

STATE BOARD OF LIBRARY EXAMINERS

**Staff Report
to the
Sunset Advisory Commission**

Legislative Budget Office
Program Evaluation
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FOREWORD

The Texas Sunset Act (Article 5429k V.A.C.S.) terminates named agencies on specific dates unless continued. The Act also requires an evaluation of the operations of each agency be conducted prior to the year in which it terminates to assist the Sunset Commission in developing recommendations to the legislature on the need for continuing the agency or its functions.

To satisfy the evaluation report requirements of Section 1.07, Subsection (3) of the Texas Sunset Act, the Program Evaluation section of the Legislative Budget Board has evaluated the operations of the State Board of Library Examiners, which will terminate on September 1, 1981 unless continued by law.

Based on the criteria set out in the Sunset Act, the evaluation report assesses the need to continue the agency or its function and provides alternative approaches to the current method of state regulation. The material contained in the report is divided into seven sections: Summary and Conclusions, Background, Review of Operations, Other Alternatives and Constraints, Compliance, Public Participation, and Statutory Changes. The Summary and Conclusions section summarizes the material developed in the report from the standpoint of whether or not Sunset criteria are being met, assesses the need for the agency or the agency's functions relative to the findings under the various criteria and develops alternative approaches for continued state regulatory activities. The Background section provides a brief history of legislative intent and a discussion of the original need for the agency. The Review of Operations section combines, for the purposes of review, the sunset criteria of efficiency, effectiveness, and the manner in which complaints are handled. The Other Alternatives and Constraints section combines the sunset criteria of overlap and duplication, potential for consolidation, less restrictive means of performing the regulation, and federal impact if the agency were modified or discontinued. The Compliance Section combines the Sunset criteria relating to conflicts of interest, compliance with the Open Meetings Act and the Open Records Act, and the equality of employment opportunities. The Public Participation section covers the sunset criterion which calls for an evaluation of the extent to which the public participates in agency activities. The final section, Statutory Changes, deals with legislation adopted which affected the agency, proposed legislation which was not adopted and statutory changes suggested by the agency in its self-evaluation report.

This report is intended to provide an objective view of agency operations based on the evaluation techniques utilized to date, thus providing a factual base for the final recommendations of the Sunset Commission as to the need to continue, abolish or restructure the agency.

I. SUMMARY AND CONCLUSIONS

The State of Texas has provided for a system of free libraries for incorporated cities since 1874. Increasing demand from rural areas caused expansion of this system to include county libraries in 1915.

Given the need to provide free public library services to the state's citizens, the county library was viewed as the most effective and economical way to provide this service. The need then existed to ensure that persons handling these resources, in this case county librarians, were qualified individuals. The State Board of Library Examiners was created in 1917 to determine the qualifications of individuals applying for certification as librarians.

The State Board of Library Examiners has addressed its objective by establishing minimum education and experience requirements for certification in four categories. Presently, 274 persons hold temporary certificates, and 130 hold permanent certificates. While the board maintains the regulatory function of certifying county librarians, other forms of regulation of library operation have been put into place through the 1969 Library Systems Act. As part of the development of the statewide library system, criteria for qualifications of library personnel for system members were established. These criteria conform to the criteria for certification adopted by the Board of Library Examiners.

Need to Regulate

As in the case of other regulated activities, regulation of county librarians should be undertaken by the state only when there is a continuing need to protect the public health, safety or welfare. The county library system was established to serve the public to ensure that the public is served by competent librarians. The

review did not, however, reveal any serious risk of harm if county librarians are not regulated. Presently, other categories of librarians, including university librarians and some municipal librarians, are not subject to any form of licensure.

In terms of assuring a high level of library service to the public, the Texas State Library System has established numerous standards concerning the operation of public libraries. Among these standards are requirements concerning personnel qualifications for certain employees of libraries. Although membership in the library system is voluntary, certain incentives, in the form of state and federal grants, exist to encourage acceptable performance by local libraries. This form of regulation is less restrictive than certification of employees and yet appears to accomplish the desired result of an acceptable level of public service.

It can be concluded, therefore, that there is no need to continue the State Board of Library Examiners or to provide any means of licensure for county librarians.

