may be made separately or as a part of other biennial reports made to the legislature.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 5, eff. Sept. 1, 1995.

Sec. 441.006. GENERAL POWERS AND DUTIES. (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 and the commission procedures by which complaints are filed with and resolved by 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 public use state records and other historical resources that document the history and culture of Texas as a province, colony,

republic, or state;

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

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

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

(b) The commission may:

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

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

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

(4) contract or agree with the governing body or head of a county, city, or town of this state to meet the terms prescribed by the United States and consistent with state law for the expenditure of federal funds for improving public libraries; and

(5) participate in the establishment and operation of an affiliated nonprofit organization whose purpose is to raise funds for or provide services or other benefits to the commission. Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 37, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 86, Sec. 6, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1108, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 873, Sec. 5, eff. Sept. 1, 1997; Amended by Acts 2001, 77th Leg., ch. 395, Sec. 2, eff. Sept. 1, 2001.

Sec. 441.007. CERTIFICATION OF COUNTY LIBRARIANS. (a) The commission shall pass on the qualifications of a person wanting to become a county librarian in this state and shall adopt rules necessary to administer that responsibility.

(b) The educational requirement for permanent certification as a county librarian is:

(1) graduation from a library school accredited by the American Library Association, if the commission determines that the association has accreditation standards that ensure a high level of scholarship from students; or

(2) graduation with a master's degree in library science from an institution of higher education accredited by an organization that the commission determines has accreditation standards that ensure a high level of scholarship from students.

(c) The commission by rule may establish a fee payable by an applicant to recover its costs arising from certification of county librarians.

(d) The commission shall keep information about each complaint filed with the commission. The information shall include:

(1) the date the complaint is received;

(2) the name of the complainant;

(3) the subject matter of the complaint;

(4) a record of all persons contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) for complaints for which the commission took no action, an explanation of the reason the complaint was closed without action.

(e) The commission shall keep a file about each written complaint filed with the commission that it has authority to resolve. The commission shall provide to the person filing the complaint and the persons or entities complained about the commission's policies and procedures pertaining to complaint investigation and resolution. The commission, at least quarterly and until final disposition of the complaint, shall notify the person filing the complaint and the persons or entities complained about of the status of the complaint unless the notice would

jeopardize an undercover investigation.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 7, eff. Sept. 1, 1995.

Sec. 441.0071. CERTIFICATE RENEWAL. (a) A person who is otherwise eligible to renew a certificate may renew an unexpired certificate by paying the required renewal fee to the commission before the expiration date of the certificate. A person whose certificate has expired may not engage in activities that require a certificate until the certificate has been renewed under the provisions of this section.

(b) If the person's certificate has been expired for 90 days or less, the person may renew the certificate by paying to the commission one and one-half times the required renewal fee.

(c) If the person's certificate has been expired for longer than 90 days but less than one year, the person may renew the certificate by paying to the commission two times the required renewal fee.

(d) If the person's certificate has been expired for one year or longer, the person may not renew the certificate. The person may obtain a new certificate by complying with the more stringent, as determined by the commission, of:

(1) the requirements and procedures for obtaining an original certificate; or

(2) the requirements for renewing a certificate.

(e) If the person held a certificate in this state, moved to another state, and currently holds a certificate and has been in practice in the other state for the two years preceding application, the person may renew an expired certificate. The person must pay to the commission a fee that is equal to two times the required renewal fee for the certificate.

(f) At least 30 days before the expiration of a person's certificate, the commission shall send written notice of the impending certificate expiration to the person at the person's last known address according to the records of the commission.

Added by Acts 1995, 74th Leg., ch. 86, Sec. 8, eff. Sept. 1, 1995.

Sec. 441.0072. CERTIFICATES FROM OTHER STATES. The commission may waive any prerequisite to obtaining a certificate for an applicant after reviewing the applicant's credentials and determining that the applicant holds a valid certificate from another state that has certification requirements substantially equivalent to those of this state.

Added by Acts 1995, 74th Leg., ch. 86, Sec. 8, eff. Sept. 1, 1995.

Sec. 441.0073. CERTIFICATE EXPIRATION DATES. The commission by rule may adopt a system under which certificates expire on various dates during the year. For the year in which the expiration date is changed, certification fees shall be prorated on a monthly basis so that each certificate holder pays only that portion of the certification fee that is allocable to the number of months during which the certificate is valid. On renewal of the certificate on the new expiration date, the total certificate renewal fee is payable.

Added by Acts 1995, 74th Leg., ch. 86, Sec. 8, eff. Sept. 1, 1995.

Sec. 441.0074. DISCIPLINARY ACTIONS. If the commission proposes to suspend, revoke, or refuse to renew a person's certificate, the person is entitled to a hearing conducted by the State Office of Administrative Hearings. Proceedings for a disciplinary action are governed by the administrative procedure law, Chapter 2001. Rules of practice adopted by the commission under Section 2001.004 applicable to the proceedings for a disciplinary action may not conflict with rules adopted by the State Office of Administrative Hearings.

Added by Acts 1995, 74th Leg., ch. 86, Sec. 8, eff. Sept. 1, 1995.

Sec. 441.008. TRANSFER OR EXCHANGE OF BOOKS OR DOCUMENTS. (a) The commission may transfer a book or document to another library that is supported by state appropriation if the commission believes that the transfer would benefit the state library. The commission may make the transfer permanent or temporary.

(b) If a duplicate book or document is no longer needed by the state library, the commission may exchange the duplicate or may dispose of the duplicate to any state or local public library.

(c) This section does not apply to any state archival record or other historical resource that the director and librarian has designated to be part of the state archives program established under Section 441.181.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 873, Sec. 6, eff. Sept. 1, 1997.

Sec. 441.009. STATE PLAN FOR LIBRARY SERVICES AND CONSTRUCTION. (a) The commission may adopt a state plan for improving services of and constructing county, municipal, and other public libraries.

(b) The state library shall prepare the plan for the commission and shall administer the plan the commission adopts.

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

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 441.0091. GRANT PROGRAM FOR LOCAL LIBRARIES. (a) In addition to a grant or funding under Subchapter I, the commission may provide for grants to meet specific information needs of residents of this state and specific needs of local libraries that are not adequately addressed under Subchapter I or other law.

(b) The commission, in designing the grant program under this section:

(1) may consider federal law and federal funding priorities;

(2) may include competitive grants; and

(3) shall adopt by rule the guidelines for awarding grants.

Added by Acts 1995, 74th Leg., ch. 86, Sec. 9, eff. Sept. 1, 1995.

Sec. 441.0092. NEW MILLENNIUM READING PROGRAM GRANTS. (a) From money in the new millennium reading program account the commission shall make grants to fund programs to promote reading provided by public libraries.

(b) The commission shall:

(1) determine standards that a reading promotion program must meet to be eligible for a grant under this section;

(2) provide procedures for application for a grant; and

(3) determine the recipient and amount of each grant.

Added by Acts 1999, 76th Leg., ch. 763, Sec. 2, eff. Sept. 1, 1999.

Sec. 441.010. ELECTRONICALLY SEARCHABLE CENTRAL GRANT DATABASE. (a) In this section:

(1) "Department" means the Department of Information Resources.

(2) "Grant" means a grant, contract, or other cooperative agreement under which a state agency awards financial assistance in the form of money, property, a loan, or another thing of value to a governmental or nongovernmental entity and the governmental or nongovernmental entity receiving the award is responsible for implementing a state or federal program in accordance with guidelines provided by the agency awarding the grant. The term does not include a contract to obtain a professional or consulting service subject to Chapter 2254.

(b) The commission, in cooperation with the department, shall establish an electronically searchable central database accessible through the commission's on-line access system that will allow a person to:

(1) use keyword searches to discover all available state agency grant opportunities;

(2) obtain basic information regarding each available state agency grant opportunity, including basic information about the program that the grant recipient will implement, the geographic area in which the grant recipient will implement the program, the eligibility requirements for obtaining the grant, and the grant application process; and

(3) electronically link to the portion of the granting agency's website at which the person may obtain more detailed information about each available state agency grant opportunity.

(c) The department shall provide a link on TexasOnline to the database established under Subsection (b). In this subsection, "TexasOnline" has the meaning assigned by Section 2054.003.

(d) Each state agency that will award a grant shall, concurrently with any other action the agency takes to inform the public or any person about the grant opportunity, report to the commission information related to the grant that the commission requires in a form prescribed by the commission so that the

commission may include information about the grant in the electronically searchable central database established under Subsection (b).

(e) The governor shall appoint an advisory committee composed of nine representatives from the Electronic Grants Technical Assistance Workgroup to:

(1) gather input from public and other users of the database; and

(2) advise the commission regarding the development of the database and regarding the commission's exercise of its powers under Subsection (d).

(f) The advisory committee appointed under Subsection (e) shall meet in Austin. A state agency that is represented on the committee by a person who is not based in the Austin area is responsible for any travel expenses incurred by its representative.

(g) The commission shall appoint an advisory committee composed of five public members to annually evaluate the operation of the electronically searchable central database.

(h) Chapter 2110 does not apply to an advisory committee formed under this section.

Added by Acts 2003, 78th Leg., ch. 1246, Sec. 28, eff. Sept. 1, 2003.

Sec. 441.013. REPORTS. (a) The commission shall make a biennial report to the governor that includes:

(1) a comprehensive view of the operation of the commission in discharging the duties imposed by this subchapter;

(2) a review of the library conditions in this state;

(3) an itemized statement of the commission's expenditures;

(4) any recommendations suggested by the experience of the commission;

(5) careful estimates of money necessary for carrying out this subchapter; and

(6) a review of commission activities under Subtitle C, Title 6, Local Government Code, and Subchapters J and L.

(b) The report made under Subsection (a) shall be printed, and the governor shall lay the report before the legislature as the governor does with other departmental reports.

(c) The director and librarian shall prepare annually a complete and detailed written report accounting for all funds received and disbursed by the commission during the preceding fiscal year. The annual report must meet the reporting requirements applicable to financial reporting provided in the General Appropriations Act.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 12, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 873, Sec. 7, eff. Sept. 1, 1997.

Sec. 441.014. AUDIT. The financial transactions of the commission are subject to audit by the state auditor in accordance with Chapter 321, Government Code.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 584, Sec. 9, eff. Sept. 1, 1989.

Sec. 441.015. SEAL. (a) The official seal of the state library is a circle of not less than 1-1/2 nor more than two inches in diameter that bears a star of five points surrounded by two concentric circles between which is printed "Texas State Library."

(b) The seal shall be used to authenticate the official acts of the Texas State Library.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 441.016. BUILDING. The name of the state archives and library building is the Lorenzo de Zavala State Archives and Library Building.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 441.017. COST RECOVERY FOR RECORDS STORAGE SERVICES. (a) This section:

(1) applies to a record stored by the commission for a state agency; and

(2) does not apply to a record that is under the permanent control of the commission for archival purposes.

(b) The commission shall establish and keep current a cost recovery schedule for its records storage services. The schedule shall show the total cost, including indirect costs, to the commission of its records storage services.

(c) Each state agency that will use the commission's records storage services during a state fiscal biennium shall send to the

commission an estimate of the amount and nature of the services that the agency will use during the biennium. The commission shall prescribe:

- (1) the time that the estimate must be sent; and
- (2) the information that must be included in the estimate.

(d) The commission shall base its legislative appropriations request for providing records storage services to other agencies for the biennium on the estimates received under Subsection (c). The commission's appropriations request must:

- (1) show the estimated cost for each agency for records storage services; and
- (2) identify the estimated amount that would need to be appropriated from the general revenue fund, account in the general revenue fund, or other fund or account to recover fully the commission's costs in providing records storage services for other agencies.

(e) The legislature may appropriate money to pay the commission's costs in providing records storage services for an agency:

- (1) to the commission; or
- (2) to the agency, which shall pay the commission its costs as the services are provided.

(f) In this section, "agency" means a state executive, judicial, or legislative department, institution, board, or commission, including an eleemosynary institution.

Added by Acts 1995, 74th Leg., ch. 86, Sec. 13, eff. Sept. 1, 1995.

SUBCHAPTER C. RECORDS MANAGEMENT DIVISION OF TEXAS STATE LIBRARY

Sec. 441.031. DEFINITION. In this subchapter, "state record" means a document, book, paper, photograph, sound recording, or other material, regardless of physical form or characteristic, made or received by a state department or institution according to law or in connection with the transaction of official state business. The term does not include:

- (1) library or museum material made or acquired and preserved solely for reference or exhibition purposes;
- (2) an extra copy of a document preserved only for convenience of reference;
- (3) a stock of publications or of processed documents;

or

(4) any records, correspondence, notes, memoranda, or documents, other than a final written agreement described by Section 2009.054(c), associated with a matter conducted under an alternative dispute resolution procedure in which personnel of a state department or institution, local government, special district, or other political subdivision of the state participated as a party, facilitated as an impartial third party, or facilitated as the administrator of a dispute resolution system or organization.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 40, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 31, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1352, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER E. PUBLIC LIBRARY ENDOWMENT AND OPERATING FUNDS

Sec. 441.071. TEXAS PUBLIC LIBRARY ENDOWMENT FUND. (a) The Texas public library endowment fund is a trust fund outside the state treasury held by a bank or depository trust company and administered by the commission for the benefit of the public as provided by this section.

