

BILL ANALYSIS

C.S.S.B. 18
By: Nelson
Higher Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties suggest that the legislature has made recent and significant progress in addressing health care workforce needs by expanding graduate medical education with the goal of keeping Texas medical school graduates in Texas. The need for additional residency slots, the parties continue, is increasing due to the state's growing population and higher numbers of medical school graduates as new medical schools are established in Texas. C.S.S.B. 18 is intended to implement certain measures to support or enhance graduate medical education in Texas, including the transfer of certain assets from the Texas Medical Liability Insurance Underwriting Association to the permanent fund supporting graduate medical education the bill seeks to establish.

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 this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 18 amends the Education Code to establish the permanent fund supporting graduate medical education as a special fund in the treasury outside the general revenue fund composed of money transferred or appropriated to the fund by the legislature, gifts and grants contributed to the fund, and the returns received from investment of money in the fund. The bill requires the Texas Treasury Safekeeping Trust Company to administer the fund, to manage the assets of the fund according to the standards of a prudent investor, and to determine the amount available for distribution from the fund, determined in accordance with a distribution policy that is adopted by the comptroller of public accounts and designed to preserve the purchasing power of the fund's assets and to provide a stable and predictable stream of annual distributions. The bill requires expenses of managing the fund's assets to be paid from the fund and prohibits money in the fund from being used for any purpose except as otherwise provided. The bill exempts the fund from Government Code provisions relating to the use of dedicated revenue and the disposition of interest on investments. The bill limits the appropriation of the amount available for distribution from the fund to the Texas Higher Education Coordinating Board to fund certain programs supporting graduate medical education or as otherwise directed by the legislature.

C.S.S.B. 18 authorizes a public or private institution of higher education or other entity that may receive money under such a program to solicit and accept gifts and grants to be deposited to the credit of the fund and requires the gift or grant to be distributed and appropriated for the fund's purposes, subject to any limitation or requirement placed on the gift or grant by the donor or

granting entity. The bill requires the coordinating board to limit or withhold funding from any grant recipient that does not comply with reporting requirements or that uses grant funds for a purpose not authorized for the grant awarded and to seek reimbursement with respect to any grant funds that are not used for purposes authorized for the grant awarded.

C.S.S.B. 18 replaces the requirement that the coordinating board award one-time planning grants to entities located in Texas that have never had a graduate medical education program and are eligible for Medicare funding of graduate medical education with a requirement that the coordinating board award one-time graduate medical education planning and partnership grants to hospitals, medical schools, and community-based, ambulatory patient care centers located in Texas that seek to develop new graduate medical education programs with first-year residency positions, regardless of whether the grant recipient currently offers or has previously offered a graduate medical education program with first-year residency positions. The bill makes provisions relating to the basis on which grants are awarded and the number and amount of grants applicable to the graduate medical education planning and partnership grants and changes the purpose for which such a grant must be used from planning additional first-year residency positions to planning a new graduate medical education program with first-year residency positions. The bill removes a requirement relating to an application for a planning grant and replaces a provision concerning eligibility for additional planning grant funds for each new first-year residency position with a provision making a hospital, medical school, or community-based, ambulatory patient care center that is awarded a graduate medical education planning and partnership grant and that establishes new first-year residency positions after receipt of the grant eligible to apply for additional funds under applicable law for each such position established, as provided by appropriation. The bill authorizes a hospital, medical school, or community-based, ambulatory patient care center to partner with an existing graduate medical education program or sponsoring institution for purposes of planning a new graduate medical education program using grant funds.

C.S.S.B. 18 limits the applicability of the requirement that the coordinating board award grants to graduate medical education programs to enable those programs to fill first-year residency positions that are accredited but unfilled to positions with that status as of July 1, 2013. The bill removes the requirement that an application for such a grant be submitted to the coordinating board not later than October 1 preceding the period for which the grant is made, the requirement that the coordinating board make decisions about grant awards not later than January 1 preceding the grant period, and the requirement that the coordinating board, for each first-year residency position for which a program receives an initial grant amount in a fiscal year, award the program an equal grant amount for the following fiscal year. The bill changes the duration of a grant award from two consecutive state fiscal years to the duration of the period in which the resident who initially fills the residency position continues to hold that position.

