

SUBJECT: Reallocating annual HEF funding for certain higher education institutions

COMMITTEE: Appropriations — committee substitute recommended

VOTE: 20 ayes — Zerwas, C. Bell, Buckley, Capriglione, Cortez, S. Davis, Howard, Miller, Minjarez, Muñoz, Rose, Schaefer, Sheffield, Sherman, Smith, Stucky, Toth, J. Turner, VanDeaver, Wilson

0 nays

7 absent — Longoria, G. Bonnen, M. González, Hefner, Jarvis Johnson, Walle, Wu

SENATE VOTE: On final passage, April 10 — 29-1 (Hall)

WITNESSES: *On House companion bill, HB 1562:*

For — None

Against — None

On — (*Registered, but did not testify:* Daniel Harper, The Texas State University System; Thomas Keaton, Texas Higher Education Coordinating Board)

BACKGROUND: Texas Constitution Art. 7, sec. 17(a) requires the Legislature to authorize allocations of the Higher Education Fund (HEF) to provide funding for acquiring land, constructing and equipping buildings and other permanent improvements, major repairs and renovations of buildings or other permanent improvements, and acquiring capital equipment, library books, and library materials at public higher education institutions that are not eligible for Available University Fund (AUF) funding. Under sec. 17(f), funds may not be used to construct, equip, or repair buildings or other improvements that are used only for student housing, intercollegiate athletics, or auxiliary enterprises.

The Constitution states that in the fiscal year beginning September 1,

1985, and each fiscal year thereafter, there was appropriated \$100 million for these purposes. The Constitution authorizes the Legislature to increase that appropriation, and the last time it was increased was in 2015. SB 1191 by Seliger, enacted by the 84th Legislature, amended Education Code sec. 62.024 to increase that amount from \$262.5 million to \$393.75 million beginning in fiscal 2017.

Under Art. 7, sec. 17(d), every 10 years the Legislature is required to allocate by formula the annual appropriations. Every five years of each 10-year period the Legislature is required to review the allocation formula and may make adjustments. The total amount of distributions appear in the general appropriations act and flow through an equitable formula to institutions over the 10-year period.

Education Code sec. 62.022 requires the Higher Education Coordinating Board, in the middle of each 10-year period, to conduct a five-year review of the allocation formula prior to the convening of a regular legislative session. The coordinating board must conduct the review with the full participation of the eligible institutions and present recommendations to the Legislative Budget Board and the appropriate legislative committees on any proposed adjustments to the allocation formula. The Legislature is required to approve, modify and approve, or reject the recommendations of the coordinating board.

Education Code sec. 62.021 contains the current allocations of these amounts and states that the funds are allocated based on an equitable formula with three elements: space deficit, facilities condition, and institutional complexity. The formula also includes a separate allocation to the Texas State Technical College System, which, under the Constitution, is capped at no more than 2.2 percent of the total HEF allocation. The balance of the HEF funds is then distributed by the formula.

DIGEST:

CSSB 709 would establish the allocations of Higher Education Fund (HEF) funding to certain state higher education institutions. Total allocations each fiscal year for fiscal 2020 and beyond would remain the same. Individual allocations for fiscal 2020 would remain the same as the

allocations that were established for fiscal 2017. Individual allocations for fiscal 2021 and beyond would be reallocated as listed in the bill.

For both fiscal 2020 and fiscal 2021 and beyond, the bill would make adjustments to two institutions. The bill would eliminate a specific provision for the University of North Texas at Dallas College of Law under the allocation to the University of North Texas at Dallas. The bill would add two component campuses to the Texas State Technical College (TSTC) system: TSTC-Fort Bend and TSTC-North Texas.

CSSB 709 would authorize institutions to use the funds for cloud computing services or other intangible assets with an expected useful life or for a contract period of more than one year.

The bill would eliminate a requirement for Legislative approval or the approval, review, or endorsement by the Texas Higher Education Coordinating Board for certain projects, leaving the current authority for governing boards to expend the funds.

The bill would take effect August 31, 2019.

**SUPPORTERS
SAY:**

CSSB 709 is the constitutionally required reallocation of Higher Education Fund (HEF) money to certain institutions of higher education. The allocations in CSSB 709 would go to institutions not eligible for funding through the Permanent University Fund (PUF) to help them keep up with their needs.

The total amount of funds allocated for fiscal 2020 and beyond would remain at \$393.75 million, where it has been since 2017. The bill would not make any adjustments that would prevent the payment of bonds. The bill would reallocate these funds to address capital projects at about 30 of the state's public institutions based on data compiled by the Texas Higher Education Coordinating Board (THECB). The bill is the result of a study by THECB that included involvement of all HEF-eligible institutions, including a survey of their deferred maintenance needs. THECB also invited all HEF-eligible institutions to be part of a stakeholder group, and

about two-thirds participated.

The bill would include authorization for funds to be spent for cloud computing services so that institutions could keep up with technology needs.

CSSB 709 clarifies the allowable use of HEF funds to include cloud computing and other intangible assets with an expected life or contract period of more than one year. This clarification maintains the original intent of the Legislature and allows institutions to transition software purchases from the antiquated license-based products to current cloud-based products.

The bill would remove an approval process for certain projects to reflect changes made to that process in 2011 by the 82nd Legislature.

Other changes that would be made by the bill are technical or cleanup language. The specific allocation to the University of North Texas at Dallas College of Law under the allocation to the University of North Texas at Dallas would be eliminated because the law school is now fully integrated into the larger system. The law school would continue to receive any funding through the larger system. Two campuses would be added to the allocation for Texas State Technical College to reflect previously approved new locations. Outdated provisions relating to Texas Tech that were instituted before that university's system was fully established would be eliminated from statute.

**OPPONENTS
SAY:**

CSSB 709 could expand the uses of the HEF allocations beyond what is authorized by the Constitution. The bill would allow the funding to be used for intangible assets with an expected useful life or a contract period of more than one year, a departure from the currently authorized uses that focus on tangible assets. Allowing uses for any contract of more than one year could open up the funding for almost any use.

NOTES:

According to the Legislative Budget Board, the bill would have no fiscal implication to the state, and the total appropriations for fiscal 2020-21

would be equal to the fiscal 2018-19 amounts.