

BILL ANALYSIS

Senate Research Center

S.B. 18
By: Nelson et al.
Finance
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Last session, the legislature made significant progress to address health care workforce needs by expanding graduate medical education with the goal of keeping Texas medical school graduates in Texas. The need for additional residency slots is increasing due to our growing population and higher numbers of medical school graduates as new medical schools are established in Texas.

S.B. 18 is intended to help Texas reach the goal of a 1.1-to-1 ratio of residency slots to medical graduates with a priority placed on addressing critical shortages. S.B. 18 also lays the foundation for a long-term funding solution by creating a permanent endowment of roughly \$300 million to be used solely to help expand graduate medical education starting in fiscal year 2018.

S.B. 18 amends current law relating to measures to support or enhance graduate medical education in this state, including the transfer of certain assets from the Texas Medical Liability Insurance Underwriting Association to the permanent fund supporting graduate medical education and the authority of the association to issue new policies.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Higher Education Coordinating Board is rescinded in SECTION 9 (Section 61.511, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 58A.001, Education Code, as follows:

Sec. 58A.001. New heading: DEFINITIONS. Defines "board," "center," "community-based, ambulatory patient care center," "first-year residency position," "graduate medical education program," "hospital," "medical school," "sponsoring institution," and "teaching hospital."

Makes nonsubstantive changes.

SECTION 2. Amends Subchapter A, Chapter 58A, Education Code, by adding Sections 58A.002 and 58A.003, as follows:

Sec. 58A.002. PERMANENT FUND SUPPORTING GRADUATE MEDICAL EDUCATION. (a) Defines "trust company."

(b) Provides that the permanent fund supporting graduate medical education is a special fund in the treasury outside the general revenue fund. Provides that the fund is composed of:

- (1) money transferred or appropriated to the fund by the legislature;
- (2) gifts and grants contributed to the fund; and
- (3) the returns received from investment of money in the fund.

(c) Requires the Texas Treasury Safekeeping Trust Company (trust company) to administer the fund. Requires the trust company to determine the amount available from the fund, determined in accordance with a distribution policy that is adopted by the comptroller of public accounts of the State of Texas (comptroller) and designed to preserve the purchasing power of the fund's assets and to provide a stable and predictable stream of annual distributions. Requires that expenses of managing the fund's assets be paid from the fund. Prohibits money in the fund from being used for any purpose, except as provided by this section. Provides that Sections 403.095 (Use of Dedicated Revenue) and 404.071 (Disposition of Interest on Investments), Government Code, do not apply to the fund.

(d) Authorizes the trust company, in managing the assets of the fund, through procedures and subject to restrictions the trust company considers appropriate, to acquire, exchange, sell, supervise, manage, or retain any kind of investment that a prudent investor, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances of the fund then prevailing, taking into consideration the investment of all the assets of the fund rather than a single investment.

(e) Requires that the amount available for distribution from the fund be appropriated only:

(1) to the Texas Higher Education Coordinating Board (THECB) to fund the programs created under this chapter; or

(2) as otherwise directed by the legislature.

(f) Authorizes a public or private institution of higher education or other entity that may receive money under a program described by Subsection (e) to solicit and accept gifts and grants to be deposited to the credit of the fund. Requires that a gift or grant to the fund be distributed and appropriated for the purposes of the fund, subject to any limitation or requirement placed on the gift or grant by the donor or granting entity.

Sec. 58A.003. REDUCTION IN FUNDING. (a) Requires THECB to limit or withhold funding from any grant recipient under this chapter that does not comply with reporting requirements or that uses grant funds for a purpose not authorized by this chapter for the grant awarded.

(b) Requires THECB to seek reimbursement with respect to any grant funds that are not used for purposes authorized by this chapter for the grant awarded.

SECTION 3. Amends Section 58A.022, Education Code, as follows:

Sec. 58A.022. New heading: GRADUATE MEDICAL EDUCATION PLANNING AND PARTNERSHIP GRANTS. (a) Requires THECB to award one-time graduate medical education planning and partnership grants to hospitals, medical schools, and community-based, ambulatory patient care centers located in this state that seek to develop new graduate medical education programs with first-year residency positions, regardless of whether the grant recipient currently offers or has previously offered a graduate medical education program with first-year residency positions, rather than requires THECB to award one-time planning grants to entities located in this state that have never had a graduate medical education program and are eligible for Medicare funding of graduate medical education.

