

## **BILL ANALYSIS**

Senate Research Center

S.B. 5  
By: Zaffirini  
Higher Education  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

S.B. 5 is designed to facilitate efficient operations, reduce institutional costs, and provide administrative flexibility to institutions of higher education. This is particularly important in the current budget climate in which institutions are being asked to do more with less.

Over time, state laws become a framework of micromanagement of the institutions. Requirements that apply to state agencies are sometimes made to apply to universities without consideration of the unique condition of many institutions. The converse also is occasionally true, where a state law that could benefit university operation fails to extend its application to universities. The accumulation of required reviews, approvals, and restrictions increase the costs of administration, often without sufficient corresponding value in coordination and oversight.

This is particularly true when one considers the reporting burdens often associated with statutory enactments. An institution of higher education in Texas has more than 200 reporting requirements imposed by law, rule, or policy. There is rarely due regard for whether a report that was necessary or useful at the time of adoption has lost its usefulness but remains on the books out of inertia.

S.B. 5 addresses all these issues of administration and business affairs with an overarching purpose of allowing institutions the best opportunity to operate in ways that are better, faster, less costly, and more productive.

As proposed, S.B. 5 amends current law relating to public institutions of higher education, including the administration, operation, financial management, and reporting requirements of those institutions.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to an institution of higher education in SECTION 2.02 (Section 51.9335, Education Code) of this bill.

Rulemaking authority is expressly granted to an institution of higher education or a university system in SECTION 2.03 (Section 51.9336, Education Code) of this bill.

Rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 1.02 (Section 51.011, Education Code) of this bill.

Rulemaking authority previously granted to the Texas Higher Education Coordinating Board (THECB) is rescinded in SECTIONS 4.02 (Section 61.0572, Education Code) and 7.01 (Sections 61.058 and 61.9626, Education Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

#### ARTICLE 1. FINANCIAL MANAGEMENT

SECTION 1.01. Amends Section 51.003(b), Education Code, to require that funds that are to be deposited in the depository bank or banks be deposited within seven days from the date of receipt by the institution, rather than within seven days from the date of collection.

SECTION 1.02. Amends Subchapter A, Chapter 51, Education Code, by adding Sections 51.010 and 51.011, as follows:

Sec. 51.010. COLLECTION OF DELINQUENT OBLIGATIONS. Provides that, if under the rules adopted by the attorney general under Chapter 2107 (Collection of Delinquent Obligations to State), Government Code, an institution of higher education is not required to refer a delinquent obligation for collection to the attorney general, the institution is not required to expend resources for further collection efforts if, considering the amount, security, likelihood of collection, expense, and available resources, the institution determines that further collection should not be actively pursued.

Sec. 51.011. DISPOSITION OF SMALL CREDIT BALANCES. (a) Provides that this section applies to a credit balance of less than \$25 held by an institution of higher education that is presumed abandoned under Chapter 72 (Abandonment of Personal Property), Property Code.

(b) Authorizes an institution of higher education to maintain an unclaimed money fund and transfer to that fund a credit balance to which this section applies. Requires the institution to hold and account for the fund as educational and general funds of the institution.

(c) Requires the institution to use the unclaimed money fund to pay the claims of persons establishing ownership of amounts transferred to the fund. Requires the institution, each fiscal year, after retaining money in the fund sufficient to pay anticipated expenses of and claims against the fund, to use the balance as other educational and general funds of the institution.

(d) Authorizes the comptroller of public accounts (comptroller), in consultation with institutions of higher education, by rule to establish minimum requirements for notice to owners of unclaimed money deposited in the unclaimed money fund and for charges for that notice. Prohibits the rules from providing stricter requirements than the comptroller applies for amounts of less than \$25 in the custody of the comptroller under Chapter 74, Property Code.

(e) Provides that, if an institution of higher education maintains an unclaimed money fund under this section, Chapter 74 (Report, Delivery, and Claim Process), Property Code, does not apply to a credit balance to which this section applies.

SECTION 1.03. Amends Section 65.42, Education Code, as follows:

Sec. 65.42. DELINQUENT ACCOUNTS; VENUE. Requires, rather than authorizes, that a suit by The University of Texas System on its own behalf or on behalf of a component institution of The University of Texas System to recover a delinquent loan, account, or debt owed to The University of Texas System or a component institution of The University of Texas System be brought in Travis County.

SECTION 1.04. Amends Section 1231.001, Government Code, by amending Subdivision (2) and adding Subdivision (3) to redefine "state security" and define "institution of higher education," respectively.