C.S.S.B. 18 clarifies that the requirement that the coordinating board award grants to enable existing graduate medical education programs to increase the number of first-year residency positions includes new such programs, as opposed to requiring the coordinating board to award grants to provide for the establishment of new graduate medical education programs with first-year residency positions, as under current law. The bill removes the requirement that grants for program expansion or new programs be expended to support the direct resident costs to the program, including the resident stipend and benefits, the requirement that an application for such a grant be submitted to the coordinating board not later than October 1 preceding the period for which the grant is made, and the requirement that the coordinating board make decisions about grant awards not later than January 1 preceding the grant period. The bill changes the duration of a grant award from three consecutive state fiscal years to the duration of the period in which the resident who initially fills the residency position continues to hold that position. The bill removes the requirement that the coordinating board, for each first-year residency position for which a program receives an initial grant amount in a fiscal year, award the program an equal grant amount for the following two fiscal years.

C.S.S.B. 18 requires the coordinating board, if it determines that the number of first-year residency positions proposed by eligible applicants for grants for unfilled residency programs and grants for program expansion or new programs exceeds the number of first-year residency positions for which grant funding is appropriated, to prioritize the awarding of new grants to medical specialties determined by the coordinating board to be at critical shortage levels. The bill identifies the factors the coordinating board must consider in determining critical shortage levels and requires the coordinating board to award additional grants to fund eligible graduate medical education programs that, for the 2015 state fiscal year, received a grant for unfilled residency positions or program expansion or a new program or under the resident physician expansion grant program as it existed immediately before September 1, 2015, if those programs continue to meet the applicable grant requirements that existed at the time of the initial award.

C.S.S.B. 18 repeals statutory provisions relating to the Resident Physician Expansion Grant Program and the prioritization of grants and adjustment of grant amounts by the coordinating board if the number of first-year residency positions proposed by eligible applicants exceeds the number authorized by appropriation.

C.S.S.B. 18 amends the Health and Safety Code to require the comprehensive health professions resource center to conduct research to identify all medical specialties and subspecialties that are at critical shortage levels in Texas, together with the geographic location of the physicians in those specialties and subspecialties, and to conduct research regarding the overall supply of physicians in Texas and any other issues that are relevant to the status of the state's graduate medical education system and the ability of that system to meet the current and future health care needs of Texas. The bill requires the statewide health coordinating council, not later than May 1 of each even-numbered year, to report the results of the center's research to the Legislative Budget Board, the coordinating board, the office of the governor, and the standing committees of each house of the legislature with primary jurisdiction over state finance or appropriations.

C.S.S.B. 18 amends the Insurance Code to require the Texas Department of Insurance (TDI), not later than the 90th day after the bill's effective date, to complete an actuarial study to determine the amount of assets necessary for the Texas Medical Liability Insurance Underwriting Association's known and unknown insurance claims and costs associated with those claims and administrative expenses of the association, including liabilities for employee retirement plans. The bill requires the association to cooperate with TDI in completing the actuarial study and, not later than the 60th day after the date on which TDI completes the actuarial study, to transfer the amount of association assets not necessary for those association claims, costs, and expenses to the permanent fund supporting graduate medical education. The bill requires the association, if that fund is not in existence on the date of transfer, to transfer the assets to an account created by the comptroller outside of the state treasury and requires the comptroller to hold the assets in trust pending creation of the fund. The bill requires the commissioner of insurance, promptly after the completion of the actuarial study and after notice and hearing, to determine whether a necessity exists to suspend the association's authority to issue new insurance policies pending a future enactment by the legislature that becomes law or the expiration of these bill provisions, whichever occurs earlier. The bill requires the commissioner, if the commissioner determines that a necessity exists, to order the association to cease issuing new policies immediately and prohibits the association from issuing a new policy before the expiration of these provisions unless authorized by a law that takes effect before such expiration. The bill authorizes the association to continue to renew policies in effect immediately before the effective date of the order in accordance with the association's plan of operation. These bill provisions relating to transfer of assets and suspension of new business on the part of the association expire September 1, 2017.

