

- SUBJECT:** Partnerships and affiliations between universities and other entities
- COMMITTEE:** Higher Education — committee substitute recommended
- VOTE:** 5 ayes — Rangel, F. Brown, J. Jones, Morrison, E. Reyna
0 nays
4 absent — Farabee, Goolsby, Uher, West
- WITNESSES:** None
- BACKGROUND:** Subchapter C of Education Code, ch. 61 sets forth the powers and duties of the Texas Higher Education Coordinating Board (THECB), including oversight of state-supported universities and community colleges. THECB advises the Legislature on the initiation of new departments, schools, and programs, administers the state’s financial aid programs, and approves new academic programs and degrees.
- DIGEST:** CSHB 1685 would amend Education Code, sec. 61.055 to allow governing boards or other appropriate officials of general academic institutions or medical or dental schools to establish a partnership or affiliation with other entities to offer or conduct courses for academic credit or to offer degree programs. An institution would be able to establish a partnership or affiliation if either THECB approved the partnership or affiliation or the governing board determined it was:
- ! consistent with the institution’s role and mission;
 - ! in accordance with the degree and certificate programs of the institution;
and
 - ! consistent with the role and mission of the university system, if any.
- The bill would apply to all general academic universities and health-related institutions. It would not affect a partnership or affiliation established prior to the effective date of the bill.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2001.

**SUPPORTERS
SAY:**

CASHB 1685 would provide needed statutory guidelines for the formation of partnerships or affiliations between higher education institutions by codifying into statute when THECB would become involved and when it would not. There has been some confusion in the past regarding the extent of a university's authority to enter into such agreements with other schools or entities.

The bill would clarify that THECB only would be involved in the approval of a proposed agreement if the agreement had the effect of expanding the scope of a university. It would close a potential loophole by ensuring that partnerships and affiliations to offer courses or degree programs would be within the scope of an institution's existing role and mission. However, it would not increase the authority of a university system.

CASHB 1685 would not add to bureaucratic red tape in approving partnership agreements. The initial responsibility of determining whether an agreement was consistent with the role and mission of a university would rest with the board of regents or a university's chief operating officer, a responsibility they already have.

CASHB 1685 would ensure that THECB was the ultimate authority on the establishment of a new partnership or affiliation if it went beyond the criteria set forth in the bill. THECB's mission is to provide comprehensive planning to ensure quality and access in the state's higher education system. To ensure sound planning, THECB should be the final arbiter for agreements that go beyond the role or mission of a university or system so that they can be carefully reviewed in the context of how they may affect the entire higher education system and avoid costly duplication of academic programs. The THECB already has statutory authority to approve partnerships between public community/junior colleges and upper-level universities or centers.

The bill would not affect the many affiliations and partnerships that are made in the normal course of doing daily business of a university, as long as they were within the scope of the university's role and mission. A university still

could request permission from THECB to expand its role and mission to encompass a new partnership or affiliation, or the Legislature could approve such agreements.

CSHB 1685 would help preclude future legal actions by clearly defining the law surrounding academic partnerships and affiliations. This issue came to light in 1998 when Texas A&M University and South Texas College of Law signed an affiliation agreement. The agreement would have allowed Texas A&M to have a connection with a law school, while South Texas College would have been able to say it was affiliated with a major state university. However, THECB invalidated the union, saying that A&M's academic mission did not include legal studies. A state district judge and the Third Court of Appeals in Austin agreed, saying the affiliation was void because it not only infringed on the authority of the THECB, but also exceeded the authority granted to Texas A&M board of regents in the Education Code and the role and mission of the university (*South Texas College of Law v. Texas Higher Education Coordination Board*, No. 03-99-00453-CV (Tex.App.-Austin 2000)).

OPPONENTS
SAY:

CSHB 1685 would increase bureaucratic red tape for institutions of higher education and increase the need for additional regulatory oversight of such partnerships. The bill does not clearly define partnerships and affiliations. Universities enter into thousands of partnerships and agreements that potentially could be affected and that could require the need for approval by THECB. Additionally, the bill could be construed as expanding the role and mission of a university system, giving it more authority than it currently has.

NOTES:

The committee substitute removed a provision in the original bill that would have required THECB to evaluate all proposed partnerships or affiliations and submit a recommendation to the Legislature. The substitute added the option for an institution to establish a partnership or affiliation with another entity if certain criteria were met, without having to obtain THECB approval.

The 76th Legislature in 1999 considered a related bill, HB 3651 by Rangel, similar to HB 1685 as filed, which passed the House, but died in the Senate Education Committee.