Alternatives

If the legislature determines that the regulatory function and/or the board should be continued, the following alternatives could be considered:

1. CONTINUE THE BOARD AND ITS FUNCTIONS IN ITS CURRENT FORM.

This approach would allow the state to provide regulation at minimal cost to the state. The certification process appears to be reasonable; however, the requirements for permanent certification appear overly restrictive. While no enforcement mechanism exists in the present structure, none appears to be needed. If the current board is continued, some modification should be made to sanction the current method of voting by mail or telephone which is a cost effective method and is not used to the detriment of certificate holders. In addition, the current process used to select board members should be changed to allow for appointment by the Governor as is the case in the majority of other boards and commissions.

2. **ABOLISH THE STATE BOARD OF LIBRARY EXAMINERS AND TRANSFER THE FUNCTION TO THE LIBRARY AND ARCHIVES COMMISSION.**

The Library and Archives Commission would, under this approach, continue to provide staff support to the regulatory function. In addition, the Library and Archives Commission already has responsibility for establishing personnel standards for members of the State Library System. Members of the Library and Archives Commission are appointed by the Governor and represent the general public.

3. **ABOLISH THE STATE BOARD OF LIBRARY EXAMINERS AND ELIMINATE THE CERTIFICATION FUNCTION.**

This approach would permit continued regulatory supervision of most libraries in the state through the State Library System. Fifty-six libraries currently regulated by the Board of Library Examiners would no longer be subject to any form of regulation. While not all libraries would elect to join the system, incentives to membership do exist. Further, no enforcement mechanism exists for the Board of Library Examiners at present. This alternative provides a less restrictive, though not necessarily weaker method of achieving the objective of assuring qualified librarians.

II. BACKGROUND

Historical Perspective

The State of Texas has provided for a system of libraries since 1874 when the legislature authorized incorporated cities to establish free libraries and to appropriate part of the revenues of the city or town to manage and support the library. The increasing demand of citizens in rural areas for free public library service prompted the legislature to authorize the establishment and support of county libraries in 1915. This action was intended to assist in the spread of public education throughout the state, therefore, enhancing the public's general welfare.

The State Board of Library Examiners was established in 1917 in response to the need for experienced librarians to help organize, classify, catalogue and buy books, install charging systems, help raise funds for annual maintenance and train local employees in library techniques. Prior to the establishment of the board, county librarians were selected from the names of one or more persons submitted to the County Commissioner's Court by the library board of the county.

Although early records concerning the board's activities are incomplete, it appears that county librarians were certified at least as early as 1920 and 1921. However, there were never more than 20 certified county librarians prior to 1938 with the total number growing to 89 in 1944.

Until the passage of legislation creating the State Library System, the State Board of Library Examiners was the only agency responsible for regulating the qualifications of professional librarians. The regulatory authority extended only to those librarians working in county libraries and municipal libraries receiving county funds. With the enactment, in 1969, of the Library System Act, the Texas State Library and Archives Commission became actively involved in adopting criteria for

library personnel. Through the Systems Act, the State Library was authorized to adopt criteria for membership in the Texas State Library System. Since then rules and regulations have been adopted by the commission which specify the same educational requirements for professional librarians as the Board of Library Examiners and establish minimum professional staffing requirements for all system members.

The State Board of Library Examiners currently operates much as it did when it was first organized. The board, consisting of three appointed members and two ex-officio members establishes certification requirements for persons employed in county libraries and municipal libraries receiving county funds. There are currently 424 librarians certified by the board.

During the 1978-79 biennium, \$1,132 in General Revenue Funds was budgeted through the Administration Program of the Texas State Library and Archives Commission for administering the board's certification program. The State Library and Archives Commission also supplied the assistance of one employee for approximately 60 hours per year. No revenues were generated by fees during this period.

Comparative Analysis

The last published report concerning the certification of public librarians in the United States prepared by the American Library Association indicates that twenty-two states have mandatory certification statutes. However, statutes in four of these states are not implemented. In many of these states, certification statutes apply only to head librarians or librarians in professional positions requiring a masters degree. Texas is only one of five states whose certification statute applies only to heads of county libraries. Three states have permissive

certification statutes which sanction non-compulsory certification plans in effect. In eight of these states there are voluntary certification programs, generally sponsored by a state library association. In states with no voluntary or statutory certification plans, minimum professional requirements are often tied to the distribution of public funds or through civil service regulations.

III. REVIEW OF OPERATIONS

The material presented in this section combines several sunset criteria for the purposes of evaluating the activities of the agency. The specific criteria covered are the efficiency with which the agency operates; the objectives of the agency and the manner in which these objectives have been achieved; and the promptness and effectiveness with which the agency disposes of complaints concerning persons affected by the agency.

