

BILL ANALYSIS

Senate Research Center

S.B. 447
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Midwestern State University (MSU) and the Texas Tech University System (TTU), for and on behalf of its component universities, determine that it is in their respective best interests and that of their students, faculties, and employees to recommend that their individual boards of regents seek legislative approval for Midwestern State University to become a member of the Texas Tech University System.

The MSU board of regents believes becoming a member of TTU, a statewide system of like-minded and situated institutions, will enhance its ability to meet its mission as a leading public liberal arts university with a particular interest in teaching excellence, service, learning, and scholarship. The union of the two institutions of higher education will also provide synergy and government efficiency with the potential for MSU to save funds with TTU's ability to absorb operational costs within its existing administration system.

The legislation admits MSU as an independent four-year higher education general academic institution into the TTU System. Thus, making MSU the fifth member school of the TTU System.

As proposed, S.B. 447 amends current law relating to the transfer of Midwestern State University to the Texas Tech University System, to certain fees charged by that system's governing board, and to mandatory venue for actions brought against that system or its institution, officers, or employees.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the board of regents of the Texas Tech University System in SECTION 1 (Section 109.202, Education Code) and SECTION 3 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. AMENDMENT. Amends Chapter 109, Education Code, by adding Subchapter E, as follows:

SUBCHAPTER E. MIDWESTERN STATE UNIVERSITY

Sec. 109.201. ESTABLISHMENT; SCOPE. (a) Provides that Midwestern State University (MSU) is a general academic teaching institution located in the city of Wichita Falls.

(b) Provides that MSU is a component of the Texas Tech University (TTU) System and is under the management and control of the board of regents of the TTU system. Provides that the board of regents has the same powers and duties concerning MSU as are conferred on the board by statute concerning TTU.

Sec. 109.202. COURSES AND DEGREES; ADMINISTRATION. (a) Requires MSU to offer undergraduate-level and graduate-level programs.

(b) Authorizes the board of regents to approve degrees and adopt other rules necessary for the operation and management of MSU.

(c) Provides that MSU is subject to the authority of the Texas Higher Education Coordinating Board (THECB).

Sec. 109.203. UNIVERSITY OF THE FIRST RANK. Requires the board of regents to build and operate MSU as a public liberal arts university of the first rank to offer MSU's students, consistent with MSU's mission, preparation for excellence in a variety of careers and exploration of a variety of interests. Requires that MSU be equipped as necessary to do its work as well as comparable public institutions of higher education in this state.

Sec. 109.204. UNIVERSITY MUSEUM. Requires THECB to include in the funding formula applicable to MSU funding for the operation and maintenance of the museum acquired by MSU in accordance with former Section 103.11 (Acquisition of Museum).

Sec. 109.205. GIFTS AND GRANTS. Authorizes the board of regents to solicit, accept, and administer gifts and grants for the use and benefit of MSU.

SECTION 2. TRANSFER OF GOVERNANCE OF UNIVERSITY; ABOLITION OF BOARD OF REGENTS. Provides that the governance, control, management, and property of MSU are transferred from the board of regents of MSU to the board of regents of the TTU system. Provides that the transfer is governed by Sections 3 through 8 of this Act. Provides that following the transfer, the board of regents of MSU is abolished.

SECTION 3. POWERS AND DUTIES; RULES AND POLICIES.

(a) Requires the board of regents of the TTU system, when the transfer takes effect, to govern, operate, manage, and control MSU and all land, buildings, facilities, improvements, equipment, supplies, and property belonging to and constituting MSU under the powers and duties conferred by law on the board of regents.

(b) Authorizes MSU to continue to award degrees in the same disciplines and of the same academic standing after the transfer authorized by this Act as those in which degrees were awarded by MSU before this Act, subject to the authority of THECB regarding existing degree programs.

(c) Provides that rules and policies adopted by the board of regents of MSU to govern MSU that are in effect when the transfer takes effect are continued in effect until adopted, repealed, or superseded by the board of regents of the TTU system. Authorizes the board of regents of the TTU system to adopt rules and policies applicable to MSU in anticipation of the transfer authorized by this Act.

SECTION 4. CONTRACTS AND WRITTEN OBLIGATIONS, INCLUDING BONDS. Provides that contracts and written obligations of every kind and character entered into by the board of regents of MSU or the Texas Public Finance Authority (TPFA) for and on behalf of MSU, including bonds, are considered ratified, confirmed, and validated by the board of regents of the TTU system on the effective date of the transfer. Provides that, in those contracts and written obligations, the board of regents of the TTU system is substituted for and stands and acts in the place of the board of regents of MSU or TPFA, as applicable, to the extent permitted by law.

