

SUBJECT: Revising code on use of a collegiate athlete's name, image, or likeness

COMMITTEE: Higher Education — committee substitute recommended

VOTE: 9 ayes — Kuempel, Paul, Bucy, Burns, Clardy, Cole, M. González,
Howard, Lalani

0 nays

2 absent — Burrows, Raney

WITNESSES: For — (*Registered, but did not testify*: Kate Kuhlmann, Texas High
School Coaches Association)

Against — (*Registered, but did not testify*: Virginia Gustin)

On — Chris Holmes, Baylor University; Ross Bjork, Texas A&M
University (*Registered, but did not testify*: Lisa Bennett, University of
Texas at Austin)

DIGEST: CSHB 2804 would prohibit an athletic association, athletic conference, or
any other group or organization with authority over an intercollegiate
athletic program at an applicable institution from enforcing any
requirement that could prevent higher education institutions from
participating in intercollegiate athletics or could penalize them for any
activity authorized in the bill.

Under CSHB 2804, a college student athlete would be prohibited from
entering into a contract for the use of their name, image, or likeness (NIL)
if the compensation for the use was provided in exchange for registration
at an institution or for an act that occurred while the athlete was engaged
in an official team activity.

The bill also would prevent the student athlete from using their
institution's facility, uniform, trademark, copyright-protected product, or
other official logo in connection with an NIL contract without the

institution's express permission. If the institution gave permission, the student and the person contracting for the use of the student's NIL would have to comply with any requirements the institution established and would require that the institution received market average compensation for the use.

Any information relating to a contract for the student's NIL would be considered confidential and not subject to public disclosure requests. An institution could withhold such information without requesting a decision from the attorney general.

An institution could identify or otherwise assist students with third-party NIL compensation opportunities, but could not act as the student's athletic agent, be compensated by the student or the third party, or attempt to influence the student's choice of professional representation. The institution also could not attempt to diminish the student's opportunities from competing third parties.

CSHB 2804 would apply only to student NIL contracts entered into on or after the effective date of this bill, or to requests for information received on or after the same date. This bill would take effect July 1, 2023, if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2023.

**SUPPORTERS
SAY:**

CSHB 2804 would help to protect Texas universities' athletic programs from potentially limiting regulations of collegiate athletic organizations. The continuously evolving college sports landscape requires routine update to NIL laws so that Texas and its collegiate athletics programs can remain competitive. The bill also would help student athletes by protecting their NIL contract records from disclosure, allowing conditional use of the university's real or intellectual property, and enabling the university to assist the student in obtaining NIL contracts.

**CRITICS
SAY:**

CSHB 2804 could leave collegiate athletic organizations without the ability to enforce certain standards by prohibiting regulation of colleges' athletic programs. The bill could leave gaps in the regulatory process for

college athletic programs.

NOTES:

The committee substitute includes a provision absent for the introduced bill that would prohibit any collegiate athletic organization from enforcing regulations that could prevent an institution from participating in intercollegiate athletics or penalize them for performing actions authorized under the bill.

Though the introduced bill would have stipulated that the administration of a financial literacy and life skills program to student athletes was optional, the substitute would require such a program to be administered.