

- SUBJECT:** Continuing the Texas State Library and Archives Commission
- COMMITTEE:** Culture, Recreation and Tourism — committee substitute recommended
- VOTE:** 9 ayes — Cyrier, Martinez, Bucy, Gervin-Hawkins, Holland, Jarvis Johnson, Kacal, Morrison, Toth
- 0 nays
- WITNESSES:** For — Jennifer LaBoon; Gretchen Pruett; Edward Smith; (*Registered, but did not testify*: Jim Allison, County Judges and Commissioners Association of Texas; Wendy Woodland, Texas Library Association)
- Against — None
- On — Mark Smith, Texas State Library and Archives Commission; (*Registered, but did not testify*: Tamara Aronstein, Sunset Advisory Commission)
- BACKGROUND:** The Texas State Library and Archives Commission (TSLAC) is charged with ensuring Texans have access to the information they need to be informed, productive, and fulfilled citizens. Originally established as the National Library of the Republic of Texas, TSLAC's role has since been expanded by the Legislature and includes serving as the state's archives.
- The agency carries out several key activities, including:
- supporting Texas' public, academic, and school libraries through training, consultation, and resource sharing;
 - providing library services to Texans with disabilities;
 - assisting state and local government entities to manage government records; and
 - preserving the archival records of Texas.
- Governing structure.** The agency is governed by a seven-member

commission, and members are appointed by the governor to staggered six-year terms. Three advisory committees provide the commission with input and recommendations regarding historical records, public library requirements, and library databases.

Funding. In fiscal 2017, TSLAC had a budget of \$30.9 million. Of this funding, 53 percent was general revenue funds and 33 percent was federal funds. The agency also receives interagency contract revenue for provided services and appropriated receipts from libraries' contributions to certain resource sharing services.

Staffing. TSLAC employed about 151 staff in fiscal 2017, most of whom worked at one of two Austin locations. Six employees worked in Liberty at the Sam Houston Regional Library and Research Center, a regional depository library operated by the agency.

TSLAC previously underwent Sunset review in 2007. It would be discontinued on September 1, 2019, if not continued in statute.

DIGEST:

CSHB 1962 would continue the Texas State Library and Archives Commission (TSLAC) until September 1, 2031. The bill also would require the agency to develop a strategic plan for state archives and would make changes to the agency's process for managing local government records.

State archives strategic plan. CSHB 1962 would require TSLAC to develop and implement a strategic plan for managing the state archives. This plan would be updated at least once every five years and would include:

- an assessment of any current archives backlog;
- a prioritized list of TSLAC projects and goals;
- an evaluation of resources needed to achieve the TSLAC's goals related to the state archives as well as an evaluation of the impact different resource allocations would have on meeting those goals;

- performance measures, targets, and timeframes for achieving state archive-related goals;
- a mechanism for regular reporting to TSLAC on progress towards its goals; and
- opportunities and standards for TSLAC to enter into collaborative agreements regarding the state archives.

Records retention schedules. CSHB 1962 would eliminate the requirement for TSLAC to approve local government records retention schedules and implementation plans. Instead, the bill would require each local government to file a plan, ordinance, or order establishing a records management program, along with any amendment to the plan, with the director and librarian of the commission. Each local government also would have to file a written certification that it had prepared a records control schedule establishing a retention period for each local government record required by statute and that the schedule complied with a retention schedule distributed by TSLAC.

Local governments would no longer be required to have TSLAC approval before destroying a local government record not included in a records retention schedule issued by the commission, but would be required to notify the commission at least 10 days before destroying such a record. The name of the local government's records management officer also would have to be submitted to TSLAC.

The record management officer of a local government or an elective county office that amended its records control schedules to comply with minimum requirements established by TSLAC would be required to file a written certification of compliance with the commission.

CSHB 1962 would authorize the TSLAC director and librarian to designate employees to assist local governments with records management issues.

Information requests. The bill would require the commission to circulate a form to be used by persons requesting access to information held by the

state archives. The form would have to allow the requestor to indicate whether a request was either a public information request made under the Public Information Act (PIA) or a research request not subject to the requirements of that law. The form also would have to include plain-language information about the differences between the types of requests, the requirements for making and responding to each type, and an option for the requestor to change the type of a request at any time.

The archives program would be required to treat an information request as a PIA request only if the requestor made the request using this form. The bill would require the commission to promulgate this form no later than March 1, 2020.

Legislative records. CSHB 1962 would specify that state records transferred to the commission by a legislative entity would remain the legal property of that entity, including all archival records of the Legislature transferred before, on, or after the effective date of the bill. The legislative entity could retrieve the records for the Legislature's use, and the commission would assist with the retrieval and return of the records.

The bill would require the commission to protect privileged or confidential records held in its archives from public disclosure at the direction of the legislative entity that originally transferred the records to the commission. The commission would be required to respond to public information requests for legislative state records as directed by the legislative entity's public information officer.

Election to disclose legislative records. TSLAC would be required to circulate a form that members of the Legislature or the lieutenant governor could use before leaving office to elect to disclose legislative records created or received during their time in office. The form would have to include a plain-language description of state law relating to the confidentiality of legislative records and the effects of electing to disclose them. A member's records would be kept confidential unless the member elected to disclose the records.

