

## **BILL ANALYSIS**

Senate Research Center  
81R36097 KSD-F

C.S.H.B. 51  
By: Branch et al. (Zaffirini)  
Higher Education  
5/22/2009  
Committee Report (Substituted)

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

The purpose of this bill is to create two funds and an incentive research program to create additional national research universities in Texas. The performance funding is not intended to supplant base formula funding but rather to serve as a supplement.

Currently, there are three tier one institutions in Texas: The University of Texas at Austin, Texas A&M University, and Rice University. In comparison, there are nine and five tier one institutions in California and New York, respectively. Tier one institutions bring together a critical mass of talent and enrich the area they are located. Texas loses out in research funding, venture capital, top students, faculty, researchers, and scientists, by not having more tier one institutions.

As there are no current statutes to support, aid, and encourage "emerging research universities" and create tier one higher education institutions, this legislation would create two new programs and enhance another to promote this effort.

C.S.H.B. 51 amends current law relating to measures to enhance and maintain the quality of state universities, including funding and incentives to support emerging public research universities in developing and maintaining programs of the highest tier, to the abolition of the higher education fund, and to the institutional groupings under the Texas Higher Education Coordinating Board's accountability system.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Higher Education Coordinating Board in SECTION 1 (Section 51.358, Education Code) and SECTION 7 (Sections 62.054, 62.073, 62.124, and 62.146, Education Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter G, Chapter 51, Education Code, by adding Section 51.358, as follows:

Sec. 51.358. LONG-TERM STRATEGIC PLAN FOR RESEARCH UNIVERSITY OR EMERGING RESEARCH UNIVERSITY. (a) Requires the governing board of each institution of higher education designated as a research university or emerging research university under the Texas Higher Education Coordinating Board's (THECB) accountability system to submit to THECB, in the form and manner prescribed by THECB, a detailed, long-term strategic plan documenting the strategy by which the institution intends to achieve recognition as a research university, or enhance the university's reputation as a research university, as applicable.

(b) Requires THECB to adopt rules for the administration of this section.

SECTION 2. Amends Section 61.059, Education Code, by adding Subsection (o), to require biennially THECB, in addition to the other funding recommendations required by this section, to determine the amount that THECB considers appropriate for purposes of providing funding under Section 61.0596 in the following state fiscal biennium to carry out the purposes of that section and make recommendations to the governor and the Legislative Budget Board (LBB) for funding those programs in that biennium. Authorizes THECB, to the extent THECB considers

appropriate, to include in the formulas established under this section the funding to be provided under Section 61.0596.

SECTION 3. Amends Subchapter C, Chapter 61, Education Code, by adding Section 61.0596, as follows:

Sec. 61.0596. UNIVERSITY FUNDING FOR EXCELLENCE IN SPECIFIC PROGRAMS AND FIELDS; INCENTIVE GRANTS. (a) Requires THECB to administer this section to encourage and assist general academic teaching institutions, other than public state colleges, that are not research universities or emerging research universities according to the institutional groupings under THECB's higher education accountability system to develop and maintain specific programs or fields of study of the highest national rank or recognition for that type of program or field.

(b) Requires THECB, to assist the institution in achieving the highest national rank or recognition for the applicable degree program and from money available for the purpose, to award incentive grants to general academic teaching institutions described by Subsection (a) that THECB considers to have demonstrated the greatest commitment to success in developing or improving, consistent with the mission of the institution, the quality of an existing degree program designated by the institution. Requires an institution to use a grant under this subsection for faculty recruitment or other faculty support with respect to the designated degree program for which the grant is awarded, including establishment of endowed faculty positions or enhancement of faculty compensation as considered appropriate by the institution.

(c) Authorizes an institution to designate only one degree program at a time for consideration for new funding under Subsection (b). Authorizes the institution to change its designation with the consent of THECB. Authorizes the institution, if THECB determines that an institution has met all the applicable benchmarks for the institution's designated program, to designate another degree program for consideration for new funding under Subsection (b).

(d) Requires THECB to establish a series of benchmarks applicable to each degree program designated by an institution under this section. Provides that the institution becomes eligible for funding under Subsection (b) for each benchmark THECB determines that the institution has met. Requires THECB to establish the amount of funding for each benchmark met in a manner that provides an effective incentive to assist the institution to continue its efforts to meet the remaining benchmarks for its designated program.

(e) Requires THECB, unless THECB determines that a different number of benchmarks is appropriate, to establish three benchmarks for each designated degree program. Require THECB to identify one or more persons who have relevant expertise and do not reside in this state to assist THECB in establishing the benchmarks and associated funding levels for each type of degree program designated by an institution under this section.

(f) Requires an institution that designates a degree program to receive funding under Subsection (b) to reimburse THECB for the costs incurred by THECB in administering this section with respect to the institution's designated program.