SECTION 5. TUITION AND FEES. Provides that the tuition and fees authorized by the board of regents of MSU before the transfer of governance under this Act remain in effect until the board of regents of the TTU system authorizes a different amount of tuition and fees for MSU as provided by law.

SECTION 6. EFFECT OF TRANSFER ON STUDENTS AND EMPLOYEES.

(a) Provides that the transfer of the governance of MSU under this Act does not affect the status of any student of MSU enrolled at MSU when the transfer takes effect.

(b) Provides that the transfer of the governance of MSU under this Act does not affect the employment status or accrued benefits of any person employed by MSU when the transfer takes effect.

SECTION 7. CURRENT FUNDING. Provides that all funds that, on the effective date of the transfer, have been appropriated or dedicated to or are held for the use and benefit of MSU under the governance of the board of regents of MSU are transferred to the board of regents of the TTU system for the use and benefit of MSU. Requires that other funds held for the use and benefit of MSU continue to be available for the use and benefit of MSU notwithstanding the change in governance made by this Act.

SECTION 8. LEGISLATIVE INTENT; ROLE OF COORDINATING BOARD. Provides that it is the intent of the legislature that the transfer of the governance of MSU from the board of regents of MSU to the board of regents of the TTU system be made without disrupting the students, faculty, staff, or programs of MSU. Requires THECB on application of either board of regents, if those boards of regents are unable to agree as to any matter relating to the transfer, to resolve the disagreement consistent with the intent of this section and the provisions of this Act as THECB determines is in the best interest of this state and the institutions under the governance of the boards of regents. Authorizes THECB to issue any orders or take any other action it considers appropriate to enforce this section or to facilitate the transfer consistent with this Act and the intent of the legislature.

SECTION 9. AMENDMENT. Amends Section 54.508(a), Education Code, to authorize the board of regents of the TTU system to charge each student registered at a component institution of the TTU system a medical services fee not to exceed \$100 for each semester or term. Deletes existing text authorizing the TTU system to charge each registered student a medical fee not to exceed \$100 for each 12 week summer session, and not to exceed \$50 for each six-week or shorter term of the summer session.

SECTION 10. AMENDMENT. Amends Section 54.509, Education Code, by amending Subsections (a) and (b) and adding Subsection (e), as follows:

(a) Authorizes the board of regents of the TTU system, if approved by student vote, to charge each student enrolled at a component institution of the TTU system a recreation fee not to exceed \$150, rather than \$100, per semester or \$75, rather than \$50, per six-week summer term to be used to purchase equipment for and to finance, construct, operate, renovate, and maintain the student recreation facilities and programs at the institution.

(b) Prohibits increase of the fee by more than 10 percent from one academic year to the next unless the increase is approved by a majority of students voting on the issue in a general student election called for that purpose, or by a majority vote of the student government at the institution.

(e) Authorizes the board of regents to pledge the fees imposed under Section 54.509 (Student Recreation Fee; Texas Tech University Components) to pay obligations issued for authorized purposes pursuant to the revenue financing system of the TTU system.

SECTION 11. AMENDMENT. Amends Section 55.13(c), Education Code, to delete existing text including MSU among universities for which TPFPA is required to exercise the authority of a governing board of an institution of higher education when issuing bonds. Makes nonsubstantive and conforming changes.

SECTION 12. AMENDMENT. Amends Subchapter B, Chapter 55, Education Code, by adding Section 55.17893, as follows:

Sec. 55.17893. MIDWESTERN STATE UNIVERSITY. (a) Authorizes the board of regents of the TTU system (board), in addition to the other authority granted by Subchapter B (Revenue Bonds and Facilities), to issue bonds in accordance with this subchapter and in accordance with a system wide revenue financing program adopted by the board in the aggregate principal amounts not to exceed the amounts previously authorized for MSU by Sections 55.1727 (Midwestern State University), 55.1737 (Midwestern State University; Additional Bonds), 55.1757 (Midwestern State University; Additional Bonds), and 55.1787 (Midwestern State University; Additional Bonds), as those sections existed immediately before this section took effect, less any portion of those amounts for which bonds were issued under those sections for MSU before the date this section took effect. Authorizes use of bonds issued under this section for an amount previously authorized by Section 55.1727, 55.1737, 55.1757, or 55.1787, subject to Subsection (d), only at MSU for the purposes for which the bonds were authorized to be issued for MSU under Section 55.1727, 55.1737, 55.1757, or 55.1787, as applicable.