Promotion of services. CSHB 1962 would authorize the commission to advertise and promote library and archive programs. General revenue, grants, donations, and gifts could be applied to this purpose, as well as federal funds, if authorized by federal law.

Sale of replicas. Under the bill, the commission would be authorized to sell replicas of archival state records and other historical resources in its custody. Revenue from these sales would be deposited in the general revenue fund and could be appropriated only to TSLAC for preservation, digitization, archives information services, and education purposes.

Regional depositories. CSHB 1962 would authorize TSLAC to transfer ownership of local historical resources to a regional historical depository. The depository would have to apply for the transfer, and the commission could approve the application only if the transfer was in the state's best interest.

Other provisions. CSHB 1962 would authorize TSLAC to establish advisory committees to make recommendations to the commission on matters affecting the delivery of information services in the state. The commission would be required to adopt rules governing how a committee would be run.

The bill also would require the director and librarian of TSLAC to create a training manual for commission members, which would be distributed to each member annually.

TSLAC would be required to adopt rules under this bill, develop the required strategic plan, and create a form for electing to disclose legislative records by September 1, 2020.

The bill would take effect September 1, 2019.

SUPPORTERS
SAY:

CSHB 1962 would continue the Texas State Library and Archives Commission (TSLAC), an important state agency that preserves and

provides public access to historic documents and government records, supports local and school library services, and helps local governments properly maintain their records. While the agency is well run, changes made under the bill would make the agency more efficient.

State archives strategic plan. The archives managed by TSLAC include a significant backlog of records that are not fully processed, which limit the public's access to archival records. CSHB 1962 would address the backlog by requiring the commission to adopt a planning and reporting process to define the scope of the problem, allocate staff resources appropriately, and set performance targets and measures.

Information requests. Because current statute requires agencies to handle any written request for information as a public information request, TSLAC must treat emailed inquiries from researchers as public information requests, which require greater resources than other information requests. CSHB 1962 would allow TSLAC to distinguish between requests for information made under the Public Information Act (PIA) and routine research questions, increasing the agency's efficiency.

Records retention schedules. Under current law, TSLAC must approve each local government's records retention schedule for required records. CSHB 1962 would remove the statutory requirement for TSLAC approval and instead would allow local governments to adopt schedules meeting minimum standards. The commission could continue to set minimum standards for local records management, but would be able to dedicate staff resources to other priority tasks.

New statutory authorities. CSHB 1962 would grant TSLAC several areas of new authority, which would help raise revenue and expand agency's services. The bill would enable the commission to:

- sell archival reproductions to raise funds to support its services;
- advertise its services to increase participation in underutilized grant programs and services; and
- create advisory boards by rule, which would eliminate the need for

statutory renewals of existing advisory committees and allow TSLAC to create new boards to engage stakeholders as needed.

Regional depositories. CSHB 1962 would allow TSLAC to transfer ownership of local archival records already held at regional depositories to those depositories. Transferring ownership of these materials would reduce the administrative burden on TSLAC and allow depositories to apply for grants related to records in their care.

Legislative records. CSHB 1962 would specify that the Legislature owns archival documents it created while leaving those documents in the day-to-day care of the state archives. This would allow for the commission to care for these documents while giving the Legislature control over its own archives. The bill would not create an unmanageable burden on the archives commission because the volume of archival material moving between the Capitol and TSLAC would be minimal. Increasingly, these records are digital and less cumbersome to handle than physical records.

Additionally, the bill would require legislative entities' public information officers to direct how the commission would respond to public information requests concerning legislative records. A large number of such requests is not expected, and the requests could be handled by the officers of the respective chambers.

OPPONENTS
SAY:

Although TSLAC is a necessary state agency and should be continued, CSHB 1962 would make several concerning changes to the agency, particularly regarding the treatment of archival legislative records.

Retention schedules. CSHB 1962 would remove a requirement that local governments' record retention policies be approved by the commission. This is a helpful procedure that benefits local governments by ensuring a copy of their policies is maintained by the commission and should be continued.

Legislative records. CSHB 1962 would give legislative entities permanent ownership and legal custody of records held by the state

archives program, changing long-standing precedent and carving out a privilege for the Legislature that is not enjoyed by the other branches of government.

CSHB 1962 could jeopardize the commission's ability to manage important records by requiring it to transfer documents out of the archives at a legislative entity's request, exposing the records to risk of damage, loss, or theft. Because the bill is fully retroactive, it would give the Legislature legal custody of legislative records of immense historical and monetary value without safeguarding their care and protection.

If and when archival records were returned to the archives, they would need to be checked by commission archivists, imposing a new workload burden on TSLAC archivists.

Because the bill would require public information requests relating to legislative records be directed to the Legislature's records management officers, it also could result in an increased workload for those officers.

Because this section of the bill refers to "legislative entities," it also would apply to legislative agencies. By granting the Legislature and its affiliated agencies unchecked privileges over archival information, CSHB 1962 could erode public trust in government.