(b) The fund consists of donations accepted by the commission under Section 441.074.

(c) The corpus of the endowment fund may not be spent for any purpose.

(d) Not later than September 1 of each year, the commission shall remit all or part of the interest and income earned on money in the endowment fund to the comptroller for deposit in the state treasury to the credit of the Texas public library fund. The commission shall credit to the corpus of the endowment fund any portion of the interest and income not credited to the public library fund in the treasury.

Added by Acts 1999, 76th Leg., ch. 152, Sec. 1, eff. Sept. 1, 1999.

Sec. 441.072. INVESTMENT AND MANAGEMENT OF ENDOWMENT FUND. (a) The commission shall appoint investment managers for the management and investment of the Texas public library endowment fund by contracting for professional investment management

services with one or more organizations that are in the business of managing investments.

(b) In choosing and contracting for professional investment management services and in continuing the use of an investment manager, the commission shall act prudently and in the interest of the beneficiaries of the endowment fund.

(c) In making and supervising investments of the endowment fund, an investment manager and the commission shall discharge their respective duties solely in the interest of the beneficiaries of the fund:

(1) for the exclusive purposes of providing benefits for the beneficiaries of the fund and defraying reasonable expenses of administering this chapter;

(2) with the care, skill, prudence, and diligence under the prevailing circumstances that a prudent person acting in a similar capacity and familiar with matters of the type would use in the conduct of an enterprise with a similar character and aims;

(3) by diversifying the investments of the fund to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

(4) in accordance with the documents and instruments governing the fund to the extent that the documents and instruments are consistent with this section.

(d) To be eligible for appointment under this section, an investment manager must be:

(1) registered under the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-1 et seq.), as amended;

(2) a bank as defined by that Act that has a trust department; or

(3) an insurance company qualified to perform investment services under the laws of more than one state.

(e) In a contract made under this section, the commission shall specify any policies, requirements, or restrictions, including criteria for determining the quality of investments and for the use of standard rating services, that the commission adopts for investments of the endowment fund.

(f) A member of the commission is not liable for the acts or omissions of an investment manager appointed under Subsection (a). A member of the commission is not permitted or obligated to invest or otherwise to manage any asset of the fund subject to management by the investment manager.

(g) An investment manager appointed under Subsection (a) shall acknowledge in writing the manager's fiduciary responsibilities to the endowment fund.

(h) The commission may at any time and shall frequently monitor the investments made by each investment manager for the endowment fund. The commission may contract for professional evaluation services to fulfill this requirement.

(i) The commission shall enter into an investment custody account agreement designating a bank or a depository trust company to serve as custodian for all assets allocated to or generated under a contract for professional investment management services.

(j) Under a custody account agreement, the commission shall require the designated custodian to perform the duties and assume the responsibilities for the endowment fund that are performed and assumed, in the absence of a contract, by the custodian of the endowment fund. The custodian shall furnish to the commission, annually or more frequently if required by commission rule, a sworn statement of the amount of the endowment fund assets in the custodian's custody.

(k) For purposes of this section, the beneficiaries of the Texas public library endowment fund are the persons who use public libraries, public library facilities, and public library collections and the public libraries that benefit from the performance of the commission's powers and duties under this chapter.

Added by Acts 1999, 76th Leg., ch. 152, Sec. 1, eff. Sept. 1, 1999.

Sec. 441.073. TEXAS PUBLIC LIBRARY FUND. (a) The Texas public library fund is a special fund in the state treasury outside the general revenue fund.

(b) The public library fund consists of money credited to the fund under Section 441.071(d) and proceeds from sales under Section 441.074(d).

(c) Money in the public library fund may be appropriated only to the commission to perform the commission's powers and

duties concerning public library development under this chapter and to pay the commission's expenses incurred under this subchapter.

(d) The public library fund is exempt from the application of Sections 403.095 and 404.071. Interest and income from deposit and investment of money in the fund shall be allocated to the fund monthly.

Added by Acts 1999, 76th Leg., ch. 152, Sec. 1, eff. Sept. 1, 1999.

Sec. 441.074. DONATIONS, APPROPRIATIONS, AND SALES. (a) The commission may solicit and accept on behalf of the state donations of money, securities, and other property as it determines best further the orderly development of public library resources of the state. Money paid to the commission under this subsection shall be deposited in the Texas public library endowment fund.

(b) The commission by rule shall establish an acquisition policy for accepting donations of money, securities, and other property.

(c) The legislature may make appropriations to the commission to carry out the purposes of this chapter.

(d) The commission may purchase and resell items it determines appropriate for the promotion of public libraries in Texas. The value of commission inventory, as determined by generally accepted accounting principles, may not exceed \$50,000 at the end of any fiscal year. The net profits from those sales shall be deposited in the Texas public library fund.

Added by Acts 1999, 76th Leg., ch. 152, Sec. 1, eff. Sept. 1, 1999.

Sec. 441.075. PUBLIC LIBRARY FUND GRANT PROGRAM. (a) The commission shall make grants to public libraries from the Texas public library fund for facility construction projects, acquisition of books and other collection development materials, and payment of actual and reasonable general and administrative expenses. The commission shall allocate amounts from the fund to direct and matching grant programs.

(b) The commission shall adopt rules:

(1) establishing methods for participation by local governments in a matching grant program for facility construction projects; and

(2) providing allocations for a direct grant program for acquisition of books and other collection development materials according to a formula that allocates a base grant to each participating public library plus an amount that is proportional to the size of the population served.

(c) To participate in a grant program under this section, a public library must maintain a level of local public library funding equal to or greater than the average funding for the three years preceding participation. The commission shall adopt rules to implement this requirement.

Added by Acts 1999, 76th Leg., ch. 152, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER F. MAINTENANCE AND DISPOSITION OF CERTAIN COUNTY RECORDS

Sec. 441.091. DEFINITION. In this subchapter, "county record" means any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by a county or precinct or any county or precinct officers or employees, including the district clerk, pursuant to law, including an ordinance or order of the commissioners court of the county, or in the transaction of public business. The term does not include:

(1) extra identical copies of documents created only for convenience of reference or research by county or precinct officers or employees;

(2) notes, journals, diaries, and similar documents created by a county or precinct officer or employee for the officer's or employee's personal convenience;

(3) blank forms;

(4) stocks of publications;

(5) library and museum materials acquired solely for the purposes of reference or display;

(6) copies of documents in any media furnished to members of the public to which they are entitled under Chapter 552, or other state law; or

(7) any records, correspondence, notes, memoranda, or documents, other than a final written agreement described by Section 2009.054(c), associated with a matter conducted under an

alternative dispute resolution procedure in which personnel of a state department or institution, local government, special district, or other political subdivision of the state participated as a party, facilitated as an impartial third party, or facilitated as the administrator of a dispute resolution system or organization.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 123, Sec. 1, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(96), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 31, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1352, Sec. 2, eff. Sept. 1, 1999.

Sec. 441.094. RECORDS SCHEDULE AND IMPLEMENTATION PLAN. (a) Repealed by Acts 1989, 71st Leg., ch. 1248, Sec. 85(3), eff. Sept. 1, 1989.

(b) A records schedule must:

(1) contain a list by record title of the county records to be scheduled; and

(2) prescribe a minimum retention period for each record that is at least as long as that prescribed by law or the county records manual or state that a retention period for the record will be assigned later.

(c) A records schedule may:

(1) contain a list of all of the county records kept by the custodian or a list of only those records to be scheduled; and

(2) contain a list of material that is excluded from the definition of county record by Section 441.091 and that is kept by the custodian, with retention periods assigned by the custodian.

(d) A custodian may amend a records schedule or implementation plan.

(e) A records schedule, implementation plan, or amendment takes effect when the custodian files a copy of the schedule, plan, or amendment in the office of the county clerk and with the director and librarian.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 123, Sec. 2, eff. Sept. 1, 1989.

Sec. 441.0945. DISPOSITION OF SCHEDULED RECORDS. (a) A county record may be destroyed if the record is listed on the records schedule and implementation plan accepted for filing by the director and librarian and either its retention period has expired or it has been microfilmed or stored electronically in accordance with applicable law.

(b) The director and librarian or a person on the staff of the director and librarian may reject the records schedule and implementation plan for a record if the retention period of the record as listed on the plan is less than the retention period for the record established by the county records manual. If the plan is rejected, the director and librarian or staff person shall file with the custodian the rejected schedule and a statement of the reasons for rejection not later than the 30th day after the date the director and librarian or staff person received the records schedule and implementation plan. If a schedule is rejected under this subsection, the custodian may submit an amended schedule.

(c) The director and librarian or a person on the staff of the director and librarian may condition acceptance of the records schedule and implementation plan on the transfer of a record listed on the schedule to the custody of the Texas State Library when the retention period for the record has expired.

Added by Acts 1989, 71st Leg., ch. 123, Sec. 3, eff. Sept. 1, 1989.

Sec. 441.095. DISPOSITION OF UNSCHEDULED RECORDS. (a) A custodian may dispose of a county record that is not listed on an approved records schedule and implementation plan if, not later than 60 days before the date that the record is destroyed, the custodian gives written notice of the intent to destroy the record to the director and librarian. The notice must sufficiently describe the record to enable the director and librarian to determine if the record has been assigned a minimum retention period.

(b) Not later than the 30th day after the date the director and librarian receives the notice, the director and librarian shall:

(1) notify the custodian of the approval or disapproval of the intended disposition;

(2) request any additional information required by the director and librarian to evaluate the record; or

(3) request that the record or a part of the record be

transferred to the Texas State Library for preservation in a regional historical resource depository.

(c) The custodian shall comply with the request or notice of the director and librarian or withdraw the notice of intent to destroy the record.

(d) Not later than the 10th day before the date a record is destroyed, the custodian shall file and record a notice with the county clerk. The notice must indicate the record to be destroyed, how it is to be destroyed, and the date of its destruction. On the day the notice is filed, the county clerk shall post a copy of it in the same manner that a notice of a meeting is posted under Chapter 551.

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

(f) A county record may be destroyed only by sale or donation for recycling purposes, shredding, burning, burial in a landfill, or pulping.

(g) A person is not civilly liable for destruction of a record in accordance with this subchapter.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 123, Sec. 4, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(79), eff. Sept. 1, 1995.

SUBCHAPTER G. STATE PUBLICATIONS

Sec. 441.101. DEFINITIONS. In this subchapter:

(1) "Commission" means the Texas State Library and Archives Commission.

(2) "Depository library" means the Texas State Library, the Legislative Reference Library, the Library of Congress, the Center for Research Libraries, or any other library that the commission designates as a site for retaining and allowing public access to state publications.

(3) "State agency" means a state office, officer, department, division, bureau, board, commission, legislative committee, authority, institution, substate planning bureau, university system, institution of higher education as defined by Section 61.003, Education Code, or a subdivision of one of those entities.

(4) "State publication":

(A) means information in any format, including materials in a physical format or in an electronic format, that:

(i) is produced by the authority of or at the total or partial expense of a state agency or is required to be distributed under law by the agency; and

(ii) is publicly distributed outside the agency by or for the agency; and

(B) does not include information the distribution of which is limited to:

(i) contractors with or grantees of the agency;

(ii) persons within the agency or within other government agencies; or

(iii) members of the public under a request made under the open records law, Chapter 552.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 15, eff. Sept. 1, 1995; Acts 2005, 79th Leg., ch. 1124, Sec. 1, eff. Sept. 1, 2005.

Sec. 441.102. DISTRIBUTION OF STATE PUBLICATIONS. (a) The commission by rule shall establish procedures for the distribution of state publications to depository libraries and for the retention of those publications.

(b) The commission may enter into a contract with a depository library under which the depository library receives all or part of the state publications that are distributed.

(c) The commission shall establish and maintain a system, named the "Texas Records and Information Locator," or "TRAIL," to allow electronic access, including access through the Internet, at the Texas State Library and other depository libraries to state publications that have been made available to the public through the Internet by or on behalf of a state agency.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 16, eff. Sept. 1, 1995; Acts 2005, 79th Leg., ch. 1124, Sec. 2, eff. Sept. 1, 2005.

Sec. 441.103. STATE AGENCY DUTIES. (a) A state agency shall

designate one or more staff persons as agency publications liaisons and shall notify the Texas State Library of those persons' identities. A publications liaison shall maintain a record of the agency's state publications and shall furnish to the Texas State Library a list of the agency's new state publications as they become available.

(b) A state agency shall furnish copies of its state publications that exist in a physical format to the Texas State Library in the number specified by commission rules. On the creation of or awarding of a contract for the production of a publication in a physical format, a state agency shall arrange for the required number of copies to be deposited with the Texas State Library. The commission may not require more than 75 copies of a state publication in a physical format.

