

## **BILL ANALYSIS**

Senate Research Center  
76R3890 KEL-D

H.B. 746  
By: Gallego (West)  
Education  
5/3/1999  
Engrossed

### **DIGEST**

The 75th Legislature enacted an addendum to that session's appropriations bill, which prohibited state employees from testifying against the state in a suit filed against the state. The addendum was challenged in district court and was found to be unconstitutional. An appellate court concurring with the district court's opinion stated that in order to justify the curtailment of the state employee's first amendment rights, there needed to be a compelling state interest. H.B. 746 would set forth provisions for reporting on certain education employees serving as expert witnesses in suits against the state.

### **PURPOSE**

As proposed, H.B. 746 sets forth provisions for reporting on certain education employees serving as expert witnesses in suits against the state.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the Texas Higher Education Coordinating Board in SECTION 2(a) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 61C, Education Code, by adding Section 61.0815, as follows:

Sec. 61.0815. REPORT ON HIGHER EDUCATION EMPLOYEES SERVING AS EXPERT WITNESSES IN SUITS AGAINST STATE. Defines "member of the faculty or professional staff of an institution of higher education." Provides that the term does not include a person employed in a position controlled by the institution's classified personnel system or a person employed in a similar position, if the institution does not have a classified personnel system. Requires the Texas Higher Education Coordinating Board (board), not later than November 1 of each year, to submit a written report regarding service by members of the faculty or professional staff of institutions of higher education as consulting or testifying expert witnesses in suits against the state during the preceding state fiscal year to the governor and to the presiding officer of each house of the legislature. Sets forth the specifications required to be included in the report. Requires the attorney general and the president of each institution of higher education to collect all necessary data for inclusion in the report required by this section.

SECTION 2. (a) Requires the board, not later than the 90th day after the effective date of this Act, to adopt rules to implement Section 61.0815, Education Code, as added by this Act.

(b) Requires the board to submit the first report required by Section 61.0815, Education Code, as added by this Act, not later than November 1, 2000.

SECTION 3. Effective date: September 1, 1999.

SECTION 4. Emergency clause.