SECTION 1.05. Amends Section 1231.041, Government Code, as follows:

Sec. 1231.041. APPROVAL OF STATE SECURITY. (a) Creates this subsection from existing text. Prohibits an entity, including a state agency, except as otherwise provided by this section, from issuing a state security unless:

(1) the board approves the issuance; or

(2) the security is exempted under law, including a board rule adopted under Section 1231.022(2) (relating to exempting certain state securities from the application of certain provisions if the board finds that review of the securities is unnecessary or impractical).

(b) Provides that a state security issued by an institution of higher education, or issued at the request of or for the benefit of an institution of higher education, is not subject to board approval unless the general revenue of the state is pledged to the payment of the security.

SECTION 1.06. Amends Section 74.001, Property Code, by adding Subsection (c) to provide that this chapter does not apply to small credit balances held by an institution of higher education in an unclaimed money fund under Section 51.011, Education Code.

SECTION 1.07. Makes application of Section 51.011, Education Code, as added by this Act, prospective.

## ARTICLE 2. GOODS AND SERVICES

SECTION 2.01. Amends Section 51.923, Education Code, as follows:

Sec. 51.923. QUALIFICATIONS OF CERTAIN BUSINESS ENTITIES TO ENTER INTO CONTRACTS WITH AN INSTITUTION OF HIGHER EDUCATION. (a) Deletes existing definition of "corporation." Defines "business entity." Redefines "governing board" and "institution of higher education."

(b) Provides that a nonprofit corporation is not disqualified from entering into a contract or other transaction with an institution of higher education even though one or more members of the governing board of the institution of higher education also serves as a member, director, officer, or employee of the nonprofit corporation.

(c) Provides that a business entity is not disqualified from entering into a contract or other transaction with an institution of higher education even though one or more members of the governing board of the institution of higher education have an interest in the business entity, subject to Subsection (d), rather than providing that a corporation is not disqualified from entering into a contract or other transaction with an institution of higher education even though one or more members of the governing board of the institution of higher education also serves as a stockholder or director of the corporation provided that no member of the governing board owns or has a beneficial interest in more than five percent of the corporation's outstanding capital stock and further provided that the contract or transaction is an affiliation, licensing, or sponsored research agreement, or awarded by competitive bidding or competitive sealed proposals.

(d) Provides that an institution of higher education is not prohibited from entering into a contract or other transaction with a business entity in which a member of the governing board of the institution of higher education has an interest if the interest is not a substantial interest or, if the interest is a substantial interest, the board member discloses that interest in a meeting held in compliance with Chapter 551 (Open Meetings), Government Code, and refrains from voting on the contract or transaction requiring board approval. Requires that any such contract or transaction requiring board approval be approved by an affirmative majority of the board members voting on the contract or transaction.

(e) Provides that, for purposes of this section, a member of a governing board has a substantial interest in a business entity if:

(1) the member owns 10 percent or more of the voting stock or shares of the business entity or owns either 10 percent or more or \$15,000 or more of the fair market value of the business entity;

(2) funds received by the member from the business entity exceed 10 percent of the member's gross income for the previous year;

(3) the member is an officer of the business entity or a member of the governing board of the business entity; or

(4) an individual related to the member in the first degree by consanguinity or affinity, as determined under Chapter 573 (Degrees of Relationship; Nepotism Prohibitions), Government Code, has an interest in the business entity as described by Subdivision (1), (2), or (3).

(f) Provides that a violation of this section does not render an action of the governing board voidable unless the contract or transaction that was the subject of the action would not have been approved by the governing board without the vote of the member who violated this section.

SECTION 2.02. Amends Section 51.9335, Education Code, by amending Subsections (d), (e), (f) and adding Subsections (g) and (h), as follows:

(d) Provides that, to the extent of any conflict, this section prevails over any other law, including Chapters 2155 (Purchasing: General Rules 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, rather than 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.

(e) Redefines "institution of higher education."

(f) Provides that, except as otherwise provided by this section, Subtitle D (State Purchasing and General Services), Title 10 (General Government), Government Code, and Chapter 2254 (Professional and Consulting Services), Government Code, do not apply to purchases of goods and services under this section, rather than providing that this section does not apply to professional services as defined by 2254.002 (Definitions), Government Code.

(g) Authorizes an institution of higher education to adopt rules and procedures for the acquisition of goods or services.

(h) Provides that, in any contract for the acquisition of goods and services to which an institution of higher education is a party, a provision required by applicable law to be included in the contract is considered to be a part of the executed contract without regard to:

(1) whether the provision appears on the face of the contract; or

(2) whether the contract includes any provision to the contrary.