Organization and Objectives

The State Board of Library Examiners is composed of five members: three appointed members who serve overlapping six-year terms with the State Librarian and the University of Texas Librarian serving as ex-officio members. The board is unique in that it is self-perpetuating with new members chosen by the remaining members of the board, rather than by the governor. All of the current appointed board members are licensees with no members of the general public represented.

The board receives staff support from the State Library and Archives Commission and expenditures are from the general revenue fund appropriated to the Administration Program of the State Library and Archives Commission. No fees are collected by the board.

The basic objective of the Board of Library Examiners, is to assure that county libraries and municipal libraries receiving county funds are directed by well qualified librarians. This objective is currently addressed by the board through a process involving both temporary and permanent certification based on the education and experience of the applicant.

The review of the agency's operations evaluates the performance of the agency in three areas related to the agency's basic objective. These areas are administration, certification and enforcement.

Administration

The objective of the administration function of the State Board of Library Examiners is to operate the agency efficiently.

The limited support services necessary for the certification of librarians are provided through the Administration Program of the State Library and Archives Commission which supplies the assistance of one employee for approximately sixty (60) hours per year. Most of the board's business is transacted at the annual meeting in December. However, in the case of applications for initial licensure, the board also employs a process whereby the application is mailed to board members and a decision on the application is reached through mailed-in votes.

The sole source of funding for the board comes from the general revenue fund and is appropriated to the State Library through its Administration Program. No fees have ever been charged to certificate holders and specific statutory authority to charge such a fee does not exist.

The ex-officio members of the board receive no compensation for service as board members, and the three appointed members receive reimbursement for travel expenses only. Travel expenditures for fiscal years 1976 through 1979 are as follows:

| <u>Fiscal Year</u> | <u>Amount</u> |
|--------------------|---------------|
| 1976 | \$231 |
| 1977 | \$251 |
| 1978 | \$578 |
| 1979 | \$554 |

Certification

The objective of the certification function of the State Board of Library Examiners is to certify the competence of individuals acting as the head librarian in all libraries which receive county funds. Other library personnel may seek certification but it is not required under the statute. This objective was reviewed to determine if the statute has been reasonably interpreted for the accomplishment of the objective, whether the statute prevents the attainment of the objective, and whether the agency has achieved the objective in a reasonable fashion.

The statute requires the board to pass on the qualifications of all persons desiring certification and to adopt written rules and regulations not inconsistent with the law. A review of the board's activities indicates that the primary activities of the board have been the following: 1) establishing rules and regulations concerning minimum educational and experience requirements for initial certification; 2) establishing minimum continuing education requirements for renewal of temporary certificates; 3) reviewing all initial and renewal application requests for certification; and 4) voting on all applications for certification and renewal.

The board has utilized several methods since its creation to ensure that libraries receiving county funds are directed by qualified librarians. Until 1945 both written and oral examinations were given to applicants. After that time examinations were discontinued and certification of qualified librarians was determined through the definition of acceptable minimum educational and experience standards. While the board has complied with the aspects of the statute regarding certification and the setting of standards, it does appear that the rules and regulations of the board establish minimum requirements for permanent certification which may unduly restrict entry into the profession.

Through the standards, the board has, over time, come to place primary emphasis on formal education requirements, especially graduation from a library school accredited by the American Library Association (ALA). There is currently no equivalent for graduation from an ALA accredited library school although this alternative existed until 1978 when the board removed the experience equivalency for permanent certification. Experience does serve as a secondary indicator of competence and may be substituted for formal education in order to qualify for all temporary certificates.

The importance of formal educational requirements is generally not subject to serious question in highly specialized occupations where occupational skills cannot easily be learned without significant risks to the general public. However, in occupations such as librarian where job skills can be learned through practice as well as through formal education, required training in a small number of educational programs may impose unnecessary barriers to entry into an occupation.

Restrictive aspects of requiring educational training are increased even further due to the limited number of schools with ALA accreditation. Currently, only three library programs at Texas Women's University, North Texas State University and the University of Texas at Austin are accredited by the ALA. As a result, the graduates of two state funded universities (East Texas State University and Sam Houston State University) which granted 141 master of library sciences degrees during 1978 and 1979 and one private college (Our Lady of the Lake University) could not receive permanent certification as professional librarians under the board rules and regulations in effect. Board minutes indicate that this inconsistency in the limits imposed by these standards was the subject of discussion at a board meeting in September, 1978.

During the review, inconsistencies were noted in the board's rules and regulations concerning continuing education requirements. Fulfillment of continuing education requirements are mandated for all temporary certificate holders while permanent certificate holders are not required to provide any assurance of continued competency.