(c) On the release of a state publication in an electronic format and for the purpose of further distribution of the publication, a state agency shall provide the Texas State Library:

(1) on-line access to the publication; or
(2) copies of the publication on an electronic external storage device in the number of copies prescribed by the commission but not to exceed 75.

(d) If a state agency is allowing public on-line access to a state publication, the agency shall also provide the Texas State Library with at least one free on-line connection to the agency's state publications that can be accessed on-line. The connection must:

(1) be provided in the form and manner prescribed by the director and librarian; and

(2) be compatible with applicable standards prescribed by the Department of Information Resources.

(e) Each state publication shall clearly reflect the date that the state publication is produced or initially distributed by a state agency in a conspicuous location at or near the beginning of the publication.

(f) A state agency shall include, for any of its publications available on the Internet, identifying and descriptive information about the publication as specified by commission and Department of Information Resources rules.

(g) If an electronic state publication is not printed or available from the state agency's website, the state agency shall furnish the Texas State Library copies in a manner prescribed by commission rules. The commission may not require more than 75 copies of the publication.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 17, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 762, Sec. 1, eff. Sept. 1, 1997; Acts 2005, 79th Leg., ch. 1124, Sec. 3, eff. Sept. 1, 2005.

Sec. 441.1035. STATE PUBLICATIONS DISTRIBUTED IN PHYSICAL FORMAT; NOTICE; ONLINE AVAILABILITY. (a) A state agency that distributes by subscription a state publication in a physical format, such as paper, tape, or disk, and without a fee or other cost to the subscriber shall make the publication accessible in an electronic format from the agency's Internet website.

(b) When distributing a state publication in a physical format, a state agency that makes the publication accessible on its Internet website must inform each subscriber to the publication that the subscriber may, instead of receiving a physical copy, access the publication at the agency's Internet website.

(c) If a subscriber prefers to access a publication at the state agency's Internet website and notifies the agency of that preference, the agency shall:

(1) remove the subscriber from the distribution list for that publication; and

(2) notify the subscriber electronically each time the publication becomes available at the agency's Internet website and provide an electronic link to the publication.

Added by Acts 2005, 79th Leg., ch. 20, Sec. 1, eff. Sept. 1, 2005.

Sec. 441.104. DUTIES OF TEXAS STATE LIBRARY. The Texas State Library shall:

(1) acquire, organize, retain, and provide access to state publications;

(2) collect state publications and distribute them to depository libraries;

(3) establish a program for the preservation and management of state publications and make available state

publications in alternative formats to depository libraries and other libraries at a reasonable cost;

(4) periodically issue a list of all state publications that it has received in a physical format to all depository libraries and other libraries on request;

(5) catalog, classify, and index all state publications that it receives and distribute the cataloging, classification, and indexing information to depository libraries and to other libraries on request;

(6) ensure that state publications are fully represented in regional and national automated library networks;

(7) index all state publications that are available through the Internet and make the index available through the Internet; and

(8) provide other depository libraries appropriate access, at no charge, to state publications available in an electronic format.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 18, eff. Sept. 1, 1995; Acts 2005, 79th Leg., ch. 1124, Sec. 4, eff. Sept. 1, 2005.

Sec. 441.105. EXEMPT PUBLICATIONS. The state librarian may specifically exempt a publication or a distribution format from this subchapter.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 19, eff. Sept. 1, 1995.

Sec. 441.106. PAYMENT FOR PRINTING OF STATE PUBLICATIONS. If a state agency's printing is done by contract, an account for the printing may not be approved and a warrant may not be issued unless the agency first furnishes to the Texas Building and Procurement Commission a receipt from the state librarian for the publication or a written waiver from the state librarian exempting the publication from this subchapter.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2005, 79th Leg., ch. 1124, Sec. 5, eff. Sept. 1, 2005.

SUBCHAPTER H. PRINT ACCESS AIDS FOR PERSONS WITH VISUAL DISABILITIES

Sec. 441.111. DEFINITIONS. In this subchapter:

(1) "Print access aid" means an item, piece of equipment, or product system that improves or facilitates access to standard print by enlarging or magnifying print, or by electronically converting print to spoken, recorded, or tactile format.

(2) "Public library" has the meaning assigned by Section 441.122.

(3) "Standard print" means text that appears on paper, microfilm, microfiche, or other microformat, or in machine-readable form, in a type size smaller than 14 points.

(4) "State library" means the Texas State Library.
Added by Acts 1997, 75th Leg., ch. 165, Sec. 11.01(a), eff. Sept. 1, 1997.

Sec. 441.112. PRINT ACCESS AIDS IN PUBLIC LIBRARIES. (a) To make its services and collections more accessible, a public library may make a print access aid available for use by a person who cannot clearly read printed material because of a visual disability.

(b) If funds from a gift or grant are available for that purpose, the state library may acquire and lend at no cost print access aids to a public library.

(c) For a public library to be eligible to receive a print access aid under Subsection (b), a community need for the aid must exist.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 11.01(a), eff. Sept. 1, 1997.

Sec. 441.113. TRAINING AND INFORMATION. The state library may provide to a library requesting or receiving a print access aid under this subchapter technical assistance, including assistance in:

(1) explaining to library employees the function of a print access aid;

(2) assessing local needs for use of a print access aid;

(3) providing to library employees training and information in the use of a print access aid;

(4) preparing and distributing public information regarding the availability and location of a print access aid; and

(5) providing assistance in developing policies and

guidelines for use of an aid.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 11.01(a), eff. Sept. 1, 1997.

Sec. 441.114. MAINTENANCE OF EQUIPMENT. The state library may pay the maintenance or repair cost of a print access aid supplied to a library under this subchapter out of funds available to the library from gifts or grants for that purpose. If the state library cannot pay the maintenance or repair cost of an aid, the library receiving the aid may pay the maintenance or repair cost or return the aid to the state library.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 11.01(a), eff. Sept. 1, 1997.

Sec. 441.115. RELOCATION. The state library shall review each library that receives a print access aid under this subchapter once every two years to determine whether to relocate an aid provided to that library. The state library shall make a relocation decision based on population shifts, the use of the equipment, and community need.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 11.01(a), eff. Sept. 1, 1997.

Sec. 441.116. FUNDING. (a) The requirements of this subchapter for the provision and placement of print access aids by the state library are contingent on the receipt of gifts or grants for the state library to purchase, maintain, and repair the print access aids. If the state library's funds are not sufficient to place and maintain a print access aid in a library that may need an aid, the state library shall make a placement decision for any available aid based on demonstrated community need and local support provided by a library.

(b) Money from the general revenue fund may not be appropriated to implement this subchapter.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 11.01(a), eff. Sept. 1, 1997.

SUBCHAPTER I. LIBRARY SYSTEMS

Sec. 441.121. SHORT TITLE. This subchapter may be cited as the Library Systems Act.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 441.122. DEFINITIONS. In this subchapter:

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

(2) "Accreditation standards" means the criteria established by the commission that a library must meet to be accredited and eligible for membership in a major resource system.

(3) "Area library" means a medium-sized public library serving a population of 25,000 or more that has been designated as an area library by the commission and is a member of a library system interrelated to a major resource center.

(4) "Commission" means the Texas State Library and Archives Commission.

(5) "Community library" means a small public library serving a population of less than 25,000 that is a member of a library system interrelated to a major resource center.

(6) "Governing body" means the body having power to authorize a library to join, participate in, or withdraw from a library system.

(7) "Interlibrary contract" means a written agreement between two or more libraries to cooperate, consolidate, or receive one or more services.

(8) "Library board" means the body that has the authority to give administrative direction or advisory counsel to a library or library system.

(9) "Library system" means two or more public libraries cooperating in a system approved by the commission to improve library service and to make their resources accessible to all residents of the area the libraries serve.

(10) "Major resource center" means a large public library serving a population of 200,000 or more within 4,000 or more square miles that is designated as the central library of a major resource system for referral service from area libraries in the system, for cooperative service with other libraries in the system, and for federated operations with other libraries in the system.

(11) "Major resource system" means a network of library systems attached to a major resource center, consisting of area libraries joined cooperatively to the major resource center, community libraries joined cooperatively to area libraries or directly to the major resource center, and libraries that are not public libraries that join the system under Section 441.1271.

(12) "Public library" means a library that is operated by a single public agency or board, that is freely open to all persons under identical conditions, and that receives its financial support in whole or part from public funds.

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

(14) "State library system" means a network of library systems, interrelated by contract, for the purpose of organizing library resources and services for research, information, and recreation to improve statewide library service and to serve collectively the entire population of the state.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 155, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 86, Sec. 20, eff. Sept. 1, 1995.

Sec. 441.123. ESTABLISHMENT OF STATE LIBRARY SYSTEM. The commission shall establish and develop a state library system. Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 441.124. ADVISORY BOARD. (a) The commission shall appoint an advisory board composed of five librarians qualified by training, experience, and interest to advise the commission on the policy to be followed in applying this subchapter.

(b) The term of office of a board member is three years.

(c) The board shall meet at least once a year. The commission may call other meetings during the year.

(d) A member of the board serves without compensation but is entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties.

(e) A vacancy shall be filled for the remainder of the unexpired term in the same manner as an original appointment.

(f) A member may not serve more than two consecutive terms.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 441.125. PLAN OF SERVICE. The director and librarian shall submit an annual plan for the development of the state library system for review by the advisory board and approval by the commission.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 441.126. AUTHORITY TO ESTABLISH MAJOR RESOURCE SYSTEMS. The commission may establish and develop major resource systems or regional library systems in conformity with the plan for a state library system as provided by this subchapter.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 155, Sec. 2, eff. Sept. 1, 1993.

Sec. 441.127. MEMBERSHIP IN SYSTEM. (a) To be eligible for membership in a major resource system or regional library system a library must be accredited by the commission as having met the accreditation standards established by the commission.

(b) To meet population change, economic change, and changing service strengths of member libraries, a major resource system may be reorganized, merged with another major resource system, or partially transferred to another major resource system by the commission with the approval of the majority of the appropriate governing bodies of the libraries comprising the system. A regional library system may be reorganized, divided, dissolved, or merged into another regional library system in a manner provided by bylaws of the corporation operating the system or by contract between the member libraries and the managing authority of the system.

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

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended

by Acts 1993, 73rd Leg., ch. 155, Sec. 3, eff. Sept. 1, 1993.

Sec. 441.1271. EXTENDING MEMBERSHIP OF MAJOR RESOURCE SYSTEMS TO CERTAIN NONPUBLIC LIBRARIES. (a) A major resource system may extend its membership to include libraries that are not public libraries and that are operated by one of the following:

- (1) a public school district;
- (2) an institution of higher education;
- (3) a unit of state government; or
- (4) a unit of local government.

(b) The decision to extend major resource system membership under Subsection (a) must be:

- (1) made on a two-thirds vote of the governing bodies of the members of the major resource system; and
- (2) approved by the commission.

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

- (1) must be accredited by the commission to be eligible to join the system; and
- (2) may join the system by resolution or ordinance of its governing body and execution of interlibrary contracts for service.

(d) The commission may terminate the system membership of a library that is not a public library and that joined a major resource system under this section if the library:

- (1) loses its accreditation by ceasing to meet the minimum standards established by the commission; or
- (2) fails to comply with obligations stated in the applicable resolution or ordinance or interlibrary contracts for service.

(e) A library that is not a public library that joins a major resource system under this section must 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.

(f) A major resource system that has extended its membership to some but not all of the types of libraries described by Subsection (a) may extend its membership to one or more of the remaining types of libraries described by Subsection (a). A decision under this subsection must be made and approved in the manner prescribed for a decision under Subsection (b).

Added by Acts 1995, 74th Leg., ch. 86, Sec. 21, eff. Sept. 1, 1995.

Sec. 441.128. OPERATION AND MANAGEMENT. (a) Governing bodies within a major resource system area or regional library system area may join in the development, operation, and maintenance of the system and appropriate and allocate funds for its support.

(b) Governing bodies of political subdivisions of the state may negotiate separately or collectively a contract with the governing bodies of member libraries of a major resource system or regional library system for all library services or for those services defined in the contract.

(c) On petition of 10 percent of the persons qualified to vote in the most recent general election of a county or municipality within a major resource system service area or a regional library system service area, the governing body of that political subdivision shall call an election to vote on the question of whether or not the political subdivision shall establish contractual relationships with the system.

(d) The governing body of a major resource center, the governing body or managing authority of a regional library system, and the commission may enter into agreements with the governing bodies of other libraries, including other public libraries, school libraries and media centers, academic libraries, technical information and research libraries, or systems of those libraries, to provide or receive specialized resources and services. The commission shall coordinate and encourage the dissemination of specialized resources and services and may adopt rules for the contracts and agreements authorized by this subsection.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 441.129. WITHDRAWAL FROM SYSTEM. (a) The governing body of a political subdivision of the state may by resolution or ordinance withdraw from a major resource system. The governing body must give notice of withdrawal not later than the 90th day before the end of the state fiscal year.