SECTION 2.03. Amends Subchapter Z, Chapter 51, Education Code, by adding Sections 51.9336 and 51.9338, as follows:

Sec. 51.9336. ELECTRONIC SIGNATURES. (a) Requires an institution of higher education or university system, as those terms are defined by Section 61.003 (Definitions), to determine whether, and the extent to which, the institution or system will

send and accept electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely on electronic signatures. Authorizes the institution or system to adopt rules and procedures governing the use of electronic signatures.

(b) Provides that, to the extent of any conflict, this section prevails over Chapter 322 (Uniform Electronic Transactions Act), Business & Commerce Code, and rules and guidelines adopted under that chapter.

Sec. 51.9338. INTERAGENCY CONTRACTS FOR INFORMATION RESOURCE TECHNOLOGIES. (a) Defines "institution of higher education" and "university system."

(b) Provides that Section 2054.119 (Bids or Proposals for Interagency Contracts), Government Code, does not apply to an interagency contract for information resources technologies between two or more institutions of higher education or between an institution of higher education or university system and one or more state agencies, institutions of higher education, or university systems.

SECTION 2.04. Amends Section 51.966, Education Code, by amending Subsection (c) and adding Subsection (d), as follows:

(c) Provides that Section 612.002 (Liability Insurance for Certain State Employees), Government Code, does not apply to an institution of higher education or university system purchasing insurance under this section.

(d) Defines, in this section, "governing board," "institution of higher education," and "university system."

SECTION 2.05. Amends Section 153.006(a), Education Code, to authorize an institution of higher education, in order to carry out the purposes of this chapter and to support the activities of centers described in this chapter, to the extent authorized by its governing board, to perform certain actions, including without the necessity of approval by the attorney general under Section 402.0212 (Provision of Legal Services--Outside Counsel), Government Code, or other law, to enter into contracts for certain legal services with a competent lawyer or law firm.

SECTION 2.06. Amends Section 402.0212, Government Code, by adding Subsection (d), as follows:

(d) Authorizes the attorney general to review and approve a standard form contract of a university system or institution of higher education for the procurement of legal services to be provided to the system or institution. Provides that, if the attorney general approves a standard form, the attorney general is not required under this section to approve individual contracts that are in substantial compliance with the approved form or to approve invoices under those contracts. Authorizes the attorney general to conduct an annual review of the approved standard form and any signed contracts using that form, and for that purpose to collect a fee, established in consultation with the university system or institution of higher education, reasonably estimated to cover the expenses of that review. Defines, in this subsection, "institution of higher education" and "university system."

SECTION 2.07. Amends Subchapter C, Chapter 791, Government Code, by adding Section 791.035, as follows:

Sec. 791.035. CONTRACTS WITH INSTITUTIONS OF HIGHER EDUCATION OR UNIVERSITY SYSTEMS. (a) Authorizes a local government and an institution of higher education or university system to contract with one another to perform any governmental functions and services. Provides that, if the terms of the contract provide for payment based on cost recovery, any law otherwise requiring competitive procurement does not apply to the functions and services covered by the contract.

(b) Defines "institution of higher education" and "university system."

SECTION 2.08. Amends Section 2107.003(e), Government Code, to create an exception under Section 2254.110.

SECTION 2.09. Amends Section 2155.078(n), Government Code, to provide that this section does not apply to an institution, rather than a medical and dental unit, to which Section 51.9335 (Acquisition of Goods and Services), Education Code, applies or to an institution to which Section 73.115 (Acquisition of Goods and Services), Education Code, applies.

SECTION 2.10. Amends Section 2254.102(c)(1), Government Code, to create an exception under Section 2254.110.

SECTION 2.11. Amends Subchapter C, Chapter 2254, Government Code, by adding Section 2254.110, as follows:

Sec. 2254.110. COLLECTION ACTION BY INSTITUTION OF HIGHER EDUCATION. (a) Defines, in this section, "institution of higher education."

(b) Authorizes a person awarded a contract under Chapter 2107 by an institution of higher education for a routine collection matter to file suit or otherwise pursue judicial action to collect the obligation owed in a court of this state or another state on behalf of the institution.

SECTION 2.12. Amends Section 31.401, Natural Resources Code, by amending Subsections (a) and (d) and adding Subsection (b-1), as follows:

(a) Requires the land office, except as otherwise provided by Subsection (b-1), to review and approve any contract entered into by a state agency for the acquisition of an annual average of 100 MCF per day or more of natural gas used to meet its energy requirements.

(b-1) Provides that a contract described by Subsection (a) entered into by an institution of higher education or university system is not required to be reviewed or approved by the land office, but on request of the land office the institution or system is required to provide a copy of the executed contract to the land office.

(d) Defines, in this section, "institution of higher education" and "university system." Makes nonsubstantive changes.