(b) Requires THECB to award graduate medical education planning and partnership grants on a competitive basis according to criteria adopted by THECB. Requires that a grant received under this section be used for the purpose

of planning a new graduate medical education program with first-year residency positions, rather than additional first-year residency positions.

(c) Provides that a hospital, medical school, or community-based, ambulatory patient care center that is awarded a graduate medical education planning and partnership grant and that establishes new first-year residency positions after receipt of the grant is eligible to apply for additional funds under Section 58A.024 for each such position established, as provided by appropriation.

Deletes existing text of Subsection (c) requiring that an application for a planning grant for a state fiscal year be submitted to THECB not later than July 15 preceding that fiscal year, and requiring THECB, not later than August 15, to make decisions about grant awards for the following state fiscal year.

Deletes existing text of Subsection (d) providing that an entity that is awarded a planning grant and establishes new first-year residency positions after receipt of the grant is eligible for additional funds for each such position established, as provided by appropriation.

(d) Authorizes a hospital, medical school, or community-based, ambulatory patient care center to partner with an existing graduate medical education program or sponsoring institution for purposes of planning a new graduate medical education program using grant funds awarded under this section.

Makes nonsubstantive changes.

SECTION 4. Amends Section 58A.023, Education Code, as follows:

Sec. 58A.023. GRANTS FOR UNFILLED RESIDENCY POSITIONS. (a) Requires THECB to award grants to graduate medical education programs to enable those programs to fill first-year residency positions that are accredited but unfilled as of July 1, 2013.

(b) Requires that a grant received under this section be expended to support resident stipends and benefits and other direct resident costs to the program, rather than requires that a grant received under this section be expended to support the direct resident costs to the program, including the resident stipend and benefits.

(c) Deletes existing text requiring that an application for a grant be submitted to THECB not later than October 1 preceding the period for which the grant is made, and requiring THECB to make decisions about grant awards not later than January 1 preceding the grant period.

(d) Makes no change to this subsection.

(e) Provides that grant amounts are awarded under this section for the duration of the period in which the resident who initially fills the residency position continues to hold that position, rather than provides that grant amounts are awarded under this section for two consecutive state fiscal years. Deletes existing text requiring THECB, for each first-year residency position for which a program receives an initial grant amount in a fiscal year, to award the program an equal grant amount for the following fiscal year.

Makes nonsubstantive changes.

SECTION 5. Amends Section 58A.024, Education Code, as follows:

Sec. 58A.024. GRANTS FOR PROGRAM EXPANSION OR NEW PROGRAM. (a) Requires THECB to award grants to enable new or existing graduate medical education programs to increase the number of first-year residency positions, rather than to increase

the number of first-year residency positions or to provide for the establishment of new graduate medical education programs with first-year residency positions.

(b) Creates this section from existing Subsection (c) and deletes existing text requiring that an application for a grant be submitted to THECB not later than October 1 preceding the period for which the grant is made and requiring THECB to make decisions about grant awards not later than January 1 preceding the grant period.

Deletes existing Subsection (b) text requiring that a grant received under this section be expended to support the direct resident costs to the program, including the resident stipend and benefits.

(c) Creates this subsection from existing Subsection (d) and makes no further change to this subsection.

(d) Creates this subsection from existing Subsection (e). Provides that grant amounts are awarded under this section for the duration of the period in which the resident who initially fills the residency position continues to hold that position, rather than provides that grant amounts are awarded under this section for three consecutive state fiscal years. Deletes existing text requiring THECB, for each first-year residency position for which a program receives an initial grant amount in a fiscal year, to award the program an equal grant amount for the following two fiscal years.

SECTION 6. Amends Subchapter B, Chapter 58A, Education Code, by adding Sections 58A.0245 and 58A.0246, as follows:

Sec. 58A.0245. CRITICAL SHORTAGE LEVELS. (a) Requires THECB, if THECB determines that the number of first-year residency positions proposed by eligible applicants under Section 58A.023 and 58A.024 exceeds the number of first-year residency positions for which grant funding under those sections is appropriated, to prioritize the awarding of new grants to medical specialties determined by THECB to be at critical shortage levels in awarding grants under those sections.