(b) The provision for termination of all or part of a major resource system does not prohibit revision of the system by the

commission, with the approval of the majority of the appropriate governing bodies, by reorganization, by transfer of part of the system, or by merger with other systems.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 441.130. ADVISORY COUNCIL. (a) Each major resource system has an advisory council composed of six lay members representing the member libraries of the system.

(b) The governing body of each member library of the system shall elect or appoint a representative to elect council members. The representatives shall meet following their selection and shall elect the initial council from their group. The representatives in an annual meeting shall elect members of their group to fill council vacancies caused by expiration of terms of office. Other vacancies shall be filled for the unexpired term by the remaining members of the council. At all times one member of the council must be a representative of the major resource center.

(c) The term of office of a council member is three years, except that the initial members shall draw lots for terms, two to serve one-year terms, two to serve two-year terms, and two to serve three-year terms. An individual may not serve more than two consecutive terms.

(d) The council shall elect a chairman, vice-chairman, and secretary.

(e) The council shall meet at least once a year. Other meetings may be held as often as is required to transact necessary business. The council shall report business transacted at each meeting to all member libraries of the system.

(f) The members of the council serve without compensation but are entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties.

(g) The council shall serve as a liaison agency between the member libraries and their governing bodies and library boards to:

(1) advise in the formulation of the annual plan for service to be offered by the system;

(2) recommend policies appropriate to services needed;

(3) evaluate services received;

(4) counsel with administrative personnel; and

(5) recommend functions and limitations of contracts between cooperating agencies.

(h) The functions of the advisory council do not diminish the powers of a local library board.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 441.131. REGIONAL LIBRARY SYSTEM. (a) The governing bodies of two-thirds of the member libraries of a major resource system may elect, for the purpose of administering the receipt and dispersal of services under this subchapter within their area, to form a regional library system that includes all libraries that are members of the major resource system.

(b) Governing bodies of libraries within a regional library system may establish a nonprofit corporation under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) to administer the system or may contract with a private business to administer the system. If the governing bodies form a nonprofit corporation, they may select a board of directors and adopt bylaws for the corporation. Bylaws adopted or a contract executed under this section may permit other libraries operated by public school districts, institutions of higher education, and units of state or local government to become members of the regional library system. Bylaws may provide for reorganization, merger, division, and dissolution.

(c) To ensure the sound management and viability of regional library systems, the commission shall include in its rules provisions stipulating a cash reserve requirement for regional library systems. To enable the accumulation of sufficient reserves for the sole purpose of cash flow management, regional library systems may retain up to five percent of their annual system operation grant general revenue funds from year to year until the commission's reserve requirement is satisfied. These funds must be held in a federally insured account and the commission may provide for periodic reporting of the funds and their inclusion in the annual audit. Interest earned on these funds shall be retained in this account and shall be subject to the same terms and reporting as the corpus. These funds remain the property of the state, and if the commission ceases to contract with a regional library system,

such funds must be fully and promptly returned as provided by this section.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 155, Sec. 4, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 213, Sec. 1, eff. Sept. 1, 1997.

Sec. 441.132. MAJOR RESOURCE CENTERS. (a) The commission may designate major resource centers from existing public libraries according to criteria approved by the commission and agreed to by the governing body of the library involved. The governing body of a library designated as a major resource center may accept the designation by resolution or ordinance stating the type of service to be given and the area to be served.

(b) The commission may revoke the designation of a major resource center that ceases to meet the criteria for a major resource center or that fails to comply with obligations stated in the resolution or ordinance agreements. The commission shall provide a fair hearing on request of the major resource center.

(c) Funds allocated by governing bodies contracting with the major resource center and funds contributed from state grants for the purposes of this subchapter shall be deposited with the governing body operating the major resource center following procedures agreed to by the contributing agency.

(d) The powers of the governing board of the major resource center do not diminish the powers of local library boards.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 441.133. AREA LIBRARIES. (a) The commission may designate area libraries within each major resource system service area to serve the surrounding area with library services for which interlibrary contracts are made with participating libraries. Area libraries may be designated only from existing public libraries and on the basis of criteria approved by the commission and agreed to by the governing body of the library involved. The governing body of a library designated as an area library may accept the designation by resolution or ordinance stating the type of service to be given and the area to be served.

(b) The commission may revoke the designation of an area library that ceases to meet the criteria for an area library or fails to comply with obligations stated in the resolution or ordinance agreement. The commission shall provide a fair hearing on request of the major resource center or area library.

(c) Funds allocated by governing bodies contracting with the area library and funds contributed from state grants for the purposes of this subchapter shall be deposited with the governing body operating the area library following procedures agreed to by the contributing agency.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 441.134. COMMUNITY LIBRARIES. (a) Community libraries accredited by the commission are eligible for membership in a major resource system. A community library may join a system by resolution or ordinance of its governing body and execution of interlibrary contracts for service.

(b) The commission may terminate the membership of a community library in a system if the community library loses its accreditation by ceasing to meet the minimum standards established by the commission or fails to comply with obligations stated in the resolution or ordinance agreement.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 441.135. GRANTS. (a) The commission shall establish a program of state grants within the limitations of funds appropriated by the legislature. The commission shall adopt by rule the guidelines for awarding grants, except that any municipal library which lends more than 20,000 items per year to nonresidents cannot be denied any grant awarded after January 1, 1995, based solely upon the provision of services to nonresidents.

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

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

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

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

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

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

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 155, Sec. 5, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 988, Sec. 1, 2, eff. Aug. 28, 1995.

Sec. 441.136. RULES. (a) The director and librarian, with the advice of the advisory board, shall propose initial rules necessary to the administration of the program of state grants, including qualifications for major resource system membership. The proposed rules shall be published in the official publication of the Texas State Library with notice of a public hearing before the commission on the proposed rules to be held on a specified date not less than 30 nor more than 60 days after the date of the publication.

(b) After the public hearing, the commission shall adopt the proposed rules or return them to the director and librarian with recommendations for change. If the commission returns the proposed rules to the director and librarian with recommendations for change, the director and librarian shall consider the recommendations for change in consultation with the advisory board and resubmit the proposed rules to the commission for its adoption.

(c) Revised rules shall be adopted under the same procedure provided in this subchapter for the adoption of the initial rules.

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

(e) The commission shall include in its rules provisions necessary to ensure compliance with the standard financial management conditions developed under Chapter 783 with regard to the purchasing of library materials and equipment.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 78, Sec. 1, eff. Sept. 1, 1997.

Sec. 441.137. ADMINISTRATION. The director and librarian shall administer the program of state grants and shall make public the rules adopted by the commission.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 441.138. FUNDING. (a) The commission may use funds appropriated by the legislature for personnel and other administrative expenses necessary to carry out the provisions of this subchapter.

(b) Libraries and library systems may use state grants for materials, personnel, equipment, administrative expenses, and financing programs that enrich the services and materials offered a community by its public library. State grants may not be used for site acquisition, construction, acquisition of buildings, or payment of past debts.

(c) State aid to a free tax-supported public library is a supplement to and not a replacement of local support.

(d) Twenty-five percent of system operation grants shall be apportioned equally among the major resource systems and regional library systems that are operating under commission-approved programs of services, budgets, and bylaws or contracts, and the remaining 75 percent of these grants shall be apportioned among those systems on a per capita basis determined by the most recent decennial census or the most recent official population estimate of the U.S. Department of Commerce, Bureau of the Census.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 441.1385. LIMITATION ON CERTAIN FUNDS. (a) In this section:

(1) "Internet safety policy" means a policy that addresses:

(A) measures designed to restrict access by minors to obscene material on the Internet;

(B) the safety and security of minors when using electronic mail, chat rooms, and other forms of direct electronic communications;

(C) unauthorized access and other unlawful activities by minors on-line; and

(D) unauthorized disclosure, use, and dissemination of personal identification information regarding minors.

(2) "Obscene" has the meaning assigned by Section 43.21, Penal Code.

(b) A public library that provides a computer with Internet access to the public is not eligible for a loan or grant under Subchapter C, Chapter 57, Utilities Code, unless the public library adopts and implements an Internet safety policy.

Added by Acts 2003, 78th Leg., ch. 188, Sec. 2, eff. Sept. 1, 2003.

Sec. 441.139. RESEARCH FEES FOR FOR-PROFIT ENTITIES. (a) Notwithstanding other provisions of this subchapter, a library, including a public library, in a city with a population of 1.18 million or more and that has adopted a council-manager form of government, may charge a reasonable fee to a for-profit business entity for providing in-depth research services or research support relating to the entity's business activities.

(b) A library may not charge a fee under this section in circumstances under which charging a fee is not allowed by federal law for federal funding purposes.

Added by Acts 1993, 73rd Leg., ch. 729, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 19, eff. Sept. 1, 2001.

SUBCHAPTER J. PRESERVATION AND MANAGEMENT OF LOCAL GOVERNMENT RECORDS

Sec. 441.151. DEFINITIONS. In this subchapter:

(1) "Commission" means the Texas State Library and Archives Commission.

(2) "Custodian" means the appointed or elected public officer who by the state constitution, state law, ordinance, or administrative policy is in charge of an office that creates or receives local government records.

(3) "Depository" means a regional historical resource depository established under Section 441.153.

(4) "Director and librarian" means the executive and administrative officer of the Texas State Library and Archives Commission.

(5) "Essential record" means any local government record necessary to the resumption or continuation of government operations in an emergency or disaster, to the re-creation of the legal and financial status of the government, or to the protection and fulfillment of obligations to the people of the state.

(6) "Historical resource" means a book, publication, newspaper, manuscript, paper, document, memorandum, record, map, artwork, photograph, microfilm, sound recording, or other material of historical interest or value, including a local government record of permanent value transferred to the custody of the commission under Subtitle C, Title 6, Local Government Code.

(7) "Local government" means a county, including all district and precinct offices of a county, municipality, public school district, appraisal district, or any other special-purpose district or authority.

(8) "Local government record" means any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by a local government or any of its officers or employees pursuant to law, including an ordinance, or in the transaction of public business. The term does not include:

(A) extra identical copies of documents created only for convenience of reference or research by officers or

employees of the local government;

(B) notes, journals, diaries, and similar documents created by an officer or employee of the local government for the officer's or employee's personal convenience;

(C) blank forms;

(D) stocks of publications;

(E) library and museum materials acquired solely for the purposes of reference or display; or

(F) copies of documents in any media furnished to members of the public to which they are entitled under Chapter 552, or other state law.

(9) "Permanent record" or "record of permanent value" means any local government record whose retention period on a records retention schedule issued by the commission is given as permanent.

(10) "Records management" means the application of management techniques to the creation, use, maintenance, retention, preservation, and disposal of records for the purposes of reducing the costs and improving the efficiency of recordkeeping. The term includes the development of records control schedules, the management of filing and information retrieval systems, the protection of essential and permanent records, the economical and space-effective storage of inactive records, control over the creation and distribution of forms, reports, and correspondence, and the management of micrographics and electronic and other records storage systems.

(11) "Records management officer" means the person identified under Section 203.001 or designated under Section 203.025, Local Government Code, as the records management officer.

(12) "Research center" means a regional research center established under Section 441.154.

(13) "Retention period" means the minimum time that must pass after the creation, recording, or receipt of a record, or the fulfillment of certain actions associated with a record, before it is eligible for destruction.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(96), eff. Sept. 1, 1995.

Sec. 441.152. DUTIES AND RESPONSIBILITIES OF THE DIRECTOR AND LIBRARIAN. The director and librarian shall:

(1) carry out the duties and responsibilities of the commission relating to the management and preservation of local government records imposed by this subchapter and Subtitle C, Title 6, Local Government Code;

(2) administer the regional historical depository system and regional research centers the establishment of which is provided for by this subchapter and provide additional assistance through publications and other means to persons wishing to use local government records for historical and other research purposes;

(3) provide assistance, information, and training to records management officers and custodians of local government records in fulfilling their responsibilities under Subtitle C, Title 6, Local Government Code;

(4) work with other state agencies in seeking methods to assist and encourage local governments and the custodians of local government records in the establishment and operation of efficient and economical records management programs, in reducing paperwork required of local governments by the state, and in preserving records of historical value;

(5) establish and administer a clearinghouse for information relating to all aspects of the management and preservation of local government records; and

(6) assist local governments in seeking grants from federal, state, and private foundations, agencies, or organizations for records management and preservation activities.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989.

Sec. 441.153. REGIONAL HISTORICAL RESOURCE DEPOSITORIES. (a) To provide for an orderly, uniform statewide system for the professional retention and preservation of historical resources in the region of their origin or interest, the commission may enter into an agreement with a public or private library or archives to serve as a regional historical resource depository.