SECTION 2.13. Amends Section 36.351, Utilities Code, by adding Subsection (h), as follows:

(h) Provides that this section has been in full force and effect from original enactment. Provides that Section 63 (relating to requiring to continue to offer electric service to certain institutions of higher education at a certain rate), Chapter 405 (relating to electric utility restructuring and to the powers and duties of the Public Utility Commission of Texas, Office of Public Utility Counsel, and Texas Natural Resource Conservation Commission and providing penalties), Acts of the 76th Legislature, Regular Session, 1999, did not provide for the expiration of this section and does not excuse a transmission and distribution company, or any other electric utility, from providing the discounts required by this section.

SECTION 2.14. Amends Section 58.251, Utilities Code, by adding Subsection (a-1) to define "institution of higher education."

SECTION 2.15. Amends Section 58.258(a), Utilities Code, to prohibit an electing company's rates for private network services, notwithstanding the pricing flexibility authorized by this subtitle, from being increased before January 1, 2012, or, for services provided to an institution of higher education, before January 1, 2023.

SECTION 2.16. Amends Section 58.268, Utilities Code, to require an electing company, notwithstanding any other provision of this title, to continue to comply with this subchapter until January 1, 2012, or, with respect to services provided to an institution of higher education, until September 1, 2023, regardless of a certain date or action.

SECTION 2.17. Amends Section 59.071, Utilities Code, by adding Subdivision (1-a) to define "institution of higher education."

SECTION 2.18. Amends Section 59.077(a), Utilities Code, to prohibit an electing company's rates for private network services, notwithstanding the pricing flexibility authorized by this subtitle, from being increased before January 1, 2012, or, for services provided to an institution of higher education, before September 1, 2023.

SECTION 2.19. Amends Section 59.083, Utilities Code, to require an electing company, notwithstanding any other provision of this title, to continue to comply with this subchapter until January 1, 2012, or, with respect to services provided to an institution of higher education, before September 1, 2023, regardless of a certain date or action.

### ARTICLE 3. HUMAN RESOURCES

SECTION 3.01. Amends Subchapter Z, Chapter 51, Education Code, by adding Section 51.9611, as follows:

Sec. 51.9611. PAYROLL DEDUCTIONS FOR EMPLOYEES OF UNIVERSITY SYSTEM OR INSTITUTION OF HIGHER EDUCATION. (a) Defines, in this section, "institution of higher education" and "university system."

(b) Authorizes the governing board of a university system (board), or of an institution of higher education that is not a component institution of a university system, to authorize employees of the system or institution, as applicable, to elect a payroll deduction for any purpose that the governing board determines serves a public purpose and benefits employees. Authorizes the board to adopt policies and procedures governing payroll deductions under this section. Provides that a payroll deduction under this section is in addition to payroll deductions authorized by other law.

(c) Requires that a payroll deduction under this section be at the written request of the employee and state the amount to be deducted and the entity to which the deducted amount is to be transferred. Provides that a payroll deduction is in effect until revoked in writing by the employee, but authorizes the policies and procedures of the system or institution, as applicable, to provide for enrollment periods.

(d) Authorizes a system or institution to collect an administrative fee to cover the costs of making a deduction.

SECTION 3.02. Amends Section 1601.004(a), Insurance Code, to redefine "dependent."

SECTION 3.03. Amends Subchapter C, Chapter 1601, Insurance Code, by adding Section 1601.111, as follows:

Sec. 1601.111. PROGRAMS PROMOTING DISEASE PREVENTION, WELLNESS, AND HEALTH. Authorizes a system to establish premium discounts, surcharges, rebates, or a revision in otherwise applicable copayments, coinsurance, or deductibles, or any combination of those incentives, for an individual who participates in system-approved programs promoting disease prevention, wellness, and health.

### ARTICLE 4. REAL ESTATE AND CONSTRUCTION

SECTION 4.01. Amends Section 51.951(a), Education Code, as follows:

(a) Provides that information related to the development, location, purchase price, or sale price of real property developed, purchased, or sold by or for an institution of higher education, as defined by Section 61.003, including a contract provision related to the development, purchase, or sale of the property, is confidential and exempt from disclosure under Chapter 552 (Public Information), Government Code, until all deeds for the property that are applicable to the transaction or series of related transactions are executed and until all substantive performance or executor requirements of applicable contracts have been satisfied, rather than until a deed for the property is executed.

SECTION 4.02. Amends Sections 61.0572(b), (d), and (e), Education Code, as follows:

(b) Deletes existing text requiring the Texas Higher Education Coordinating Board (THECB) to endorse, or delay until the next succeeding session of the legislature has the opportunity to approve or disapprove, the proposed purchase of any real property by an institution of higher education, except a public junior college, and to develop and publish standards, rules, and regulations to guide the institutions and agencies of higher education in making application for the approval of new construction and major repair and rehabilitation of all buildings and facilities regardless of proposed use.