(g) Requires THECB, in addition to supporting the programs designated by institutions for consideration to receive incentive grants under Subsection (b), from money available for the purpose, to provide additional money as THECB determines appropriate to assist institutions described by Subsection (a) in maintaining the excellence of programs or fields of study that have achieved the highest national ranking or recognition for that type of program or field.

(h) Prohibits the legislature from appropriating money for grants or other financial assistance to general academic teaching institutions under this section

before THECB certifies that one or more institutions have met at least one of the benchmarks established by THECB for the institutions' designated degree programs under Subsection (d).

SECTION 4. Amends Subchapter C, Chapter 61, Education Code, by adding Section 61.0904, as follows:

Sec. 61.0904. REVIEW OF INSTITUTIONAL GROUPINGS. Requires THECB, at least once every 10 years, to conduct a review of the institutional groupings under THECB's accountability system, including a review of the criteria for and definitions assigned to those groupings.

SECTION 5. Amends the heading to Chapter 62, Education Code, to read as follows:

CHAPTER 62. CONSTITUTIONAL AND STATUTORY FUNDS TO SUPPORT  
INSTITUTIONS OF HIGHER EDUCATION

SECTION 6. Amends Section 62.003(1), Education Code, to define "eligible institution."

SECTION 7. Amends Chapter 62, Education Code, by adding Subchapters C, D, and F, as follows:

SUBCHAPTER C. RESEARCH UNIVERSITY DEVELOPMENT FUND

Sec. 62.051. DEFINITIONS. Defines "eligible institution" and "institution of higher education."

Sec. 62.052. PURPOSE. Provides that the purpose of this subchapter is to provide funding to research universities and emerging research universities for the recruitment and retention of highly qualified faculty and the enhancement of research productivity at those universities.

Sec. 62.053. FUNDING. (a) Requires THECB to distribute any funds appropriated by the legislature for the purposes of this subchapter, and any other funds made available for the purposes of this subchapter, to eligible institutions based on the average amount of total research funds expended by each institution annually during the three most recent state fiscal years, according to the following rates:

(1) at least \$1 million for every \$10 million of the average annual amount of those research funds expended by the institution, if that average amount for the institution is \$50 million or more; and

(2) at least \$500,000 for every \$10 million of the average annual amount of those research funds expended by the institution, if that average amount for the institution is less than \$50 million.

(b) Provides that for purposes of Subsection (a), the amount of total research funds expended by an eligible institution in a state fiscal year is the amount of those funds as reported to THECB by the institution for that fiscal year, subject to any adjustment by THECB in accordance with the standards and accounting methods THECB prescribes for purposes of this section. Requires that the available amount, if the funds available for distribution for a state fiscal year under Subsection (a) are not sufficient to provide the amount specified by Subsection (a) for each eligible institution or exceed the amount sufficient for that purpose, be distributed in proportion to the total amount to which each institution is otherwise entitled under Subsection (a).

Sec. 62.054. RULES. Requires THECB to adopt rules for the administration of this subchapter, including any rules THECB considers necessary regarding the submission to THECB by eligible institutions of any student data required for THECB to carry out its duties under this subchapter.

#### SUBCHAPTER D. PERFORMANCE INCENTIVE FUNDING

Sec. 62.071. DEFINITIONS. Defines "at-risk student," "critical field," "eligible institution," "general academic teaching institution," and "public state college."

Sec. 62.072. FUNDING. (a) Requires THECB, for each state fiscal year, to distribute any performance incentive funds appropriated by the legislature for purposes of this subchapter, and any other funds made available for the purposes of this subchapter, to eligible institutions in certain amounts.

(b) Sets forth the number of points assigned for each degree awarded by an eligible institution.

Sec. 62.073. RULES. Requires THECB to adopt rules for the administration of this subchapter, including any rules THECB considers necessary regarding the submission to THECB by eligible institutions of any student data required for THECB to carry out its duties under this subchapter.

#### SUBCHAPTER F. TEXAS RESEARCH INCENTIVE PROGRAM (TRIP)

Sec. 62.121. DEFINITIONS. Defines "eligible institution," "gift," "institution of higher education," and "program."

Sec. 62.122. PROGRAM ADMINISTRATION. Requires THECB to develop and administer TRIP in accordance with this subchapter to provide matching funds to assist eligible institutions in leveraging private gifts for the enhancement of research productivity and faculty recruitment.

Sec. 62.123. MATCHING GRANTS. (a) Entitles an eligible institution that receives gifts or endowments from private sources in a state fiscal year for the purpose of enhancing research activities at the institution, including a gift or endowment for endowed chairs, professorships, facilities, equipment, program costs, or graduate stipends or fellowships, to receive, out of funds appropriated for the purposes of the program for that fiscal year, a matching grant in an amount determined according to certain rates.