(b) The commission shall adopt rules that:

(1) establish standards that an institution must meet in order to qualify for designation as a depository;

(2) prescribe procedures for depositing, accessioning, cataloging, storing, transferring, preserving, and providing reference services for historical resources placed in a depository; and

(3) establish other policies as the commission considers necessary to ensure the effective administration of the system of depositories.

(c) An agreement under Subsection (a) may not include any provision that limits the authority of the commission to adopt or amend rules under Subsection (b).

(d) The commission shall determine the region to be served by a depository. An agreement may not limit the authority of the commission to change the boundaries of a region at its discretion.

(e) The commission may place a staff member at a depository to care for historical resources deposited there by the commission and to perform other duties imposed on the commission and the director and librarian by this subchapter and Subtitle C, Title 6, Local Government Code, but an agreement may not limit the power of the commission to transfer a staff member to a duty station at times as it considers advisable.

(f) Title to historical resources placed in a depository by the commission remains with the commission, and the historical resources may not be intermingled with other holdings of the institution that serves as a depository.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989.

Sec. 441.154. REGIONAL RESEARCH CENTERS. (a) To provide additional methods for the preservation of the historical resources of the state in the region of their origin or interest and to provide additional methods of carrying out the other responsibilities placed on the commission by this subchapter and Subtitle C, Title 6, Local Government Code, the commission may establish and operate regional research centers in accordance with this section.

(b) The commission may accept on behalf of the state land and buildings that meet criteria established by the commission as suitable sites or buildings for a regional research center.

(c) The commission may solicit, accept, or collect and may administer for any purpose related to the construction, purchase, remodeling, operation, equipping, staffing, and maintenance of a regional research center or for the operation of any other program of the commission relating to the management and preservation of local government records:

(1) federal, state, local government, or private funds made available by grant; or

(2) gifts of money or real or personal property from donors.

(d) If acceptable to the commission, a donor may specify that donated money or property be used for specific purchases or projects related to the purposes described by Subsection (c).

(e) The commission may keep outside the state treasury in a separate bank depository that the commission designates any money collected under Subsection (c). The money is not subject to legislative appropriation and may be used only for the purposes described by Subsection (c).

(f) If real or personal property is donated to and accepted by the commission specifically for the purpose of sale or lease to provide funds for any of the purposes described by Subsection (c), the commission may proceed with the sale or lease. In converting donated property to money, the commission may execute bills of sale, leases, or deeds in consideration of the payment to the commission of the reasonable market value of the property as determined by a licensed or professional appraiser. The instruments of conveyance must be authorized by written resolution of the commission and must be signed by the chairman and attested to by the secretary.

(g) Subject to the terms of the donation and unless provided otherwise by the donor, the commission in action for the state with respect to donated property has the powers of a trustee under Subtitle B, Title 9, Property Code (Texas Trust Code), with the state as the beneficiary and owner of the remainder of the donated property.

(h) The commission may accept gifts or loans of furniture, equipment, artwork, museum pieces, and other historical resources

for placement in a specified regional research center under conditions to which the commission and the donor agree.

(i) For the purposes described by Subsection (c), the commission may enter into agreements the commission considers advisable with grantors and donors. The agreements may not create a financial obligation on the part of the state.

(j) The commission may provide out of regular appropriations for the operation, equipping, staffing, and maintenance of a regional research center and may enter into any cooperative agreements it considers advisable with any state agency, county, municipality, or other local government for the purposes described by Subsection (c) in, or through services provided by, a regional research center.

(k) A regional research center established under this section is owned by the state and is under the direct control and supervision of the commission.

(l) The commission shall adopt rules that prescribe procedures for depositing, accessioning, cataloging, storing, transferring, preserving, and providing reference services for historical resources placed in a research center and shall also establish other policies it considers necessary to ensure the effective administration of a research center.

(m) A regional research center is dedicated to the objectives described by Subsection (a) and may not be used for other purposes, but the commission may establish rules governing the use of meeting rooms in a research center for educational purposes.

(n) The commission shall report annually to the governor and the legislature all donations, grants, agreements, and special accounts under this section, and those items are subject to audit by the state auditor.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989.

Sec. 441.155. PLACEMENT AND REMOVAL OF RESOURCES. (a) The commission may place any historical resources in its custody in a depository or research center.

(b) Subject only to an agreement under Section 441.154(i), the commission may remove historical resources in its custody from one depository or research center to another or to the state library in Austin if the commission determines that the removal would ensure the safety, preservation, or availability of the resources.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989.

Sec. 441.156. CONTRACTING AUTHORITY. (a) The commission may enter into contracts or agreements that it considers necessary or advisable to foster and assist in the development of local government records management programs and the preservation of local government records of permanent value and to carry out its duties and responsibilities under this subchapter and Subtitle C, Title 6, Local Government Code.

(b) No contract or agreement made by the commission may bind the state for the payment of any funds that have not been authorized by an appropriation of the legislature or that are not available in accounts established under Section 441.154(e).

(c) The commission may sell advertising in publications developed pursuant to its duties under this subchapter and Subtitle C, Title 6, Local Government Code, and the commission may spend proceeds from the sale only to carry out those duties. The revenue from the sale shall be deposited in the state treasury to the credit of a special fund and reappropriated to the commission.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989.

Sec. 441.157. GRANT-IN-AID PROGRAM. (a) A program of state grants within the limitations of funds appropriated by the legislature is established for the purpose of aiding local governments in the establishment of records management programs or for the purposes of preserving historically valuable local government records.

(b) The commission shall adopt rules necessary to the administration of the grant program.

(c) The commission may use appropriated funds for personnel and other administrative expenses necessary to carry out the grant program.

(d) The commission shall report annually to the governor and the legislature all grants made under the program.

(e) If the United States Congress enacts legislation to fund a grant-in-aid program for the management or preservation of local government records, and if the legislation provides for the distribution of the funds by a state agency, the commission shall

accept and administer the funds unless the federal legislation provides otherwise.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989.

Sec. 441.158. LOCAL GOVERNMENT RECORDS RETENTION SCHEDULES. (a) The director and librarian, under the direction of the commission, shall prepare and distribute free of charge to records management officers of affected local governments the records retention schedules for each type of local government, including a schedule for records common to all types of local government. The commission shall adopt the schedules by rule.

(b) Each records retention schedule must:

(1) list the various types of records of the applicable local government;

(2) state the retention period prescribed by a federal or state law, rule of court, or regulation for records for which a period is prescribed; and

(3) prescribe retention periods for all other records, which periods have the same effect as if prescribed by law after the records retention schedule is adopted as a rule of the commission.

(c) In preparing the records retention schedules, the director and librarian shall consult with custodians and other local government officials whose records are affected by the schedules and with appropriate state agencies.

(d) Before the adoption of a records retention schedule by the commission, it must be approved by the local government records committee established under Section 441.161.

(e) After the adoption of a records retention schedule, a retention period for a record prescribed in a new or amended federal or state law, rule of court, or regulation that differs from that in a records retention schedule prevails over that in the schedule.

(f) Expired.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 22, eff. Sept. 1, 1995.

Sec. 441.159. PRIOR RETENTION PERIODS IN COUNTY RECORDS MANUAL. Retention periods for county records contained in the county records manual or any amendments to the manual approved before September 1, 1989, as provided under prior law are validated and have the same effect as retention periods in a records retention schedule adopted under Section 441.158. Any amendments to retention periods in the manual after September 1, 1989, must be in accordance with Section 441.160.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989.

Sec. 441.160. REVISIONS TO RECORDS RETENTION SCHEDULES. The records retention schedules may be revised and the revisions take effect according to their terms when they are approved and adopted in the same manner as provided by Section 441.158. However, editorial changes that do not substantively change the description of a record or its retention period and changes to retention periods as the result of changes to retention periods prescribed in a federal or state law, rule of court, or regulation do not require approval of the local government records committee before adoption. Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989.

Sec. 441.161. LOCAL GOVERNMENT RECORDS COMMITTEE. (a) A local government records committee shall be established to:

(1) review and approve each of the records retention schedules prepared by the director and librarian as provided by Section 441.158;

(2) review and approve certain rules to be considered for adoption by the commission as provided by Section 441.165; and

(3) advise the commission and the director and librarian on all matters concerning the management and preservation of local government records.

(b) In reviewing and approving records retention schedules and rules under this section, each committee member shall consider the costs of implementation and other factors that may affect local governments.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 23, eff. Sept. 1, 1995.

Sec. 441.162. COMPOSITION OF THE COMMITTEE. (a) The committee includes as ex officio members:

(1) the attorney general or the designee of that officer; and

(2) the comptroller of public accounts or the designee

of that officer.

(b) The other members of the committee shall consist of 10 individuals; two of whom represent counties, one of whom must be a county clerk or a district clerk; two of whom represent municipalities; two of whom represent school districts; two of whom represent appraisal districts; and two of whom represent water districts. At least one member must be a records management officer under Chapter 203, Local Government Code, who is not also an elected county officer. At least four members must represent either a county with a population of fewer than 10,000 or a municipality or district that does not extend into a county with a population of 10,000 or more.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 24, eff. Sept. 1, 1995.

Sec. 441.163. APPOINTMENT OF LOCAL GOVERNMENT RECORDS COMMITTEE; COMPENSATION. (a) Each of the members of the committee, except the ex officio members, shall be appointed by the director and librarian as provided by this section.

(b) On or before the 30th day before the date the director and librarian makes an appointment, the director and librarian shall cause to be published in the Texas Register a notice of the intent to make an appointment.

(c) A nomination for appointment may be made by an organization representing officers or employees of the type to be appointed that has as members at least 50 of those officers or employees. A nomination under this subsection shall include a nominee who represents a county with a population of 10,000 or more and a nominee who represents a county with a population of fewer than 10,000 or a municipality or district that does not extend into a county with a population of 10,000 or more.

(d) After the 30th day after the date the notice is published under Subsection (b), the director and librarian shall appoint a nominee or shall appoint an officer chosen by the director and librarian, if there are no nominees.

(e) The director and librarian shall appoint members to give representation to all geographical regions of the state.

(f) On or before the 30th day after the date of the appointment of the last committee member under Subsections (a) through (e), the director and librarian shall have a complete list of committee members published in the Texas Register.

(g) Service on the local government records committee by a local government officer or employee is an additional duty of the person's office or employment. A member of the committee may not receive compensation for service on the committee but is entitled to be reimbursed from funds of the commission for actual and necessary expenses incurred on committee business, subject to any limit provided by the General Appropriations Act. Expenses of the attorney general and the comptroller of public accounts or their designees shall be paid from the funds of their respective offices.

(h) The committee members shall elect a presiding officer at the first meeting held by newly appointed or reappointed members after February 1 of an odd-numbered year. The director and librarian shall call that first meeting.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 25, eff. Sept. 1, 1995.

Sec. 441.164. TERM; QUALIFICATION; VACANCY. (a) Except for the ex officio members, committee members are appointed for two-year terms expiring on February 1 of odd-numbered years.

(b) To remain eligible to serve on the committee, a person must continue to hold the office or position the person was appointed to represent.

(c) A vacancy on the committee shall be filled in the same manner as an original appointment.

(d) No two committee members may hold office in or be employed by the same local government.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 86, Sec. 26, eff. Sept. 1, 1995.

Sec. 441.165. CERTAIN COMMISSION RULES. Rules and any revisions to the rules developed under Sections 203.048, 204.004, and 205.003, Local Government Code, must be approved by the local government records committee established under Section 441.161.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989.

Amended by Acts 1995, 74th Leg., ch. 86, Sec. 27, eff. Sept. 1, 1995.

Sec. 441.166. STATE AGENCY RULES. A state agency other than the commission, the Texas Supreme Court, or the Texas Court of Criminal Appeals may not require a local government to retain a record for any specific period of time unless the requirements are imposed by federal law or regulation, state law, or rules adopted by the agency under Chapter 2001.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(50), eff. Sept. 1, 1995.

Sec. 441.167. STATUTORY FILING AND REVIEW. The director and librarian may designate employees of the commission to act as deputies in the approval or disapproval or acceptance or rejection for filing of any records control schedule, destruction authorization request, electronic storage authorization request, or other statutory filing required by Subtitle C, Title 6, Local Government Code, or rules adopted under it.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 2, eff. Sept. 1, 1989.

Sec. 441.168. MICROFILMING LOCAL GOVERNMENT RECORDS. (a) On request of a local government, the director and librarian may provide for the microfilming of the local government records of that local government. Local government records are open to the director and librarian for that purpose.

(b) The commission shall establish fees for the microfilming of local government records in amounts sufficient to cover the costs of administering and expanding the microfilming services of the records management division in the state library for the purpose of implementing Subsection (a). The fees received under this section shall be deposited in the state treasury in an account to be used only for the costs of administering and expanding microfilming services.

Added by Acts 1991, 72nd Leg., ch. 738, Sec. 1, eff. Aug. 26, 1991.