Enforcement

The enabling legislation creating the Board of Library Examiners does not enumerate any enforcement powers nor does it provide any penalty for non-compliance. As a result compliance with the provisions of the statute relies on the voluntary cooperation of the various libraries receiving county funds.

The board reported one complaint during fiscal years 1976 through 1979. This complaint arose over disagreement concerning the rule change adopted in 1978 requiring graduation from an ALA accredited library school in order to receive a permanent certificate. The complaint is still pending. This is the only complaint documented since the creation of the board.

Summary

The evaluation of the Board of Library Examiners revealed that the activities of the board are administered in an efficient manner, involving minimal costs. The statute governing the board leaves almost complete latitude to the board in determining what means will best achieve the objective of assuring that libraries receiving county funds are directed by well qualified librarians. The board currently utilizes minimum educational and experience standards to determine competency as a librarian. These standards for permanent certification appear to place unnecessary emphasis on formal education requirements which may only be

obtained through three accredited programs in Austin and Denton. Graduates of masters level library science programs at two public universities and one private college do not qualify for permanent certification under the board's current rules and regulations. While the Board of Library Examiners does acknowledge complaints, there is no formal enforcement program authorized or in effect.

IV. OTHER ALTERNATIVES AND CONSTRAINTS

The material presented in this section combines several sunset criteria for the purposes of evaluating the activities of the agency. The specific criteria covered are the extent of overlap and duplication with other agencies and the potential for consolidation with other agencies; an assessment of less restrictive or alternative methods of performing any regulation that could adequately protect the public; and the impact in terms of federal intervention or the loss of federal funds if the agency is abolished.

Existence of Like Functions

Alternatives to the continuation of the Board of Library Examiners must be assessed in light of the services provided by other state agencies to professional librarians. During the review, it was noted that the State Library and Archives Commission also regulates the qualifications of librarians employed in many public libraries receiving county funds. More than 275 member libraries in the Texas State Library System, a statewide plan for improving library services, currently employ approximately 98 percent of all individuals working in Texas public libraries. The qualifications of 47 full-time equivalent librarians employed in 56 libraries are regulated only by the Board of Library Examiners while librarians in only 35 public libraries are not regulated by either the Board of Library Examiners or the State Library Commission. Other professional librarians not subject to the jurisdiction of the Board of Library Examiners or the Texas State Library and Archives Commission include individuals employed by public school systems and all post-secondary educational institutions. The qualifications of public school librarians are reviewed by the Texas Education Agency while the qualifications of librarians employed in junior and senior colleges and universities are determined by the individual employer.

Termination of the board would not result in the absence of any regulation or standards for librarians employed in libraries receiving county funds. Most librarians in this state are employed by libraries which are members of the State Library System and as such would be subject to the rules and regulations of the System.

Approaches in Other States

Should the board be eliminated and the functions of the board transferred, the function of certifying librarians employed in libraries receiving county funds could be assumed by another agency. Certification programs for librarians in 13 states are administered by independent boards similar to the Texas Board of Library Examiners. In most states, including Georgia, Indiana, Louisiana, and Virginia, these agencies administer programs which certify professional librarians in all public libraries. In several states, including Texas, Arizona and Ohio, independent boards certify only the heads of county libraries. Seven states including Massachusetts, Pennsylvania, South Carolina, and Utah administer certification programs for librarians through state libraries or library commissions. In Maine, New York, Tennessee, and three other states, librarian certification functions are assumed by the state's Board of Education. Voluntary certification programs in Kansas, Missouri, Nebraska, Nevada, New Hampshire, and South Dakota are administered by the state's professional library association.

Potential Benefits

In Texas, the agency most capable of assuming responsibility for the functions of the Board of Library Examiners is the Library and Archives Commission. This commission already administers the State Library System which

regulates minimum staffing requirements for all system members. The commission also has established educational requirements for professional librarians employed by member libraries similar to those used by the Board of Library Examiners.

Summary

The Board of Library Examiners represents one of the more restrictive regulatory alternatives found in the states in that they implement a scheme involving certification of individuals. As generally applied, this regulation statutorily restricts employment as a head librarian in a county library through certification based on fulfillment of educational requirements. Although the board does not have the authority to revoke certification or enforce statutory prohibitions, it does require renewals for temporary certificates based on continuing education requirements. There are, however, alternatives to this regulatory policy which would offer a less restrictive, though not necessarily weaker method of achieving the objective of assuring qualified librarians. These alternatives include transferring the function to the Library and Archives Commission or abolishing the function and permitting regulatory supervision through the State Library System.

