

BILL ANALYSIS

Senate Research Center

C.S.H.B. 1545
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Education
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Committee Report (Substituted)

DIGEST AND PURPOSE

Institutions of higher education have identified changes to current statutes concerning several administrative areas that could save money, produce new revenue, or increase the operational efficiency of institutions of higher education across the state. C.S.H.B. 1545 amends provisions relating to the operation, regulation, and administration of public institutions of higher education.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to institutions of higher education in SECTION 2.05 (Section 51.965, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. PURCHASING

SECTION 1.01. Amends Sections 51.9335(a)-(e), Education Code, to authorize an institution of higher education, rather than a medical and dental unit, to acquire goods or services by the method that provides the best value to the institution.

(b) Requires an institution of higher education, in determining what is the best value to the institution, to consider the impact on the ability of the institution to comply with laws and rules relating to the procurement of goods and services from persons with disabilities and the use of material in construction or repair to real property that is not proprietary to a single vendor unless the institution provides written justification in the request for bids for use of the unique material specified. Makes conforming changes.

(c) Authorizes the state auditor to audit purchases of goods or services by an institution of higher education or by a component of an institution of higher education that purchases goods and services, rather than by a medical and dental unit.

(d) Provides that to the extent of any conflict, this section prevails over any other law, including Chapters 2155 (Purchasing: General Provisions and Procedures), 2156 (Purchasing Methods), 2157 (Purchasing: Purchase of Automated Information Systems), 2158 (Purchasing: Miscellaneous Provisions for Purchase of Certain Goods and Services), 2167 (Lease of Space for State Agencies), and 2170 (Telecommunications Services), Government Code, except a law or rule relating to contracting with historically underutilized businesses or relating to the procurement of goods and services from persons with disabilities. Authorizes, but does not require, an institution of higher education to acquire goods or services as provided by Chapters 2155, 2156, 2157, 2158, 2167, and 2170, Government Code.

(e) Defines "institution of higher education," rather than "medical and dental unit."

SECTION 1.02. Amends Chapter 51Z, Education Code, by adding Section 51.966, as follows:

Sec. 51.966. INSURANCE COVERAGE. Authorizes the governing board of an institution of higher education to purchase insurance insuring the institution and its employees against any liability, risk, or exposure and covering the losses of any institutional property. Authorizes the governing board to pay the cost of any insurance from any funds of the institution. Defines “governing board.”

SECTION 1.03. Amends Chapter 497B, Government Code, by adding Section 497.0211, as follows:

Sec. 497.0211. EXCEPTION: INSTITUTIONS OF HIGHER EDUCATION. Provides that this subchapter does not apply to an institution of higher education, as defined by Section 61.003, Education Code.

SECTION 1.04. Amends Section 2155.067(b), Government Code, to delete wording related to the authorization to sign the written justification.

SECTION 1.05. Amends Section 2155.268(a), Education Code, to delete wording related to an exception for an institution of higher education regarding bidders lists.

SECTION 1.06. Repealer: Section 2155.133 (Delegation of Authority to Institution of Higher Education), Government Code; Section 2155.134 (Group Purchasing Programs), Government Code; and Section 2155.135 (Purchases From Higher Education Research Funds), Government Code.

ARTICLE 2. HUMAN RESOURCES

SECTION 2.01. Amends Chapter 51Z, Education Code, by adding Section 51.961, as follows:

Sec. 51.961. LEAVE PROVISIONS FOR CERTAIN EMPLOYEES OF UNIVERSITY SYSTEM. (a) Defines “governing board,” “medical and dental unit,” “university system,” and “leave.”

(b) Authorizes the governing board of a university system (governing board) to adopt a comprehensive leave policy that applies to employees working in a hospital or clinic of a medical and dental unit of the university system.

(c) Authorizes a policy adopted under this section to combine vacation, sick, and holiday leave into a paid system that does not distinguish or separate the types of leave to be awarded and to award leave in an amount determined by the governing board to be appropriate and cost-effective.

(d) Provides that Chapters 661 (Leave) and 662 (Holidays and Recognition Days and Months), Government Code, do not apply to employees covered by a policy adopted under this section. Requires the policy to include provisions addressing the subject matter of each subchapter of Chapters 661 and 662, Government Code, and the intended effect of the policy on the rights, duties, and responsibilities of employees and the employing entity under those subchapters.

(e) Requires a policy adopted under this section to include certain provisions.

(f) Authorizes a policy authorized by this section to include other matters as determined relevant and appropriate by the governing board.

(g) Requires a policy authorized by this section to be adopted by a governing board in an open meeting of the board.

(h) Requires the governing board, before implementing a policy adopted under this section, to make reasonable efforts to enter into a memorandum of understanding with certain state agencies concerning awards of accrued leave for the purposes of retirement and other issues of concern related to the implementation of the policy.

(i) Authorizes the governing board, on or after September 15, 2005, to adopt a leave policy as provided by this section for employees of the institution.