SUBCHAPTER L. PRESERVATION AND MANAGEMENT OF STATE RECORDS AND OTHER HISTORICAL RESOURCES

Sec. 441.180. DEFINITIONS. In this subchapter:

(1) "Agency head" means the appointed or elected official who serves by the state constitution, state statute, or action of the governing body of a state agency as the chief executive and administrative officer of a state agency.

(2) "Archival state record" means a state record of enduring value that will be preserved on a continuing basis by the Texas State Library and Archives Commission or another state agency until the state archivist indicates that based on a reappraisal of the record it no longer merits further retention.

(3) "Commission" means the Texas State Library and Archives Commission.

(4) "Confidential state record" means any state record to which public access is or may be restricted or denied under Chapter 552 or other state or federal law.

(5) "Director and librarian" means the chief executive and administrative officer of the Texas State Library and Archives Commission.

(6) "Historical resources" means any manuscript, map, photograph, artistic depiction, printed material, flag, or other recorded information, or copies of that information, in the possession of this state, an individual, a private institution, another state, or another nation relating to the history and culture of Texas as a province, colony, republic, or state.

(7) "Records management" means the application of management techniques to the creation, use, maintenance, retention, preservation, and destruction of state records for the purposes of improving the efficiency of recordkeeping, ensuring access to public information under Chapter 552, and reducing costs. The term includes:

(A) the development of records retention schedules;

(B) the management of filing and information retrieval systems in any media;

(C) the adequate protection of state records that are vital, archival, or confidential according to accepted archival and records management practices;

(D) the economical and space-effective storage of inactive records;

(E) control over the creation and distribution of

forms, reports, and correspondence; and

(F) maintenance of public information in a manner to facilitate access by the public under Chapter 552.

(8) "Records management officer" means the person who administers the records management program established in each state agency under Section 441.183.

(9) "State agency" means:

(A) any department, commission, board, office, or other agency in the executive, legislative, or judicial branch of state government created by the constitution or a statute of this state, including an eleemosynary institution;

(B) any university system and its components and any institution of higher education as defined by Section 61.003, Education Code, except a public junior college, not governed by a university system board;

(C) the Texas Municipal Retirement System and the Texas County and District Retirement System; and

(D) any public nonprofit corporation created by the legislature whose responsibilities and authority are not limited to a geographical area less than that of the state.

(10) "State archivist" means the person designated by the director and librarian to administer the state archives program under Section 441.181.

(11) "State record" means any written, photographic, machine-readable, or other recorded information created or received by or on behalf of a state agency or an elected state official that documents activities in the conduct of state business or use of public resources. The term does not include:

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

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

(C) a stock of publications or blank forms.

(12) "State records administrator" means the person designated by the director and librarian to administer the state records management program under Section 441.182.

(13) "Vital state record" means any state record necessary to:

(A) the resumption or continuation of state agency operations in an emergency or disaster;

(B) the re-creation of the legal and financial status of the agency; or

(C) the protection and fulfillment of obligations to the people of the state.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.

Sec. 441.181. STATE ARCHIVES PROGRAM. (a) The commission shall take legal custody of and preserve archival state records and shall endeavor to collect and preserve other historical resources determined by the director and librarian to possess sufficient value to warrant continued preservation in the state archives.

(b) The director and librarian shall appoint a state archivist to administer the state archives program.

(c) Under the direction of the director and librarian, the state archivist shall:

(1) identify and designate archival state records and arrange for their transfer to the custody of the commission in accordance with Section 441.186;

(2) according to accepted archival practices, arrange, describe, and preserve archival state records and historical resources that come into the possession of the commission through gift, purchase, or other means that the director and librarian determines shall be included in the state archives program;

(3) prepare inventories, indexes, catalogs, or other research aids to state archival records and other historical resources held by the program;

(4) encourage public use of state archival records and other historical resources held by the program and provide public access to them in accordance with rules adopted by the commission under Section 441.193;

(5) cooperate with and, when practicable, provide training and consultative assistance to state agencies, libraries, organizations, and individuals on projects designed to preserve original source materials relating to Texas history, government, and culture;

(6) advise the director and librarian and the commission on all matters concerning the acquisition and preservation of archival state records and other historical resources; and

(7) perform other duties as this subchapter or the director and librarian may require.

(d) Under the direction of the director and librarian, the state archivist shall also assist in carrying out the duties of the commission and the director and librarian relating to the preservation of local government records of permanent value under Subtitle C, Title 6, Local Government Code, and Subchapter J.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.

Sec. 441.182. STATE RECORDS MANAGEMENT PROGRAM. (a) The commission shall assist state agencies in managing state records in accordance with this subchapter and rules adopted under this subchapter.

(b) The director and librarian shall designate a state records administrator to administer the state records management program.

(c) Under the direction of the director and librarian, the state records administrator shall:

(1) provide training, consultative services, and informational material to agency heads, records management officers, and other staff to assist them in establishing and administering records management programs in each state agency as required under Section 441.183;

(2) review and recommend to the director and librarian the approval or disapproval of state agency records retention schedules submitted under Section 441.185 and records destruction requests submitted under Section 441.187;

(3) advise the director and librarian and the commission on all matters concerning the management of state records;

(4) maintain in a safe and secure manner all state records in the physical custody of the program under Subsection (e);

(5) preserve the confidentiality of all confidential state records in the physical custody of the program under Subsection (e); and

(6) perform other duties as this subchapter or the director and librarian may require.

(d) Under the direction of the director and librarian, the state records administrator shall also assist in carrying out the duties of the commission and the director and librarian relating to the management of local government records under Subtitle C, Title 6, Local Government Code, and Subchapter J.

(e) As part of the records management program established under this section, the commission shall:

(1) operate the state records center for the economical and efficient storage, accessibility, protection, and final disposition of inactive and vital state records;

(2) perform micrographic and other imaging services for the protection, accessibility, and preservation of state records;

(3) provide a mandatory or optional, as determined by the commission, training and continuing education program to records management officers to assist them in administering records management programs in each state agency as required under this subchapter; and

(4) provide, with the cooperation of the Department of Information Resources, training for records management and information technology staff to assist them in managing records in an electronic format.

(f) In addition to the duties prescribed by Subsection (e), the commission may provide for or oversee other records storage, micrographics, and imaging services as may become necessary to manage state records efficiently and economically.

(g) The commission may recover costs through the assessment of fees for services provided under Subsections (c)(1), (e), and (f).

(h) Repealed by Acts 2003, 78th Leg., ch. 285, Sec. 31(15).
Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.
Amended by Acts 1999, 76th Leg., ch. 321, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 285, Sec. 31(15), eff. Sept. 1, 2003.

Sec. 441.183. RECORDS MANAGEMENT PROGRAMS IN STATE AGENCIES. The agency head of each state agency shall:

(1) establish and maintain a records management program on a continuing and active basis;

(2) create and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency designed to furnish information to protect the financial and legal rights of the state and any person affected by the activities of the agency;

(3) make certain that all records of the agency are passed to the agency head's successor in the position of agency head;

(4) identify and take adequate steps to protect confidential and vital state records;

(5) cooperate with the commission in the conduct of state agency records management surveys; and

(6) cooperate with the commission, the director and librarian, and any other authorized designee of the director and librarian in fulfilling their duties under this subchapter.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.

Sec. 441.184. RECORDS MANAGEMENT OFFICERS. (a) Each state agency head shall act as or appoint a records management officer for the state agency to administer the agency's records management program. An employee of an agency is eligible to be appointed as the agency's records management officer only if the employee holds a position in which the employee reports directly to the agency head or to a person with a title functionally equivalent to deputy executive director.

(b) The records management officer for each state agency shall:

(1) administer the records management program established under Section 441.183;

(2) assist the agency head in fulfilling all of the agency head's duties under this subchapter and rules adopted under this subchapter;

(3) disseminate to employees of the agency information concerning state laws, administrative rules, and agency policies and procedures relating to the management of state records; and

(4) fulfill all duties required of records management officers under this subchapter and rules adopted under this subchapter.

(c) A records management officer designated under this section continues to serve in that capacity until:

(1) the officer ceases employment with the state agency;

(2) the agency head chooses to act as the records management officer for the agency; or

(3) the agency head appoints another person as the records management officer.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.

Amended by Acts 1999, 76th Leg., ch. 321, Sec. 2, eff. Sept. 1, 1999.

Sec. 441.185. RECORD RETENTION SCHEDULES. (a) Each records management officer, with the cooperation of any staff of a state agency that the officer considers necessary, shall survey the state records of the agency and prepare and submit a records retention schedule to the state records administrator.

(b) The records retention schedule must list the state records created and received by the agency, propose a period of time each record shall be maintained by the agency, and provide other information necessary for the operation of an effective records management program.

(c) The state records administrator and the state archivist shall review the schedule and recommend the schedule's approval or disapproval to the director and librarian and the state auditor. The state auditor, based on a risk assessment and subject to the legislative audit committee's approval of including the review in the audit plan under Section 321.013, may review the schedule.

(d) If the director and librarian, and the state auditor, if the state auditor reviewed the schedule under Subsection (c), approve the schedule, the schedule may be used as the basis for the lawful disposition of state records under Section 441.187 for a period to be determined by the commission.

(e) The commission shall adopt rules concerning the

submission of records retention schedules to the state records administrator.

(f) The commission may by rule prescribe a minimum retention period for any state record unless a minimum retention period for the record is prescribed by another federal or state law, regulation, or rule of court.
Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.
Amended by Acts 2003, 78th Leg., ch. 785, Sec. 14, eff. Sept. 1, 2003.

Sec. 441.186. ARCHIVAL STATE RECORDS. (a) The state archivist, through review of state records retention schedules submitted to the state records administrator under Section 441.185 and other means available under this section, shall identify and designate which state records are archival state records or which state records of potential archival value shall be subject to the review of the state archivist prior to their destruction.

(b) Records management officers shall submit to the state archivist any information concerning a state record that the state archivist considers necessary to determine the archival value of a record.

(c) The state archivist may inspect any state record to determine if the record is an archival state record and the inspection is not a release of a record to a member of the public under Chapter 552.

(d) Archival state records shall be transferred to the custody of the commission when they are no longer needed for the administration of the state agency unless state law requires that the records remain in the custody of the agency.

(e) If the commission cannot accept immediate custody of an archival state record, the record shall remain in the custody of the state agency and shall be preserved in accordance with this subchapter, rules adopted under this subchapter, and other terms on which the director and librarian and the agency head may agree.

(f) Instead of transferring archival state records under this section, the components of university systems and other institutions of higher education may retain and preserve the archival state records of the component or institution in accordance with this subchapter and rules adopted under this subchapter if the records are preserved in an archives established in a library or research center directly controlled by the university.

(g) Except when permitted under state law, an archival state record may not be transferred from one state agency to another without the consent of the director and librarian.

(h) With the approval of the director and librarian, the state archivist may remove the designation of a state record as an archival state record and permit destruction of the record under this subchapter and rules adopted under this subchapter.

(i) In the event of a disagreement between the commission and a state agency over custody of an archival state record, the attorney general shall decide the issue of custody.

(j) In the event of a disagreement between the commission and the attorney general over custody of an archival state record in the possession of the office of the attorney general, the commission may petition a district court in Travis County to decide the issue of custody. On request, the attorney general shall provide the commission with legal counsel to represent the commission in the matter.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.

Sec. 441.187. DESTRUCTION OF STATE RECORDS. (a) A state record may be destroyed by a state agency if:

(1) the record appears on a records retention schedule approved under Section 441.185 and the record's retention period has expired;

(2) a records destruction request is submitted to the state records administrator and approved by the director and librarian, or the designee of the director and librarian, for a state record that does not appear on the approved records retention schedule of the agency; or

(3) the record is exempted from the need to be listed on a records destruction request under rules adopted by the commission.

(b) A state record may not be destroyed if any litigation, claim, negotiation, audit, open records request, administrative review, or other action involving the record is initiated before

the expiration of a retention period for the record set by the commission or in the approved records retention schedule of the agency until the completion of the action and the resolution of all issues that arise from the action, or until the expiration of the retention period, whichever is later.

(c) The director and librarian may destroy any state record in the physical custody of the commission under Section 441.182 whose minimum retention requirements have expired without the consent of the agency head if, in the opinion of the director and librarian and either the attorney general or the state auditor, there is no justification under this subchapter or other state law for the record's further retention.

(d) A state record may be destroyed before the expiration of its retention period on the approved records retention schedule of the state agency that has custody of the record only with the special consent of the director and librarian and, if the record possesses fiscal or financial value, with the concurrent consent of the state auditor.

(e) The commission may adopt rules prescribing the permissible means by which state records may be destroyed.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.

Sec. 441.188. MICROFILMED STATE RECORDS. (a) Any state record may be maintained on microfilm.

(b) The microfilming of any state record and the maintenance of a state record on microfilm must be in accordance with standards and procedures adopted as administrative rules of the commission.

(c) A microfilmed state record created in compliance with the rules of the commission is an original record and the microfilmed record or a certified copy of it shall be accepted as such by any court or administrative agency of this state.