C.S.S.B. 18 repeals the following provisions of the Education Code:

- Section 58A.025
- Section 61.511

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 18 may differ from the engrossed in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 58A.001, Education Code, is amended.

SECTION 1. Same as engrossed version.

SECTION 2. Subchapter A, Chapter 58A, Education Code, is amended.

SECTION 2. Same as engrossed version.

SECTION 3. Section 58A.022, Education Code, is amended to read as follows:

SECTION 3. Section 58A.022, Education Code, is amended to read as follows:

Sec. 58A.022. GRADUATE MEDICAL EDUCATION PLANNING AND PARTNERSHIP GRANTS. (a) The board shall award one-time graduate medical education planning and partnership grants to hospitals, medical schools, and community-based, ambulatory patient care centers [entities] located in this state that seek to develop new graduate medical education programs with first-year residency positions, regardless of whether the grant recipient has previously offered[;

Sec. 58A.022. GRADUATE MEDICAL EDUCATION PLANNING AND PARTNERSHIP GRANTS. (a) The board shall award one-time graduate medical education planning and partnership grants to hospitals, medical schools, and community-based, ambulatory patient care centers [entities] located in this state that seek to develop new graduate medical education programs with first-year residency positions, regardless of whether the grant recipient **currently offers or has previously offered[;**

~~[(1) have never had]~~ a graduate medical education program with first-year residency positions[; and

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~~[(2) are eligible for Medicare funding of graduate medical education].~~

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(b) The board shall award graduate medical education planning and partnership grants on a competitive basis according to criteria adopted by the board. The board shall determine the number of grants awarded and the amount of each grant consistent with any conditions provided by legislative appropriation. A grant received under this section must be used for the purpose of planning a new graduate medical education program with [additional] first-year residency positions.

(b) The board shall award graduate medical education planning and partnership grants on a competitive basis according to criteria adopted by the board. The board shall determine the number of grants awarded and the amount of each grant consistent with any conditions provided by legislative appropriation. A grant received under this section must be used for the purpose of planning a new graduate medical education program with [additional] first-year residency positions.

(c) A hospital, medical school, or community-based, ambulatory patient care center [An application for a planning grant for a state fiscal year must be submitted to the board not later than July 15 preceding

(c) A hospital, medical school, or community-based, ambulatory patient care center [An application for a planning grant for a state fiscal year must be submitted to the board not later than July 15 preceding

~~that fiscal year. Not later than August 15, the board shall make decisions about grant awards for the following state fiscal year.~~

~~[(d) An entity] that is awarded a graduate medical education planning and partnership grant and that establishes new first-year residency positions after receipt of the grant is eligible to apply for additional funds under Section 58A.024 for each such position established, as provided by appropriation.~~

~~(d) A hospital, medical school, or community-based, ambulatory patient care center may partner with an existing graduate medical education program or sponsoring institution for purposes of planning a new graduate medical education program using grant funds awarded under this section.~~

SECTION 4. Section 58A.023, Education Code, is amended.

SECTION 5. Section 58A.024, Education Code, is amended.

SECTION 6. Subchapter B, Chapter 58A, Education Code, is amended by adding Sections 58A.0245 and 58A.0246 to read as follows:

Sec. 58A.0245. CRITICAL SHORTAGE LEVELS. (a) If the board determines that the number of first-year residency positions proposed by eligible applicants under Sections 58A.023 and 58A.024 exceeds the number of first-year residency positions for which grant funding under those sections is appropriated, in awarding grants under those sections the board shall prioritize the awarding of new grants to medical specialties determined by the board to be at critical shortage levels.

(b) In determining critical shortage levels under this section, the board shall consider:

(1) the available results of research conducted by the center under Section 105.009, Health and Safety Code;

(2) other relevant research and criteria, including research and criteria related to the designation of health professional shortage areas; and

(3) research performed by other appropriate entities.

Sec. 58A.0246. CONTINUATION OF GRANTS AWARDED FOR 2015 STATE FISCAL YEAR. The board shall award

~~that fiscal year. Not later than August 15, the board shall make decisions about grant awards for the following state fiscal year.~~

~~[(d) An entity] that is awarded a graduate medical education planning and partnership grant and that establishes new first-year residency positions after receipt of the grant is eligible to apply for additional funds under Section 58A.024 for each such position established, as provided by appropriation.~~

~~(d) A hospital, medical school, or community-based, ambulatory patient care center may partner with an existing graduate medical education program or sponsoring institution for purposes of planning a new graduate medical education program using grant funds awarded under this section.~~

SECTION 4. Same as engrossed version.