SECTION 2.02. Amends Chapter 51Z, Education Code, by adding Section 51.962, as follows:

Sec. 51.962. MERIT SALARY INCREASES. Authorizes an institution of higher education, as defined by Section 61.003, to grant merit salary increases, including one-time merit payments, to employees described by this section. Provides that a merit salary increase made under this section is compensation for purposes of Chapter 659 (Compensation), Government Code, and salary and wages and member compensation for purposes of Title 8 (Public Retirement Systems), Government Code. Authorizes an institution of higher education to pay merit salary increases under this section from any funds. Requires an institution of higher education to adopt criteria for the granting of merit salary increases before awarding a merit salary increase under this section. Requires an employee, to be eligible for a merit salary increase under this section, to have been employed by the institution of higher education for the six months immediately preceding the effective date of the increase and requires that at least six months have elapsed since the employee's last merit salary increase.

SECTION 2.03. Amends Chapter 51Z, Education Code, by adding Section 51.963, as follows:

Sec. 51.963. EMPLOYEE WITH MULTIPLE APPOINTMENTS. Authorizes a full-time employee of an institution of higher education as defined by Section 61.003 who has appointments to more than one position at the same institution to receive pay for working more than 40 hours in a week if the institution determines that pay in lieu of compensatory time is in the best interest of the institution.

SECTION 2.04. Amends Chapter 51Z, Education Code, by adding Section 51.964, as follows:

Sec. 51.964. HIRING OF CERTAIN RETIREES. Authorizes an institution of higher education as defined by Section 61.003 to employ a person who has retired under certain retirement programs or systems if certain conditions are met. Authorizes the governing board to pay a person employed under this section an amount considered by the governing board to be appropriate, notwithstanding any other provision of law.

SECTION 2.05. Amends Chapter 51Z, Education Code, by adding Section 51.965, as follows:

Sec. 51.965. EMPLOYEE NOTIFICATION. Authorizes an institution of higher education, as defined by Section 61.003, if a state law requires the institution to provide written notification to its officers or employees of any retirement, right, duty, or responsibility provided by state law, to provide the notification by use of electronic media. Authorizes an institution of higher education to adopt rules and guidelines to ensure that notification provided by electronic media under this section is effective and that any required notification is provided to officers and employees who do not have access to electronic media.

SECTION 2.06. Amends Section 661.062(a), Government Code, to provide that a state employee who, at any time during the employee's lifetime, has accrued six months of state employment and who resigns, is dismissed, or otherwise separates from state employment by an institution of higher education is entitled to be paid for the accrued balance of the employee's vacation time as of the date of separation.

SECTION 2.07. Amends the heading of Chapter 659J, Government Code, to read as follows:

SUBCHAPTER J. PAYROLL REDUCTION OR DEDUCTION FOR CERTAIN EMPLOYEE
BENEFITS AT INSTITUTIONS OF HIGHER EDUCATION

SECTION 2.08. Amends Section 659.202, Government Code, as follows:

Sec. 659.202. New heading: PAYROLL REDUCTION OR DEDUCTION AUTHORIZED; USE OF FUNDS. Authorizes an employee of an institution of higher education to authorize in writing a reduction, rather than deduction, each pay period from the employee's salary or wage payment for the payment of any fee or charge for parking, a parking permit, a transportation pass, or other qualified transportation benefit authorized under Section 132(f), Internal Revenue Code of 1986, as amended. Deletes wording related to parking fees charged by the institution of higher education. Requires, rather than provides, an authorization for a reduction, rather than a deduction, under this subchapter by the employee to be voluntary. Requires the institution to determine which fee or charge an employee is authorized to pay under this section. Authorizes an employee of an institution of higher education to authorize in writing a deduction each pay period from the employee's salary or wage payment for the payment of any fee or charge for parking or for a club membership, recreational sports membership, or similar activity or program. Requires an authorization for a deduction under this subchapter by the employee to be voluntary. Requires the institution to determine which fee or charge an employee is authorized to pay under this section. Deletes wording related to funds collected under this section.

SECTION 2.09. Amends Chapter 659J, Government Code, by adding Section 659.205, as follows:

Sec. 659.205. STATUS OF DEDUCTION OR SALARY REDUCTION. Requires a salary deduction made by an employee under this subchapter, if so designated by the employing institution of higher education, to be considered compensation under this chapter and salary and wages and member compensation under Title 8. Authorizes a salary deduction or reduction under this subchapter, if authorized by federal law, to be made on a pretax basis.

SECTION 2.10. Amends Section 822.201(b), Government Code, to redefine "salary and wages."

SECTION 2.11. Amends Section 658.001, Government Code, to redefine "state agency."

SECTION 2.12. Amends Section 659.002(b), Government Code, to redefine "state agency."