(d) A microfilmed state record that was produced in accordance with any state law in force before September 1, 1997, is considered an original record.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.

Sec. 441.189. ELECTRONIC STATE RECORDS. (a) Any state record may be created or stored electronically in accordance with standards and procedures adopted as administrative rules of the commission.

(b) Certified output from electronically digitized images or other electronic data compilations created and stored in accordance with the rules of the commission shall be accepted as original state records by any court or administrative agency of this state unless barred by a federal law, regulation, or rule of court.

(c) Certified output from electronically digitized images or other data compilations created before September 1, 1997, in accordance with any applicable prior law shall be accepted as original state records or, in the absence of an applicable prior law, at the discretion of the court or administrative agency.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.

Sec. 441.190. PROTECTION, MAINTENANCE, AND STORAGE OF STATE RECORDS. (a) The commission may adopt rules establishing standards and procedures for the protection, maintenance, and storage of state records.

(b) In the development and adoption of the rules, the commission shall pay particular attention to the maintenance and storage of archival and vital state records and may adopt rules as it considers necessary to protect them.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.

Sec. 441.191. ALIENATION OF STATE RECORDS PROHIBITED. (a) A state record may not be sold or donated, loaned, transferred, or otherwise passed out of the custody of the state by a state agency without the consent of the director and librarian.

(b) Subsection (a) does not apply to the temporary transfer of a state record to a person for the purposes of microfilming, duplication, conversion to electronic media, restoration, or similar records preservation or management procedures if the transfer is authorized by the agency head or designated records management officer.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.

Sec. 441.192. RIGHT OF RECOVERY. (a) The governing body of a state agency may demand the return of any state government record in the private possession of a person if the removal of the state record from the state agency or the agency's predecessor was not authorized by law.

(b) The director and librarian may demand the return of any state government record of permanent value in the private possession of any person.

(c) If the person in possession of the state government record refuses to deliver the record on demand, the director and librarian or the governing body of a state agency may ask the attorney general to petition a district court in Travis County for the recovery of the record as provided by this section. If the court finds that the record is a state government record, the court shall order the return of the record to the custody of the state. As part of the petition or at any time after its filing, the attorney general may petition to have the record seized pending the determination of the court if the director and librarian or governing body finds the record is in danger of being destroyed, mutilated, altered, secreted, or removed from the state.

(d) A state government record recovered under Subsection (c) shall be transferred to the custody of the commission or the state agency that originally demanded the return of the record.

(e) If the attorney general recovers a record under Subsection (c), the court shall award attorney's fees and court costs to the attorney general.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.

Sec. 441.193. CUSTODY OF STATE RECORDS AND OTHER HISTORICAL RESOURCES OF COMMISSION; PUBLIC ACCESS. (a) All archival state records transferred to the custody of the commission in accordance with this subchapter and all other historical resources acquired by the commission through gift or purchase become the property of the commission.

(b) The director and librarian, the state archivist, or their authorized designees may make certified copies of archival state records or other historical resources, and the certified copies shall have the same force and effect as if certified by their original custodian or owner.

(c) The commission shall adopt rules regarding public access to the archival state records and other historical resources in the possession of the commission.

(d) Except as provided in Subsection (e), any rules adopted under this section may not violate any requirements of Chapter 552 or any other state law regarding public access to state records or the terms of any agreement between the commission and a donor of other historical resources to the commission.

(e) In rules adopted under this section, the commission may restrict access to any original archival state record or other historical resource in its possession and provide only copies if, in the opinion of the state archivist, such access would compromise the continued survival of the original record.

(f) The commission shall ensure that the confidentiality established under Chapter 552 or any other state law of any archival state record transferred to the commission's custody under Section 441.186 shall be preserved until state law allows public access to the records.

(g) Requests for public access to state records of other state agencies in the physical custody of the records management program of the commission established by Section 441.182 shall be denied by the state records administrator unless the state agency having legal custody of the records provides written authorization.

(h) Authorizations for public access under Subsection (g) may not provide for public access to the original microfilm of state records.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.

Sec. 441.194. RECORDS OF ABOLISHED STATE AGENCIES. (a) Unless otherwise provided by law, the General Services Commission shall take custody of the records of a state agency that is abolished by the legislature and whose duties and responsibilities are not transferred to another state agency.

(b) Unless the requirement is waived by the state records administrator, the records management officer of the General Services Commission, or of another state agency that receives custody of the records pursuant to law, shall prepare and submit to the state archivist and the state records administrator a list of the records of the abolished state agency within 180 days of the effective date of the agency's abolition.

(c) The state archivist shall determine which records of the abolished state agency are archival state records. Any archival state records of the abolished state agency shall be transferred to

the custody of the commission in accordance with Section 441.186. Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.

Sec. 441.195. CONTRACTING AUTHORITY. (a) The commission may enter into any contract or agreement that it considers necessary or advisable to foster and assist the preservation and management of state records or other historical resources.

(b) A contract or agreement made by the commission may not bind the state for the payment of any funds that have not been authorized by an appropriation of the legislature.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.

Sec. 441.196. SALE OF COPIES OF STATE ARCHIVES. (a) The commission may sell copies of state archival records and other historical resources in its possession at a price not exceeding 25 percent above the cost of publishing or producing the copies.

(b) Any money paid to the commission under this section is subject to Subchapter F, Chapter 404.

(c) This section is not intended to conflict with Chapter 552.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.

Sec. 441.197. SALE OF DUPLICATE OR UNNEEDED MATERIAL. (a) After certification by both the director and librarian and the state archivist that an archival state record or other historical resource in the custody of the commission is a duplicate or is not needed to document the history and culture of Texas as a province, colony, republic, or state, the commission may authorize its sale by auction or other means.

(b) Revenue from the sale of a duplicate or unneeded archival state record or other historical resource shall be used to preserve state archival records and other historical resources and to make the records and resources available for research.

(c) The sale of an archival state record under Subsection (a) does not constitute an alienation of a state record under Section 441.191.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.

Sec. 441.198. AGREEMENT WITH MEXICO. (a) The commission may negotiate an agreement with the appropriate authorities in Mexico under which this state will trade or lend to Mexico the flags of the Toluca Battalion, the Guerrero Battalion, and the Matamoros Battalion captured at the Battle of San Jacinto and Mexico will trade or lend to this state the flag of the New Orleans Greys captured at the Battle of the Alamo. An agreement under this section:

(1) may not affect title to the flags;

(2) may provide that this state will restore the San Jacinto flags to a suitable condition and Mexico will restore the Alamo flag to a suitable condition before the trade or loan of the flags as long as such conditioning does not alter the authenticity or integrity of the flags; and

(3) is not valid if it is not approved by the governor and by the appropriate authority for approval under the laws of Mexico.

(b) The commission may use only gifts or grants to restore the San Jacinto battle flags to a suitable condition under an agreement to trade or lend the flags made under Subsection (a).

(c) If an agreement to trade or lend the Alamo and San Jacinto battle flags made under Subsection (a) does not provide that Mexico will restore the Alamo battle flag to a suitable condition before the trade or loan of the flag, the commission may use only gifts or grants to restore the Alamo battle flag to a suitable condition after the trade or loan of the flags.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.

Sec. 441.199. RULEMAKING AUTHORITY. In addition to other rulemaking authority granted in this subchapter, the commission may adopt other rules it determines necessary for cost reduction and efficiency of recordkeeping by state agencies and for the state's management and preservation of records.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.

Sec. 441.200. AUDIT. The state auditor may report on a state agency's compliance with this subchapter and rules adopted under this subchapter.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.

Sec. 441.201. RECORDS OF OFFICE OF GOVERNOR. In consultation with the commission, a governor may designate an institution of higher education or alternate archival institution in the state, in lieu of the Texas State Library and Archives, as

the repository for the records of the executive office of the governor created or received during that governor's term of office. Such alternative repository shall administer the records in accordance with normally accepted archival principles and practices and shall ensure that the records are available to the public. The terms of any such alternative repository arrangement shall be recorded by the commission through a memorandum of understanding, deposit agreement, or other appropriate documentation.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.

Sec. 441.202. ARCHIVES OF GENERAL LAND OFFICE. (a) Any papers, including any book, transfer, power of attorney, field note, map, plat, legal proceeding, official report, or original document, that pertain to the land of the Republic or State of Texas and that have been deposited or filed in the General Land Office in accordance with any law of the republic or of this state constitute the archives of the General Land Office and are not subject to transfer to the commission under Section 441.186.

(b) A person owning land between the Nueces River and the Rio Grande under a grant or title from the former government that was issued before November 13, 1835, and, before the adoption of the constitution, was recorded in the county in which the land is situated but that has not been filed in the archives of the General Land Office shall submit the grant or title to the commissioner of the General Land Office who shall file the title or grant in the archives of the General Land Office. The act of filing does not invest the title or grant with any greater validity than it had as a title or grant recorded in the proper county, and it is subject to any defense or objection to which it would have been subject if not so filed.

(c) The commissioner of the General Land Office shall procure, accept, and file in the archives of the General Land Office the original papers relating to the survey of lands by virtue of certificates issued by this state to the Texas & Pacific Railway Company and its predecessors in title, including the maps, sketches, reports, and other papers that were drawn by the surveyors in making the original or corrected surveys of the land and that are in the custody of the railway company. If the commissioner cannot procure the original papers, the commissioner may procure, accept, and file verified copies. The commissioner shall verify the authenticity of the papers. If the commissioner can procure only a portion of the originals, the commissioner shall procure and accept that portion and take and file verified copies of those originals the commissioner cannot procure. The original papers or verified copies filed by the commission in the archives of the General Land Office are admissible in evidence as are other papers, documents, and records and certified copies of the office.

(d) This section does not give any papers named in this section any greater force or validity, because of being recognized as archives of the General Land Office, than was accorded the papers by the laws in force at the date of their execution and deposit in the General Land Office.

(e) A written instrument, including a deed, that was executed or issued before March 2, 1836, on stamped paper of the second or third seal and that is not an original instrument in the General Land Office or expressly declared by law to be part of the archives of that office do not constitute a part of the archives of that office. An owner of land to which the instrument relates may withdraw the instrument from the General Land Office on making a written, sworn application for the instrument to the commissioner. The application must state the fact of ownership of the land to which the instrument relates. If the commissioner is satisfied that the person applying is the owner, the commissioner may deliver the instrument to the applicant. The commissioner shall take a receipt for the instrument that describes the instrument delivered, summarizes its contents, and names the original grantee of land to which the instrument relates or refers.

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997.

Sec. 441.203. RECORDS MANAGEMENT INTERAGENCY COORDINATING COUNCIL. (a) The Records Management Interagency Coordinating Council is composed of:

(1) permanent members, consisting of the following officers or the officer's designee:

(A) the secretary of state;

(B) the state auditor, who serves as a nonvoting

member;

(C) the comptroller of public accounts;
(D) the attorney general;
(E) the director and librarian;
(F) the executive director of the Texas Building and Procurement Commission; and
(G) the executive director of the Department of Information Resources; and

(2) auxiliary voting members, consisting of:

(A) one faculty member of a public senior college or university, as defined by Section 61.003, Education Code, who has demonstrated knowledge of records and information management; and

(B) two individuals who serve as information resources managers, under Section 2054.071, for state agencies in the executive branch of government.

(a-1) The presiding officer of the council shall appoint auxiliary voting members in accordance with this section. To be appointed by the presiding officer as an auxiliary voting member for a full or partial term, a person must be nominated by the presiding officer and receive the approval of a majority of the permanent members listed under Subsection (a)(1).

(a-2) Auxiliary voting members serve two-year terms, with the terms expiring February 1 of each odd-numbered year. A person who is appointed as an auxiliary voting member or to fill a vacancy of an auxiliary voting member may continue to serve as a member only while the person continues to possess the qualifications for the category under which the person is appointed.

(a-3) The presiding officer shall fill a vacancy of an auxiliary voting member for the unexpired term by appointing a person who has the qualifications required under Subsection (a)(2) for the vacated position. A person appointed to fill a vacant position of an auxiliary voting member shall serve for the unexpired portion of the term for which the person is appointed.

(b) The position of presiding officer rotates among the permanent members of the council according to the procedures adopted by the council. A term as presiding officer is two years and expires on February 1 of each odd-numbered year.

(c) Service on the council is an additional duty of a member's office or employment. A member of the council is not entitled to compensation, but is entitled to reimbursement of travel expenses incurred by the member while conducting the business of the council, as provided in the General Appropriations Act.

(d) The council's permanent member agencies shall provide the staff for the council.

(e) The council shall:

(1) review the activities of each permanent member agency that affect the state's management of records;
(2) study other records management issues; and
(3) report its findings and any recommended legislation to the governor and the legislature not later than November 1 of each even-numbered year.

(f) The council shall adopt policies that coordinate the activities of each permanent member agency and that make other improvements in the state's management of records. The council shall adopt policies under this subsection using the rulemaking procedures prescribed by Chapter 2001.