SECTION 5. Same as engrossed version.

SECTION 6. Subchapter B, Chapter 58A, Education Code, is amended by adding Sections 58A.0245 and 58A.0246 to read as follows:

Sec. 58A.0245. CRITICAL SHORTAGE LEVELS. (a) If the board determines that the number of first-year residency positions proposed by eligible applicants under Sections 58A.023 and 58A.024 exceeds the number of first-year residency positions for which grant funding under those sections is appropriated, in awarding grants under those sections the board shall prioritize the awarding of new grants to medical specialties determined by the board to be at critical shortage levels.

(b) In determining critical shortage levels under this section, the board shall consider:

(1) the available results of research conducted by the center under Section 105.009, Health and Safety Code;

(2) other relevant research and criteria, including research and criteria related to the designation of health professional shortage areas; and

(3) research performed by other appropriate entities.

Sec. 58A.0246. CONTINUATION OF GRANTS AWARDED FOR 2015 STATE FISCAL YEAR. The board shall award

additional grants to fund eligible graduate medical education programs that received a grant awarded under this subchapter for the state fiscal year ending on August 31, 2015, if those programs continue to meet the applicable grant requirements that existed at the time of the initial award.

SECTION 7. Chapter 105, Health and Safety Code, is amended by adding Section 105.009 to read as follows:

Sec. 105.009. RESEARCH REGARDING GRADUATE MEDICAL EDUCATION SYSTEM. (a) The comprehensive health professions resource center shall conduct research:

(1) to identify:

(A) the ratio of primary care to non-primary care physicians that is necessary and appropriate to meet the current and future health care needs of this state; and

(B) all medical specialties and subspecialties that are at critical shortage levels in this state, together with the geographic location of the physicians in those specialties and subspecialties; and

(2) regarding the overall supply of physicians in this state and any other issues that are relevant to the status of the state's graduate medical education system and the ability of that system to meet the current and future health care needs of this state.

(b) Not later than May 1 of each even-numbered year, the council shall report the results of the center's research to the Legislative Budget Board, the Texas Higher Education Coordinating Board, the office of the governor, and the standing committees of each house of the legislature with primary jurisdiction over state finance or appropriations.

SECTION 8. Chapter 2203, Insurance Code, is amended.

SECTION 9. The following provisions of the Education Code are repealed:

(1) Section 58A.025;

(2) Section 58A.026; and

(3) Section 61.511.

SECTION 10. This Act takes effect

additional grants to fund eligible graduate medical education programs that, for the state fiscal year ending on August 31, 2015, received a grant awarded under Section 58A.023 or 58A.024 or under Section 61.511, as that section existed immediately before September 1, 2015, if those programs continue to meet the applicable grant requirements that existed at the time of the initial award.

SECTION 7. Chapter 105, Health and Safety Code, is amended by adding Section 105.009 to read as follows:

Sec. 105.009. RESEARCH REGARDING GRADUATE MEDICAL EDUCATION SYSTEM. (a) The comprehensive health professions resource center shall conduct research:

(1) to identify all medical specialties and subspecialties that are at critical shortage levels in this state, together with the geographic location of the physicians in those specialties and subspecialties; and

(2) regarding the overall supply of physicians in this state and any other issues that are relevant to the status of the state's graduate medical education system and the ability of that system to meet the current and future health care needs of this state.

(b) Not later than May 1 of each even-numbered year, the council shall report the results of the center's research to the Legislative Budget Board, the Texas Higher Education Coordinating Board, the office of the governor, and the standing committees of each house of the legislature with primary jurisdiction over state finance or appropriations.

SECTION 8. Same as engrossed version.

SECTION 9. The following provisions of the Education Code are repealed:

(1) Section 58A.025; and

(2) Section 61.511.

SECTION 10. This Act takes effect

immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

September 1, 2015.