V. COMPLIANCE

The material presented in this section combines several sunset criteria for the purposes of evaluating the activities of the agency. The specific criteria covered are the extent to which the agency issues and enforces rules relating to potential conflict of interest of its employees; the extent to which the agency complies with the Open Records Act and the Open Meetings Act; and the extent to which the agency has complied with necessary requirements concerning equality of employment opportunities and the rights and privacy of individuals.

Conflict of Interest

As appointed state officers, State Library Examiner's board members are subject to statutory standards of conduct and conflict of interest provisions (Article 6252-9a and 9b, V.A.C.S.). Although the three appointed board members have not filed affidavits with the Secretary of State's Office, no information was obtained during the review that would indicate that they have maintained financial or other interests which would be in conflict. The agency is currently reviewing these requirements to determine if board members need to file affidavits.

Open Meetings - Open Records

The board has complied with the requirements of the Administrative Procedures and Texas Register Act in regard to notifying the public of its meetings. Further, notification of the public hearing held on September 28, 1978 regarding revision of certification requirements was also given to all certificate holders by mail as well as through LIBRARY DEVELOPMENTS, a bi-monthly newsletter published by the State Library for system members.

The board has generally complied with the Open Meetings Act in matters concerning its annual meetings and public hearings. However, the board has initiated a process for mail voting between meetings. This process does clearly benefit the applicant as well as reduce costs. The board eliminates a lengthy waiting period and the added expense of additional meetings by voting through the mail as applications are received. However, it is not clear that this form of decision-making conforms to the requirements of the Open Meetings Act.

The records of the board are available to the public in accordance with provisions of the Open Records Act. There have been no formal requests made for information under the Open Records Act.

Summary

The Board of Library Examiners appears to be in general compliance with the provisions of general statutes governing state agency operations. Exceptions include the failure to file affidavits concerning financial interests and the mail voting process which might not comply with the Open Meetings Act.

VI. PUBLIC PARTICIPATION

The review under this section covers the sunset criterion which calls for an evaluation of the extent to which the agency has encouraged participation by the public in making its rules and decisions as opposed to participation solely by those it regulates and the extent to which the public participation has resulted in rules compatible with the objectives of the agency.

Agency Activities

The degree to which the board has involved the public in its rules and decisions can be judged on the basis of board compliance with statutory provisions on public participation, the availability of information concerning rules and board operations, special efforts made by the board to involve the public in its operations, and the existence of public members on the board.

The review indicated that rule changes have occurred infrequently, with only two changes in the last four years. Notification requirements found in general state law have been properly addressed by the board.

While the board has complied with applicable statutes and made necessary rule information easily available, additional efforts to involve or educate the public in board activities have been limited. Special notification efforts have been limited to those members of the public who receive copies of LIBRARY DEVELOPMENTS, a bi-monthly newsletter published by the State Library System.

Public Membership

Review of the statutory composition of the board shows the absence of members of the general public. The lack of public members eliminates one method by which an agency, such as the Library Examiners, whose regulatory activities are

not readily visible to the public, can represent the point of view of the general public in the development of rules and the deliberation of other matters.

Summary

Despite the fact that procedures for advance notification of meetings appear to fulfill statutory requirements, other special efforts to increase the board's visibility among members of the general public have been limited. Public involvement in the area of rulemaking and other activities of the board could be significantly improved if there were public members on the board.

VII. STATUTORY CHANGES

The material presented in this section combines several sunset criteria for the purposes of evaluating the activities of the agency. The specific criteria covered are whether statutory changes recommended by the agency or others were calculated to be of benefit to the public rather than to an occupation, business, or institution the agency regulates; and statutory changes recommended by the agency for the improvement of the regulatory function performed.

Past Legislative Action

The enabling legislation of the State Board of Library Examiners has been amended once since the creation of the board in 1917. The Texas Sunset Act (Senate Bill No. 54 of the Sixty-fifth Legislature, 1977) provided for abolition of the board in 1981 unless it was recreated by the Legislature.

Proposed Changes

No other piece of legislation has been introduced. With respect to possible future changes in the statute, the board has suggested no modifications for its enabling legislation in its self-evaluation report to the Sunset Advisory Commission.

Summary

There has been only one change to the board's original enabling legislation and this change was not substantive in terms of its responsibilities. No suggestions have been made by the board in its self-evaluation report for improving its statutory responsibilities.