(b) Authorizes the board to pledge irrevocably to the payment of those bonds all or any part of the revenue funds of an institution, branch, or entity of the TTU system. Prohibits the amount of a pledge made under this subsection from being reduced or abrogated while the bonds for which the pledge is made, or bonds issued to refund those bonds, are outstanding.

(c) Authorizes the board, if sufficient funds are not available to the board to meet its obligations under this section, to transfer funds among institutions, branches, and entities of the TTU system to ensure the most equitable and efficient allocation of available resources for each institution, branch, or entity to carry out its duties and purposes.

(d) Provides that any portion of the proceeds of bonds authorized by this section for one or more specified projects that is not required for the specified projects may be used to renovate existing structures and facilities at MSU.

(e) Authorizes the board of regents of the TTU system to issue refunding bonds under Chapter 1207, Texas Government Code, to refund all or any part of the outstanding bonds, notes, or other general or special obligations issued by or for the benefit of MSU, including obligations previously issued by TPFAs. Requires the board, for purposes of Chapter 1207 (Refunding Bonds), Texas Government Code, and in connection with the issuance of any such refunding bonds, to be considered the "issuer" of the outstanding bonds, notes or obligations of MSU which are being refunded.

SECTION 13. AMENDMENT. Amends Section 62.021(a), Education Code, to show the transfer of the \$4,933,200 annual amount allocated by the Comptroller of Public Accounts of the State of Texas to MSU and MSU's status as a component institution of the TTU system. Makes conforming and nonsubstantive changes.

SECTION 14. AMENDMENT. Amends Subchapter A, Chapter 109, Education Code, by adding Section 109.005, as follows:

Sec. 109.005. MANDATORY VENUE. (a) Provides that venue for a suit filed against the board or a member of the board in the member's official capacity is in Lubbock County.

(b) Provides that venue for a suit filed against the TTU system, any component of the TTU system, or any officer or employee of the TTU system or component thereof is in the county in which the primary office of the chief executive officer of the system or component, as applicable, is located.

(c) Provides that this section does not waive any defense to or immunity from suit or liability that may be asserted by an entity or individual described by this section.

(d) Provides that, in case of a conflict between this section and any other law, this section controls.

SECTION 15. AMENDMENT. Amends Section 1232.101(a), Government Code, to delete existing text including MSU among certain entities on whose benefit TPFA has the exclusive authority to act in issuing bonds.

SECTION 16. AMENDMENT. Amends Section 501.022, Labor Code, by amending Subsection (a) and adding Subsection (g), as follows:

(a) Provides that an eligible employee of MSU, among other agencies under the direction and control of the board of regents of the TTU system, is entitled to participate in the workers' compensation program for state employees provided under Chapter 501 (Workers' Compensation Insurance for State Employees, Including Employees Under the Direction or Control of the Board of Regents of Texas Tech University).

(g) Provides that, for purposes of Chapter 501, MSU is a state agency and is required to act in the capacity of employer.

SECTION 17. TRANSITION. Provides that Section 109.005, Education Code, as added by this Act, applies only to an action brought against the board of regents of the Texas Tech University System or a member of that board in the member's official capacity, the Texas Tech University System, a component institution of that system, or an officer or employee of that system or component institution thereof on or after the effective date of this Act.

SECTION 18. REPEALER. Repealer: Section 54.241(h) (relating to the governing board of MSU setting certain tuition rates for United States military personnel enrolled in certain degree programs), Education Code.

Repealer: Section 54.5082 (Medical Services Fee; Midwestern State University), Education Code.

Repealer: Section 54.518 (University Center Fee; Midwestern State University), Education Code.

Repealer: Section 54.5441 (Student Recreational and Health Facilities Fee; Midwestern State University), Education Code.

Repealer: Section 54.5442 (Intercollegiate Athletics Fee; Midwestern State University), Education Code.

Repealer: Section 55.1727 (Midwestern State University), Education Code.

Repealer: Section 55.1737 (Midwestern State University; Additional Bonds), Education Code.

Repealer: Section 55.1757 (Midwestern State University; Additional Bonds), Education Code.

Repealer: Section 55.1787 (Midwestern State University; Additional Bonds), Education Code.

Repealer: Chapter 103 (Midwestern State University), Education Code.

SECTION 19. EFFECTIVE DATE. Effective date: September 1, 2021.