

BILL ANALYSIS

C.S.H.B. 1962
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Culture, Recreation & Tourism
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas State Library and Archives Commission (TSLAC) performs its mission to provide Texans with the information needed to lead informed, productive, and fulfilled lives by supporting libraries throughout Texas, managing the state archives, helping government agencies properly manage records, and directly circulating audiobooks to thousands of Texans with disabilities. Subject to review and abolishment under the Texas Sunset Act, the Sunset Advisory Commission found that TSLAC has struggled to manage the influx of records in recent years, thwarting easy public access to those records. C.S.H.B. 1962 seeks to continue TSLAC with several statutory modifications aimed at addressing the commission's findings.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas State Library and Archives Commission in SECTIONS 4, 7, and 10 of this bill.

ANALYSIS

C.S.H.B. 1962 amends the Government Code to postpone from September 1, 2019, to September 1, 2031, the date on which the Texas State Library and Archives Commission (TSLAC) is abolished unless continued in existence as provided by the Texas Sunset Act.

C.S.H.B. 1962 authorizes TSLAC to establish an advisory committee to make recommendations to TSLAC on programs, rules, and policies affecting the delivery of information services in Texas and requires TSLAC to adopt certain rules in establishing such an advisory committee.

C.S.H.B. 1962 revises the information provided in TSLAC member training, requires the director and librarian of TSLAC to create a training manual for members, provides for the annual distribution of the manual, and sets out procedures for the members to acknowledge receipt and review of the manual. The revised training requirements apply to members appointed before, on, or after the bill's effective date, except that a member who completed the existing training requirements before the bill's effective date must complete only the additional training on subjects added by the bill. The bill prohibits a member from voting, deliberating, or being counted as a member in attendance at a TSLAC meeting held on or after December 1, 2019, until the member completes the additional training.

C.S.H.B. 1962 authorizes TSLAC to use general revenue, grants, donations, gifts, and, if authorized by federal law, federal funds to advertise and promote TSLAC programs and increase participation in and awareness of those programs. The bill authorizes TSLAC to sell replicas of

archival state records and other historical resources in its custody subject to the approval of TSLAC, requires money received from the sale of replicas to be deposited in the general revenue fund, and restricts appropriation of the money to TSLAC for the purposes of preservation, digitization, archives information services, and education.

C.S.H.B. 1962 authorizes a regional historical resource depository to apply to TSLAC to transfer to the depository title to local historical resources placed in the depository by TSLAC and requires TSLAC to approve the application only if the transfer of title is in the state's best interest. The bill requires TSLAC, in consultation with depositories, to adopt rules providing an application procedure and standards for evaluating applications to transfer title to local historical resources to depositories. These provisions of the bill do not authorize TSLAC to transfer title to state historical resources. The bill requires TSLAC to adopt rules providing an application process and standards for transfer of title to local historical resources not later than September 1, 2020.

C.S.H.B. 1962 authorizes the director and librarian to designate TSLAC employees to provide assistance and information to local governments on records management issues under the Local Government Records Act or rules adopted under the act. The bill sets out requirements for each local government to submit to the director and librarian certain information regarding the local government's records management officer, records management program, and destruction of certain records and to file written certification of compliance with the retention schedule distributed by the director and librarian and any other state and federal requirements.

C.S.H.B. 1962 requires TSLAC, with input from interested persons, to develop and implement a comprehensive strategic plan regarding the state archives, requires TSLAC to update the plan at least once every five years, and sets out certain requirements for the plan. The bill requires TSLAC to develop the strategic plan for the state archives program not later than September 1, 2020.

C.S.H.B. 1962 requires TSLAC, not later than March 1, 2020, to promulgate a form that persons must use to request access to information held by the state archives program, requires the form to allow the requestor to designate the request either as a request for public information made under state public information law or as a research request not subject to the requirements of such law, and sets out certain requirements for the form. The bill establishes that a request for information held by the state archives program is considered to be a request for public information under state public information law only if the requestor makes the request using the form and on the form designates the request as a request for public information under such law.

C.S.H.B. 1962 requires TSLAC to preserve archival state records of the legislature in the same manner as other archival state records under the state archives program. The bill sets out provisions relating to the ownership and legal custody of the records, the retrieval of the records, the protection of privileged or confidential records from public disclosure, and the handling of requests received under state public information law for records. These provisions apply to an archival record of the legislature transferred to TSLAC before, on, or after the bill's effective date.

C.S.H.B. 1962 authorizes a member of the legislature to apply to TSLAC to place records of the member's legislative office created or received during the member's term of office in a depository other than the Texas State Library and Archives. The bill requires TSLAC, not later than September 1, 2020, to create a list of preapproved depositories in which members of the legislature may place records of their legislative offices and by rule to adopt policies and procedures to approve additional depositories. These rules apply only to a member of the legislature leaving office after September 1, 2020. The bill makes TSLAC responsible for the preservation of records placed in a depository other than the Texas State Library and Archives. The bill establishes that ownership and legal custody of the records remain with the legislature and prohibits the records from being intermingled with other holdings of the institution that

serves as a depository.

C.S.H.B. 1962 requires TSLAC to promulgate a form that a member of the legislature or lieutenant governor may use before leaving office to elect to disclose certain records, communications, information, advice, and opinions created or received during the applicable term of office and requires the form to include a plain-language description of state law relating to confidentiality of that information and the effects of electing to disclose that information. The bill requires TSLAC by rule to adopt policies and procedures relating to distributing, collecting, and reviewing such forms and requires the rule to describe the roles and responsibilities of TSLAC, house and senate records management officers, and the offices of members of the legislature and lieutenant governor in making elections to disclose information. The bill requires TSLAC to maintain the confidentiality of the information unless the appropriate member of the legislature or lieutenant governor elects to disclose the information. The bill requires TSLAC to promulgate the form and adopt rules relating to the procedure for electing to disclose legislative correspondence not later than September 1, 2020.

C.S.H.B. 1962 amends the Local Government Code to remove requirements for TSLAC to approve local government records retention schedules and to make related changes. The bill repeals Local Government Code and Government Code provisions related to that approval process.

C.S.H.B. 1962 repeals the following provisions of the Government Code:

- Section 441.094(e)
- Section 441.0945(c)
- Sections 441.095(a), (b), and (c)

C.S.H.B. 1962 repeals the following provisions of the Local Government Code:

- Sections 203.041(c) and (h)
- Section 203.042(c)
- Section 203.043
- Sections 203.044(c) and (d)
- Sections 203.045, 204.008, and 205.007

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1962 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes a provision authorizing the director and librarian to designate TSLAC employees to provide assistance and information on records management issues.

The substitute includes provisions establishing certain duties of local governments with respect to the preservation and management of local government records. The substitute includes provisions providing for the preservation of archival state records of the legislature by TSLAC. The substitute revises provisions relating to the ownership of and responsibility for records of a

member of the legislature that are placed in a depository other than the Texas State Library and Archives.

The substitute revises aspects of local government records retention requirements.