(g) Each permanent member agency shall adopt the policies adopted under Subsection (f) as the permanent member agency's own rules, except to the extent that the policies conflict with other state or federal law.

(h) Each permanent member agency shall report on the agency's adoption and implementation of rules under Subsection (g) to the council not later than October 1 of each even-numbered year.

(i) In this section, "permanent member agency" means each state officer who is a permanent member of the council or an agency that has a representative who is a permanent member of the council.

(j) The council shall categorize state agency programs and telephone numbers by subject matter as well as by agency. The council shall cooperate with the Texas Information and Referral Network under Section 531.0312 to ensure that the council and the network use a single method of defining and organizing information about health and human services.

(k) A state agency shall cooperate with the council in the

performance of its duties.

(1) Participation by the state auditor under Subsection (a) is subject to approval by the legislative audit committee for inclusion in the audit plan under Section 321.013(c).

Added by Acts 1997, 75th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1460, Sec. 3.07, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 79, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 785, Sec. 15, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 728, Sec. 23.001(31), eff. Sept. 1, 2005.

Sec. 441.204. RECORDS OF OFFICE OF LIEUTENANT GOVERNOR. (a) Notwithstanding any other law, a lieutenant governor who vacates the office of lieutenant governor to complete the unexpired term of the governor as provided by Section 16(d), Article IV, Texas Constitution, may transfer the records of the office of the lieutenant governor created or received during that lieutenant governor's term of office to the office of the governor.

(b) Records of the office of the lieutenant governor transferred under Subsection (a) must be maintained separate and distinct from records created or received from the office of the governor.

(c) Records transferred under Subsection (a) must be listed separately and distinctly on the records retention schedule of the office of the governor required by Section 441.185.

Added by Acts 2001, 77th Leg., ch. 771, Sec. 1, eff. June 13, 2001.

SUBCHAPTER M. TEXSHARE LIBRARY CONSORTIUM

Sec. 441.221. DEFINITION. In this subchapter:

(1) "Commission" means the Texas State Library and Archives Commission.

(2) "Institution of higher education" includes an institution of higher education as defined by Section 61.003, Education Code, and a private or independent institution of higher education as defined by Section 61.003, Education Code.

(3) "Nonprofit corporation" means a nonprofit corporation established under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) that provides extensive library services and collections in the fields of clinical medicine and the history of medicine.

(4) "Public library" has the meaning assigned by Section 441.122.

Added by Acts 1997, 75th Leg., ch. 250, Sec. 1, eff. Sept. 1, 1997. Renumbered from V.T.C.A., Government Code Sec. 441.201 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(40), eff. Sept. 1, 1999. Amended by Acts 1999, 76th Leg., ch. 91, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1350, Sec. 1, eff. Sept. 1, 2001.

Sec. 441.222. CREATION OF CONSORTIUM. The commission shall establish and maintain the TexShare consortium as a resource-sharing consortium operated as a program within the commission for libraries at institutions of higher education, for public libraries, and for libraries of nonprofit corporations.

Added by Acts 1997, 75th Leg., ch. 250, Sec. 1, eff. Sept. 1, 1997. Renumbered from V.T.C.A., Government Code Sec. 441.202 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(40), eff. Sept. 1, 1999. Amended by Acts 1999, 76th Leg., ch. 91, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1350, Sec. 2, eff. Sept. 1, 2001.

Sec. 441.223. FINDINGS; PURPOSE AND METHODS. The legislature finds that it is necessary to assist libraries at public and private or independent institutions of higher education, public libraries, designated public school libraries, and libraries of nonprofit corporations to promote the public good by achieving the following public purposes through the following methods:

(1) to promote the future well-being of the citizenry, enhance quality teaching and research excellence at institutions of higher education through the efficient exchange of information and the sharing of library resources, improve educational resources in all communities, and expand the availability of information about clinical medical research and the history of medicine;

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

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

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

(5) to enhance the ability of public schools to further student achievement and lifelong learning through designated public school library participation in group purchasing agreements.

Added by Acts 1997, 75th Leg., ch. 250, Sec. 1, eff. Sept. 1, 1997. Renumbered from V.T.C.A., Government Code Sec. 441.203 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(40), eff. Sept. 1, 1999. Amended by Acts 1999, 76th Leg., ch. 91, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1350, Sec. 3, eff. Sept. 1, 2001; Acts 2005, 79th Leg., ch. 721, Sec. 1, eff. Sept. 1, 2005.

Sec. 441.224. MEMBERSHIP; FEES. (a) Membership in the consortium is open to all institutions of higher education, all public libraries that are members of the state library system, and all libraries of nonprofit corporations.

(b) The director and librarian may establish categories of consortium services and assess different fees for different categories of consortium services.

Added by Acts 1997, 75th Leg., ch. 250, Sec. 1, eff. Sept. 1, 1997. Renumbered from V.T.C.A., Government Code Sec. 441.204 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(40), eff. Sept. 1, 1999. Amended by Acts 1999, 76th Leg., ch. 91, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1350, Sec. 4, eff. Sept. 1, 2001; Acts 2005, 79th Leg., ch. 721, Sec. 2, eff. Sept. 1, 2005.

Sec. 441.225. ADMINISTRATION; RULES. (a) The director and librarian administers the consortium. The director and librarian shall employ a staff that is sufficient in number, education, and experience to achieve the purposes of the consortium.

(b) The commission may adopt rules to govern the operation of the consortium.

Added by Acts 1997, 75th Leg., ch. 250, Sec. 1, eff. Sept. 1, 1997. Renumbered from V.T.C.A., Government Code Sec. 441.205 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(40), eff. Sept. 1, 1999.

Sec. 441.226. ADVISORY BOARD. (a) The commission shall appoint an eleven-member advisory board to advise the commission on matters relating to the consortium. At least two members must be representatives of the general public, at least two members must be affiliated with a four-year public university in the consortium, at least two members must be affiliated with a public community college in the consortium, at least two members must be affiliated with a private institution of higher education in the consortium, and at least two members must be affiliated with a public library in the consortium. Members of the advisory board must be qualified by training and experience to advise the commission on policy to be followed in applying this subchapter. Chapter 2110 does not apply to the composition of the advisory board.

(b) The advisory board shall meet regularly regarding consortium programs and plans at the call of the advisory board's chairman or of the director and librarian.

(c) Members of the advisory board serve three-year terms.

(d) A member of the advisory board serves without compensation but is entitled to 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.

(e) The advisory board shall elect a chairman and a vice chairman.

(f) The advisory board may recommend to the commission that the consortium enter into cooperative projects with entities other than public libraries, institutions of higher education, or nonprofit corporations.

Added by Acts 1997, 75th Leg., ch. 250, Sec. 1, eff. Sept. 1, 1997. Renumbered from V.T.C.A., Government Code Sec. 441.206 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(40), eff. Sept. 1, 1999. Amended by Acts 1999, 76th Leg., ch. 91, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1350, Sec. 5, eff. Sept. 1, 2001.

Sec. 441.227. ROLE AND SCOPE OF CONSORTIUM. The consortium shall engage in activities designed to facilitate library resource sharing. These activities must include providing electronic networks, shared databases, and other infrastructure necessary to enable the libraries in the consortium to share resources, negotiating and executing statewide contracts for information products and services, coordinating library planning, research and

development, and training library personnel.

Added by Acts 1997, 75th Leg., ch. 250, Sec. 1, eff. Sept. 1, 1997. Renumbered from V.T.C.A., Government Code Sec. 441.207 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(40), eff. Sept. 1, 1999.

Sec. 441.228. ACCEPTANCE AND USE OF GIFTS OR GRANTS. In addition to state appropriations, the commission may accept from any public or private source gifts or grants of money, property, or services, and spend or use the money, property, or services, under rules established by the commission and under applicable state laws.

Added by Acts 1997, 75th Leg., ch. 250, Sec. 1, eff. Sept. 1, 1997. Renumbered from V.T.C.A., Government Code Sec. 441.208 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(40), eff. Sept. 1, 1999.

Sec. 441.229. GROUP PURCHASING AGREEMENTS. (a) For the purposes of administering this subchapter, the commission may enter into group purchasing agreements on behalf of the consortium under which materials or services may be obtained at discount rates by two or more libraries if the commission determines that the agreements offer the most cost-effective method of purchasing library materials or services for the consortium.

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

(c) The commission may allow designated public school libraries to participate in a group purchasing agreement only to the extent that the commission may do so efficiently and only in a manner that does not reduce services to consortium members.

Added by Acts 1997, 75th Leg., ch. 250, Sec. 1, eff. Sept. 1, 1997. Renumbered from V.T.C.A., Government Code Sec. 441.209 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(40), eff. Sept. 1, 1999. Amended by Acts 1999, 76th Leg., ch. 91, Sec. 1, eff. Sept. 1, 1999; Acts 2005, 79th Leg., ch. 721, Sec. 3, eff. Sept. 1, 2005.

Sec. 441.230. GRANTS TO MEMBERSHIP INSTITUTIONS. To achieve the purposes of this subchapter, the commission may grant money to institutions of higher education. The commission shall ensure that the commission or institutions in the consortium receive benefits that are sufficient to constitute fair value in return for any grant made by the commission.

Added by Acts 1997, 75th Leg., ch. 250, Sec. 1, eff. Sept. 1, 1997. Renumbered from V.T.C.A., Government Code Sec. 441.210 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(40), eff. Sept. 1, 1999.

SUBCHAPTER N. TEXAS HISTORICAL RECORDS ADVISORY BOARD

Sec. 441.241. DEFINITIONS. In this subchapter:

(1) "Board" means the Texas Historical Records Advisory Board.

(2) "Commission" means the Texas State Library and Archives Commission.

(3) "Director and librarian" means the executive and administrative officer of the commission.

(4) "Historical records coordinator" means the presiding officer of the board.

(5) "National commission" means the National Historical Publications and Records Commission.

Added by Acts 1997, 75th Leg., ch. 872, Sec. 1, eff. Sept. 1, 1997. Renumbered from V.T.C.A., Government Code Sec. 441.201 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(41), eff. Sept. 1, 1999.

Sec. 441.242. TEXAS HISTORICAL RECORDS ADVISORY BOARD. (a) The Texas Historical Records Advisory Board is established to serve as the central advisory body for historical records planning and projects funded by the national commission that are developed and implemented in this state.

(b) The board shall:

(1) seek funds from the national commission to sponsor and publish surveys of the conditions and needs of historical records in the state;

(2) solicit and develop proposals for projects to be implemented in the state with funds provided by the national commission and other funding sources;

(3) review proposals submitted by institutions in the state and make recommendations to the national commission;

(4) work with the commission to develop, revise, and submit state priorities to the national commission for historical records projects following guidelines developed by the national commission;

(5) review the operation and progress of records projects in the state;

(6) foster and support cooperative networks and programs dealing with historical records in conjunction with the commission's goals; and

(7) develop and promote programs to raise public awareness of the value, condition, and needs of historical records. Added by Acts 1997, 75th Leg., ch. 872, Sec. 1, eff. Sept. 1, 1997. Renumbered from V.T.C.A., Government Code Sec. 441.202 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(41), eff. Sept. 1, 1999.

Sec. 441.243. COMPOSITION OF THE BOARD. (a) The board is composed of:

(1) the state archivist, who shall be appointed as the historical records coordinator by the governor;

(2) two public members, appointed by the governor; and

(3) six members, appointed by the director and librarian, who must have recognized experience in the administration of government records, historical records, or archives.

(b) The historical records coordinator shall serve as presiding officer of the board.

Added by Acts 1997, 75th Leg., ch. 872, Sec. 1, eff. Sept. 1, 1997. Renumbered from V.T.C.A., Government Code Sec. 441.203 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(41), eff. Sept. 1, 1999.

Sec. 441.244. TERMS. (a) The historical records coordinator serves a four-year term.

(b) The two public members appointed by the governor serve staggered terms of three years with the terms of the members expiring on February 1 of different years.

(c) The six members appointed by the director and librarian serve staggered terms of three years with the terms of one-third of the members expiring on February 1 of each year.

Added by Acts 1997, 75th Leg., ch. 872, Sec. 1, eff. Sept. 1, 1997. Renumbered from V.T.C.A., Government Code Sec. 441.204 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(41), eff. Sept. 1, 1999.

Sec. 441.245. COMPENSATION. A member of the board is not entitled to compensation but is entitled to reimbursement from board funds for the travel expenses incurred by the member while conducting the business of the board, as provided in the General Appropriations Act.

Added by Acts 1997, 75th Leg., ch. 872, Sec. 1, eff. Sept. 1, 1997. Renumbered from V.T.C.A., Government Code Sec. 441.205 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(41), eff. Sept. 1, 1999.

Sec. 441.246. VACANCY. A vacancy on the board shall be filled in the same manner as the original appointment.

Added by Acts 1997, 75th Leg., ch. 872, Sec. 1, eff. Sept. 1, 1997. Renumbered from V.T.C.A., Government Code Sec. 441.206 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(41), eff. Sept. 1, 1999.