(d) Authorizes THECB to review purchases of improved real property added to an institution's educational and general buildings and facilities inventory to determine whether the property meets the standards adopted by the board for cost, efficiency, and space use, but provides that the purchase of the improved real property is not contingent on board approval. Requires THECB, if the property does not meet those standards, to notify the governor, the lieutenant governor, the speaker of the house of representatives, and the Legislative Budget Board.

Deletes existing text authorizing THECB, for purposes of state funding, to review and approve as an addition to an institution's educational and general buildings and facilities inventory any improved real property acquired by gifts or lease-purchase only if the institution requests to place the improved real property on its educational and general buildings and facilities inventory and the value of the improved real property is more than \$300,000 at the time the institution requests the property to be added to the educational and general buildings and facilities inventory. Deletes existing text providing that this subsection does not apply to gifts, grants, or lease-purchase arrangements intended for clinical or research facilities.

Deletes existing text of Subsection (e) providing that approval of THECB is not required to acquire real property that is financed by bonds issued under certain sections, except that THECB is required to review all real property to be financed by bonds issued under those sections.

SECTION 4.03. Amends Sections 61.058(a) and (b), Education Code, as follows:

(a) Provides that this section does not apply to the buildings and facilities that are to be used exclusively for auxiliary enterprises and will not require appropriations from the legislature for operation, maintenance, or repair.

Deletes existing text requiring THECB, except as provided by Subsection (b) of this section, to approve or disapprove all new construction and repair and rehabilitation of all buildings and facilities at institutions of higher education financed from any source provided that THECB's consideration and determination shall be limited to the purpose for which the new or remodeled buildings are to be used to assure conformity with approved space utilization standards and the institution's approved programs and role and mission if the cost of the project is not more than \$4,000,000, but authorizing THECB to consider cost factors and the financial implications of the project to the state if the total cost is in excess of \$4,000,000; the requirement of approval for new construction applies only to projects the total cost of which is in excess of \$4,000,000; the requirement of approval for major repair and rehabilitation of buildings and facilities applies only to a



project the total cost of which is more than \$4,000,000; the requirement of approval or disapproval by THECB does not apply to any new construction or major repair and rehabilitation project that is specifically approved by the legislature; the requirement of approval by THECB does not apply to a junior college's construction, repair, or rehabilitation financed entirely with funds from a source other than the state, including funds from ad valorem tax receipts of the college, gifts, grants, and donations to the college, and student fees; and the requirement of approval by THECB does not apply to construction, repair, or rehabilitation of privately owned buildings and facilities located on land leased from an institution of higher education if the construction, repair, or rehabilitation is financed entirely from funds not under the control of the institution, and provided further that the buildings and facilities are to be used exclusively for auxiliary enterprises, and the buildings and facilities will not require appropriations from the legislature for operation, maintenance, or repair unless approval by THECB has been obtained.

(b) Authorizes THECB to review all construction, repair, or rehabilitation of buildings and facilities at institutions of higher education to determine whether the construction, rehabilitation, or repair meets the standards adopted by THECB rule for cost, efficiency, and space use, but provides that the construction, rehabilitation, or repair is not contingent on THECB approval, rather than providing that this section does not apply to construction, repair, or rehabilitation financed by bonds issued under certain sections, except that the THECB is required review all construction, repair, or rehabilitation to be financed by bonds issued under those sections to determine whether the construction, rehabilitation, or repair meets the standards adopted by THECB rule for cost, efficiency, and space use.

SECTION 4.04. Amends Section 2166.302(c), Government Code, as follows:

(c) Provides that Subsection (a) (relating to adopting uniform general conditions to be incorporated into all building construction contracts made by the state) does not apply to a project constructed by and for the Texas Department of Transportation or an institution of higher education or university system. Defines, in this subsection, "institution of higher education" and "university system."

SECTION 4.05. Amends Section 2166.403(c-1), Government Code, as follows

(c) Requires a state institution of higher education, rather than the governing body of the institution, for a project constructed by and for a state institution of higher education, during the planning phase of the proposed construction for the project, to verify the economic feasibility of incorporating into the building's design and proposed energy system alternative energy devices for space heating and cooling functions, water heating functions, electrical load functions, and interior lighting functions. Deletes existing text requiring the institution to verify the economic feasibility in an open meeting. Makes conforming changes.

SECTION 4.06. Amends Section 2167.001(b), Government Code, to provide that this chapter does not apply to certain spaces, including, except as provided by Section 2167.007 (Leasing Services to State Agencies), space for a university system or institution of higher education, rather than classroom and instructional space for an institution of higher education.