SECTION 2.13. Amends Chapter 661, Government Code, by adding Section 661.915, as follows:

Sec. 661.915. APPLICABILITY TO JUNIOR COLLEGES. Provides that the provisions of this chapter do not apply to a public junior college as defined by Section 61.003, Education Code.

ARTICLE 3. FINANCIAL MANAGEMENT

SECTION 3.01. Amends Section 74.103, Education Code, to delete wording relating to a requirement of the board regarding the acceptance of gifts, grants, and donations.

SECTION 3.02. Amends Section 74.153, Education Code, to delete wording relating to a requirement of the board regarding the acceptance of gifts, grants, and donations.

SECTION 3.03. Amends Section 2251.026, Government Code, to prohibit interest from accruing or being paid under this section on a payment if the total amount of interest that would have otherwise have accrued is equal to or less than \$5 and the payment is made from the institutional funds of an

institution of higher education as defined by Section 61.003, Education Code.

SECTION 3.04. Amends Chapter 51Z, Education Code, by adding Section 51.967 as follows:

Sec. 51.967. LIMITATION ON EDUCATIONAL DEBT. Requires that no statute of limitations apply to a lawsuit, to the enforcement of a judgment, or to any other legal action to collect an educational debt owed to an institution of higher education or to the Texas Higher Education Coordinating Board.

SECTION 3.05. Makes application of Section 2251.026, Government Code, as amended by this Act, prospective.

SECTION 3.06. Amends Section 66.08(h), Education Code, to provide that the corporation is subject to the provisions of Chapter 551 (Open Meetings), Government Code, that apply to the board of regents of the University of Texas System, except for certain conditions applicable to the board of directors of the corporation.

ARTICLE 4. REPORTING

SECTION 4.01. Amends Section 2166.101, Government Code, by adding Subsection (f), to require the General Services Commission, an institution of higher education, and a state agency, if information to be obtained from the institution of higher education, as defined by Section 61.003, Education Code, for inclusion in the report is also included in another report to be made by the institution of higher education to another state agency, to enter into a memorandum of understanding concerning the information to be reported in order to enable the institution of higher education to provide the required information in the most cost-effective manner taking into account the costs of each affected agency. Provides that this subsection does not limit the authority of the state auditor to request and receive information directly from an institution of higher education.

SECTION 4.02. Amends Section 2167.005, Government Code, to require the General Services Commission, an institution of higher education, and a state agency, if information to be included in the report is also included in another report to be made by the institution of higher education to another state agency, to enter into a memorandum of understanding concerning the information to be reported in order to enable the institution of higher education to provide the required information in the most cost-effective manner taking into account the costs of each affected agency.

ARTICLE 5. STRATEGIC PLANNING

SECTION 5.01. Amends Section 2056.001, Government Code, to redefine "state agency."

ARTICLE 6. OTHER FINANCIAL MATTERS

SECTION 6.01. Amends Chapter 54E, Education Code, by adding Section 54.5011, as follows:

Sec. 54.5011. CREDIT CARD FEES. Authorizes an institution of higher education that accepts payment of tuition, a fee, or other charge by credit card to charge the credit card user a fee for processing the payment. Prohibits a fee charged under this section from exceeding the amount charged the institution by the issuer of the credit card in connection with the payment. Requires the institution, before accepting a payment by credit card, to notify the student of any fee to be charged under this section.

SECTION 6.02. Repealer: Section 54.010 (Reduction in Tuition), Education Code, as added by Chapter 1053, Acts of the 76th Legislature, Regular Session, 1999.

ARTICLE 7. EFFECTIVE DATE

SECTION 7.01. Effective date: upon passage or September 1, 2001.

SUMMARY OF COMMITTEE CHANGES

Amends Engrossed H.B. 1545 as follows:

SECTION 1.01. Adds proposed text pertaining to the procurement of goods and services and the use of certain material by an institution of higher education.

SECTION 1.02. Adds proposed text pertaining to the purchase of insurance by an institution of higher education.

Redesignates SECTIONS 1.02-1.05 as SECTIONS 1.03-1.06.

SECTION 2.01. Amends proposed text pertaining to the adoption of a memorandum of understanding.

SECTIONS 2.02 and 2.03. No change.

SECTION 2.04. Amends proposed text pertaining to the employment and compensation of a certain retiree by an institution of higher education.

SECTIONS 2.05-2.10. No change.

SECTION 2.11. Redefines "state agency."

SECTION 2.12. Redefines "state agency."

SECTION 2.13. Adds proposed text pertaining to the applicability of this chapter.

SECTIONS 3.01-3.03. No change.

SECTION 3.04. Adds proposed text pertaining to the statute of limitations on collecting an educational debt.

SECTION 3.05. No change.

SECTION 3.06. Amends proposed text pertaining to the corporation being subject to Chapter 551 (Open Meetings), Government Code.

SECTIONS 4.01-5.01. No change.

SECTION 6.01. Makes technical changes.

SECTIONS 6.02-7.01. No change.