(b) Requires THECB, in determining critical shortage levels under this section, to consider:

(1) the available results of research conducted by the comprehensive health professions resource center (center) under Section 105.009, Health and Safety Code;

(2) other relevant research and criteria, including research and criteria related to the designation of health professional shortage areas; and

(3) research performed by other appropriate entities.

Sec. 58A.0246. CONTINUATION OF GRANTS AWARDED FOR 2015 STATE FISCAL YEAR. Requires THECB to award additional grants to fund eligible graduate medical education programs that, for the state fiscal year ending on August 31, 2015, received a grant awarded under Section 58A.023 or 58A.024 or under Section 61.511, as that section existed immediately before September 1, 2015, if those programs continue to meet the applicable grant requirements that existed at the time of the initial award.

SECTION 7. Amends Chapter 105, Health and Safety Code, by adding Section 105.009, as follows:

Sec. 105.009. RESEARCH REGARDING GRADUATE MEDICAL EDUCATION SYSTEM. (a) Requires the center to conduct research:

(1) to identify all medical specialties and subspecialties that are at critical shortage levels in this state, together with the geographic location of the physicians in those specialties and subspecialties; and

(2) regarding the overall supply of physicians in this state and any other issues that are relevant to the status of the state's graduate medical education system and the ability of that system to meet the current and future health care needs of this state.

(b) Requires the statewide health coordinating council to report the results of the center's research to the Legislative Budget Board, THECB, the office of the governor, and the standing committees of each house of the legislature with primary jurisdiction over state finance or appropriations not later than May 1 of each even-numbered year.

SECTION 8. Amends Chapter 2203, Insurance Code, by adding Subchapter J, as follows:

SUBCHAPTER J. TRANSFER OF ASSETS; SUSPENSION OF NEW BUSINESS

Sec. 2203.451. TRANSFER OF ASSETS. (a) Requires the Texas Department of Insurance (TDI), not later than the 90th day after the effective date of this section, to complete an actuarial study to determine the amount of assets necessary for the Medical Liability Insurance Joint Underwriting Association's (association) known and unknown insurance claims and costs associated with those claims and administrative expenses of the association, including liabilities for employee retirement plans.

(b) Requires the association to cooperate with TDI in completing the actuarial study required by Subsection (a).

(c) Authorizes all association reserve funds and policyholder stabilization reserve funds under Subchapter G (Policyholder's Stabilization Reserve Funds), including funds held on behalf of TDI under Section 2203.303(c) (providing that the policyholder's stabilization reserve fund under this section, and any earnings of the fund, are state funds and are required to be held by the comptroller outside the state treasury on behalf of, and with legal title in, TDI), not necessary for the purposes described by Subsection (a) to be transferred under Subsection (d) to the permanent fund supporting graduate medical education established under Section 58A.002, Education Code, notwithstanding any other provision of this code.

(d) Requires the association, not later than the 60th day after the date on which TDI completes the actuarial study required by Subsection (a), to transfer the amount of association assets not necessary for the purposes described by Subsection (a) to the permanent fund supporting graduate medical education established under Section 58A.002, Education Code. Requires the association, if that fund is not in existence on the date of transfer, to transfer the assets to an account created by the comptroller outside of the state treasury, and requires the comptroller to hold the assets in trust pending creation of the fund.

Sec. 2203.4515. SUSPENSION OF NEW BUSINESS. (a) Requires the commissioner of insurance (commissioner), promptly after the completion of the actuarial study required by Section 2203.451, after notice and hearing, to determine whether a necessity exists to suspend the association's authority to issue new insurance policies pending a future enactment by the legislature that becomes law or the expiration of this subchapter under Section 2203.452, whichever occurs earlier.

(b) Requires the commissioner, if the commissioner determines that a necessity described by Subsection (a) exists, to order the association to cease issuing new policies immediately, and prohibits the association from issuing a new policy before the expiration of this subchapter under Section 2203.452 unless authorized by a law that takes effect before the expiration of this subchapter.

(c) Authorizes the association, notwithstanding any order under this section, to continue to renew policies in effect immediately before the effective date of the order in accordance with the association's plan of operation.

Sec. 2203.452. EXPIRATION OF SUBCHAPTER. Provides that this subchapter expires September 1, 2017.

SECTION 9. Repealer: Sections 58A.025 (Priority Grants; Adjustment of Amounts), Education Code.

Repealer: Section 61.511 (Resident Physician Expansion Grant Program), Education Code.

SECTION 10. Effective date: September 1, 2015.