SECTION 4.07. Amends Section 33.06, Tax Code, by adding Subsection (g), as follows:

(g) Requires an individual, if the ownership interest of an individual entitled to defer collection of a tax under this section is a life estate, to submit with the affidavit required by Subsection (b) (relating to requiring an individual to file with the chief appraiser for the appraisal district in which the property is located an affidavit stating certain facts) the written consent to the deferral of any university system or institution of higher education that is an owner of a remainder interest in the property on which taxes are to be deferred. Provides that, in the absence of that consent, a lien for taxes attaches only to the life estate of the life tenant. Defines, in this subsection, "institution of higher education" and

"university system." Provides that this subsection does not apply to a deferral for which the individual entitled to the deferral filed the affidavit required by Subsection (b) before September 1, 2011.

## ARTICLE 5. BOARD APPOINTMENTS

SECTION 5.01. Amends Section 552.123, Government Code, to provide that the name of an applicant for the position of chief executive officer of an institution of higher education, and other information that would tend to identify the applicant, is excepted from the requirements of Section 552.021 (Availability of Public Information), except that the governing body of the institution must give public notice of the name or names of the finalists being considered for the position at least 21 days before the date of the meeting at which final action or vote is to be taken on the employment of the person.

SECTION 5.02. Amends Section 95.006(b), Health and Safety Code, to delete one representative who is a member of the board of regents of The University of Texas--Pan American from the composition of the Type 2 Diabetes Risk Assessment Program Advisory Committee.

SECTION 5.03. Amends Sections 2.03(a) and (c), Chapter 670, Acts of the 72nd Legislature, 1991 (Article 4477-7j, V.T.C.S.), as follows:

- (a) Deletes existing text requiring the board of regents of The University of Texas System to appoint one person to serve as an ex-officio nonvoting director of the district.
- (c) Deletes existing text providing that the initial ex-officio member serves a term expiring on May 1 of the second year after the year in which the original appointment is made.

SECTION 5.04. Amends Section 3.01(a), Chapter 670, Acts of the 72nd Legislature, 1991 (Article 4477-7j, V.T.C.S.), to delete existing text relating to one ex-officio nonvoting member serving as a member of the board of directors governing the district.

## ARTICLE 6. REPORTS; RECORDS; AUDITS; NOTICES

SECTION 6.01. Amends Section 51.403(d), Education Code, to delete existing text requiring each institution to file with its governing board and THECB a small class report, excluding individual instruction courses, indicating department, course number, title of course, and the name of the instructor. Defines, for purposes of this subsection, "small classes."

SECTION 6.02. Amends Subchapter H, Chapter 51, Education Code, by adding Section 51.406, as follows:

Sec. 51.406. EXPIRATION OF CERTAIN REPORTING REQUIREMENTS APPLICABLE TO INSTITUTIONS OF HIGHER EDUCATION AND UNIVERSITY SYSTEMS. (a) Defines "university system."

(b) Provides that, to the extent that any of the following laws require reporting by a university system or an institution of higher education, a university system or institution of higher education is not required to make the report on or after September 1, 2013, unless legislation enacted by the 83rd Legislature that becomes law expressly requires the institution or system to make the report:

- (1) Section 7.109 (Designation as State Board for Career and Technology Education);
- (2) Section 33.083 (Interscholastic Leagues);

- (3) Sections 51.005(a) (relating to a report of all accounts and all funds collected from all sources and of all sums paid out), (b) (relating to the form of the report), and (c) (relating to whom the report must be given);
- (4) Section 51.0051 (Annual Operating Budgets);
- (5) Section 51.4032 (Annual Report of Participation in Higher Education);
- (6) Section 56.039 (Full Use of Funds);
- (7) Section 59.07 (Exemption From Insurance Code; Report);
- (8) Section 61.051(j) (relating to prohibiting off-campus courses for credit from being offered without prior approval);
- (9) Section 130.086 (Branch Campuses);
- (10) Section 325.007 (Agency Report to Commission), Government Code;
- (11) Section 669.003 (Contracting with Executive Head of State Agency), Government Code;
- (12) Section 2005.007 (Reports), Government Code;
- (13) Section 2052.103 (Reports), Government Code;
- (14) Section 2054.097 (Analysis of Information Resources Deployment Review), Government Code;
- (15) Section 2101.011 (Financial Information Required of State Agencies), Government Code;
- (16) Section 2102.009 (Annual Report), Government Code;
- (17) Chapter 2114 (Customer Service), Government Code;
- (18) Section 2161.123 (Strategic Planning), Government Code;
- (19) Section 2205.041 (Aircraft Use Form), Government Code;
- (20) Section 21.454 (Compliance Report), Labor Code; and
- (21) Section 21.504 (Annual Report), Labor Code.

(c) Provides that a rule or policy of a state agency, including THECB, in effect on June 1, 2011, that requires reporting by a university system or an institution of higher education has no effect on or after September 1, 2013, unless the rule or policy is affirmatively and formally readopted before that date by formal administrative rule published in the Texas Register and adopted in compliance with Chapter 2001, Government Code. Provides that this subsection does not apply to:

- (1) a rule or policy for which the authorizing statute is listed in Subsection (b);
- (2) a rule or policy for which the authorizing statute is repealed on or before September 1, 2013, by legislation enacted by the legislature that becomes law; or
- (3) a report required under any of the following laws:

(A) Section 51.3062 (Success Initiative);

(B) Section 51.402 (Report of Institutional and Academic Duties);

(C) Section 51.403 (Reports of Student Enrollment and Academic Performance);

(D) Section 61.051(k) (relating to establishing and maintaining a management information system); or

(E) Section 61.059 (Appropriations).

SECTION 6.03. Amends Section 61.051(h), Education Code, to provide that the submission by an institution of the institution's response to the National Science Foundation's annual Higher Education Research and Development Survey satisfies the requirements of this section.

SECTION 6.04. Amends Section 61.0582, Education Code, by adding Subsection (f) to provide that this section does not apply to a university system that maintains an ongoing system-wide capital improvement program approved by the system's board of regents.

SECTION 6.05. Amends Section 401.042, Government Code, by adding Subsection (c), to require the offices of the governor and the Legislative Budget Board, in consultation with public institutions of higher education, to review the forms for higher education legislative appropriations requests to identify opportunities to improve efficiency, provide better transparency of funding sources, eliminate unnecessary or duplicative requirements, and otherwise reduce the cost or difficulty of providing information related to appropriations requests.

SECTION 6.06. Amends Subchapter L, Chapter 403, Government Code, by adding Section 403.2715, as follows:

Sec. 403.2715. UNIVERSITY SYSTEMS AND INSTITUTIONS OF HIGHER EDUCATION. (a) Defines, in this section, "institution of higher education" and "university system."

(b) Provides that, except as provided by this section, this subchapter does not apply to a university system or institution of higher education.

(c) Requires a university system or institution of higher education to account for all personal property as defined by the comptroller under Section 403.272 (Responsibility for Property Accounting). Requires the property records of a university system or institution of higher education, at all times, to accurately reflect the personal property possessed by the system or institution.

(d) Requires the chief executive officer of each university system or institution of higher education to designate one or more property managers. Requires the property manager to maintain the records required and be the custodian of all personal property possessed by the system or institution.

(e) Provides that Sections 402.273(h), 403.275 (Liability for Property Loss), and 403.278 (Transfer of Personal Property) apply to a university system or institution of higher education.

SECTION 6.07. Amends Section 2054.1125, Government Code, by adding Subsection (c), as follows:

(c) Provides that this section does not apply to a university system or institution of higher education that adopts procedures for notifying affected individuals of a breach of

information system security. Defines "institution of higher education" and "university system."

SECTION 6.08. Amends Section 2101.0115(d), Government Code, by adding Subdivision (4) to define "institution of higher education" and "university system."

SECTION 6.09. Amends Section 2102.0115, Government Code, by adding Subsection (e) to provide that this section does not apply to an institution of higher education or university system.

SECTION 6.10. Amends Section 2254.028(c), Government Code, to provide that Subsection (a) (relating to certain required actions before a state agency can enter into a major consulting services contract), rather than Subsection (a)(3) (relating to obtaining a finding of fact from the governor's Budget and Planning Office that the consulting services are necessary), does not apply to a major consulting services contract to be entered into by an institution of higher education other than a public junior college if the institution includes in the invitation published under Section 2254.029 (Publication in Texas Register Before Entering into Major Consulting Services Contract) a finding by the chief executive officer of the institution that the consulting services are necessary and an explanation of that finding.

SECTION 6.11. Amends Section 2254.0301, Government Code, as follows:

(a) Creates this subsection from existing text. Makes no further changes.

(b) Provides that this section does not apply to a university system or institution of higher education. Defines, in this subsection, "institution of higher education" and "university system."

SECTION 6.12. Amends Section 388.005(f), Health and Safety Code, to provide that the exemption provided by this section applies only while the agency or institution has an energy conservation plan in effect and only if the agency or institution submits reports on the conservation plan each year, rather than each calendar quarter, to the governor, the Legislative Budget Board, and the State Energy Conservation Office. Makes a nonsubstantive change.

SECTION 6.13. Amends Section 21.552, Labor Code, by adding Subsection (c), as follows:

(c) Provides that this section does not apply to a university system or institution of higher education, except to the extent required by federal law. Defines, in this subsection, "institution of higher education" and "university system."

SECTION 6.14. Amends Section 412.053, Labor Code, by adding Subsection (c), as follows:

(c) Provides that this section does not apply to an institution of higher education or university system. Defines, in this subsection, "institution of higher education" and "university system."

SECTION 6.15. Amends Section 31.153(d), Natural Resources Code, to require each state agency, other than an institution of higher education, annually at the time set by the division, to furnish the Texas Historical Commission with a photograph and information that specifies and identifies the age of each building that meets certain criteria.

## ARTICLE 7. REPEALER

SECTION 7.01. (a) Repealers, effective September 1, 2011:

(1) Section 51.4033 (Report of Efforts Concerning Timely Graduation), Education Code;

(2) Section 55.03(b) (relating to requiring the board of regents to file with the governor and each house of the legislature a written report containing certain information for the previous academic year), Education Code;

- (3) Section 61.058(c) (relating to authorizing the board by rule to increase the required total cost threshold), Education Code;
- (4) Section 61.0815 (Report on Higher Education Employees Serving as Expert Witnesses in Certain Suits), Education Code;
- (5) Section 61.086 (Uniform Recruitment and Retention Strategy), Education Code;
- (6) Section 62.098 (Annual Report), Education Code;
- (7) Section 74.008(f) (relating to providing that this section does not apply to purchases of professional services), Education Code;
- (8) Section 830.006 (Reports from Institutions), Government Code;
- (9) Section 1434.054 (Project Approval by Texas Higher Education Coordinating Board), Government Code;
- (10) Section 2107.005 (Reports to Attorney General), Government Code;
- (11) Section 412.042(c) (relating to providing a written report to the Legislative Budget Board identifying policies purchased under any line of insurance other than life or health insurance), Labor Code; and
- (12) Section 3.01(c) (relating to the change to a system of electing the voting directors not applying to or affecting the ex-officio nonvoting director appointed by the board of regents of The University of Texas System), Chapter 670 (Gaines County Solid Waste Management Act), Acts of the 72nd Legislature, 1991 (Article 4477-7j, Vernon's Texas Civil Statutes).

(b) Repealers, effective September 1, 2013:

- (1) Section 51.859 (Annual Reports), Education Code;
- (2) Section 51.917(e) (relating to the submission, approval, and monitoring of an established program or short course), Education Code;
- (3) Section 51.968(d) (relating to reporting and including a certain policy with an institution's undergraduate application materials), Education Code;
- (4) Section 54.203(h) (relating to electronically reporting to THECB certain required information), Education Code;
- (5) Section 56.034(c) (relating to requiring that adopted guidelines be submitted to THECB), Education Code;
- (6) Section 56.079(j) (relating to requiring each eligible institution participating in the work-study student mentorship program to submit to THECB a report regarding the progress resulting from the institution's participation in the program), Education Code;
- (7) Section 61.066(c) (relating to conducting a biennial study to determine the total cost of attending each institution of higher education and the resources used by students to cover that cost), Education Code;
- (8) Section 61.806(f) (relating to requiring each eligible entity that receives financial assistance to submit certain information), Education Code;

- (9) Section 61.857 (Report; Review of Five-Year Plan), Education Code;
- (10) Section 61.9626 (Annual Report), Education Code;
- (11) Section 61.9627(b) (relating to requiring each professional nursing program receiving money to file a report annually with THECB accounting for all money received), Education Code;
- (12) Section 63.003(d) (relating to authorizing the Baylor College of Medicine to receive funds only if the institution provides the comptroller certain information meeting certain conditions), Education Code;
- (13) Section 63.004 (Reporting Requirement), Education Code;
- (14) Section 63.103 (Reporting Requirement), Education Code;
- (15) Section 86.52(m) (relating to requiring the Real Estate Research Center to file with the governor and the presiding officer of each house of the legislature a written report accounting for all funds received and disbursed by the center during the preceding year), Education Code;
- (16) Section 88.210 (Reports), Education Code;
- (17) Section 106.54 (Biennial Report), Education Code;
- (18) Section 142.005 (Progress Reports), Education Code;
- (19) Section 143.006 (Progress Reports), Education Code;
- (20) Section 147.005 (Progress Reports), Education Code;
- (21) Section 148.005 (Progress Reports), Education Code; and
- (22) Section 153.008 (Biennial Report), Education Code.

#### ARTICLE 8. EFFECTIVE DATE

SECTION 8.01. Effective date: upon passage or September 1, 2011.