(b) Provides that an eligible institution is not entitled to matching funds under the program for certain gifts.

(c) Requires THECB to establish procedures for the certification by THECB of an eligible institution's receipt of a qualifying gift or endowment. Requires that a cash gift or endowment be certified as of the date the gift or endowment was deposited by the institution in a depository bank or invested by the institution as authorized by law. Requires that a non-cash gift be certified as of the date the gift is converted to cash, and is considered to have been received on that date for purposes of this subchapter.

(d) Requires THECB, if the funds appropriated for the program for a state fiscal year are insufficient to provide matching grants in the amounts specified by this section for all qualifying private gifts and endowments received by eligible institutions during that fiscal year, to provide matching grants for those gifts and endowments in order of their certification date and provide matching grants for any remaining unmatched gifts and endowments in the following fiscal year, using funds appropriated to the program for that following year, to the extent funds are available.

(e) Prohibits matching grants received by an eligible institution under this section from being considered as a basis to reduce, directly or indirectly, the amount of money otherwise appropriated to the institution.

Sec. 62.124. RULES. Requires THECB to adopt rules for the administration of this subchapter.

SECTION 8. Amends Chapter 62, Education Code, by adding Subchapter G, as follows:

SUBCHAPTER G. NATIONAL RESEARCH UNIVERSITY FUND

Sec. 62.141. PURPOSE. Provides that the purpose of this subchapter is to allocate appropriations from the national research university fund to provide a dedicated, independent, and equitable source of funding to enable emerging research universities in this state to achieve national prominence as major research universities.

Sec. 62.142. DEFINITIONS. Defines "eligible institution," "endowment funds," "fund," and "general academic teaching institution."

Sec. 62.143. ADMINISTRATION AND INVESTMENT OF FUND. (a) Provides that the national research university fund is a fund outside the state treasury in the custody of the comptroller of public accounts (comptroller).

(b) Requires the comptroller to administer and invest the fund in accordance with Section 20, Article VII (Education), Texas Constitution.

Sec. 62.144. FUNDING. (a) Provides that the fund consists of any amounts appropriated or transferred to the credit of the fund under the Texas Constitution or otherwise appropriated or transferred to the credit of the fund under this section or another law.

(b) Requires the comptroller to deposit to the credit of the fund all interest, dividends, and other income earned from investment of the fund.

(c) Authorizes the comptroller to accept gifts or grants from any public or private source for the fund.

Sec. 62.145. ELIGIBILITY TO RECEIVE DISTRIBUTIONS FROM FUND. (a) Provides that a general academic teaching institution is eligible to receive a distribution of money under this subchapter for each year of a state fiscal biennium if the institution is designated as an emerging research university under THECB's accountability system, in each of the two state fiscal years preceding the state fiscal biennium, the institution expended at least \$45 million in restricted research funds, and the institution satisfies at least four of a list of certain criteria.

(b) Provides that a general academic teaching institution that becomes eligible to receive a distribution of money under this subchapter remains eligible to receive a distribution in each subsequent state fiscal year.

Sec. 62.146. ACCOUNTING STANDARDS; VERIFICATION OF INFORMATION. (a) Requires THECB by rule to prescribe standard methods of accounting and standard methods of reporting information for the purpose of determining the eligibility of institutions under Section 62.145.

(b) Requires THECB, as soon as practicable in each even-numbered year, based on information submitted by the institutions to THECB as required by THECB, to certify to the legislature verified information relating to the criteria established by Section 62.145 to be used to determine which institutions are initially eligible for distributions of money from the fund. Provides that information submitted to THECB by institutions for purposes of this subchapter and THECB's certification of that information under this subsection are subject to audit by the state auditor in accordance with Chapter 321 (State Auditor), Government Code.

Sec. 62.147. INELIGIBILITY OF INSTITUTIONS RECEIVING PERMANENT UNIVERSITY FUND SUPPORT AND MAINTENANCE. Provides that The University of Texas at Austin and Texas A&M University are ineligible to receive money under this subchapter.

Sec. 62.148. ALLOCATION OF APPROPRIATED FUNDS TO ELIGIBLE INSTITUTIONS. Requires the comptroller, in each state fiscal year, to distribute to eligible institutions the total amount appropriated from the fund for that fiscal year. Requires that the amount allocated to the eligible institutions be based on an equitable formula adopted by the legislature to carry out the purposes of the fund as established by Section 20, Article VII, Texas Constitution. Authorizes the legislature, in adopting the allocation formula, to consider the recommendations of THECB, including recommendations on the appropriate elements and relative weights of elements of the formula.

Sec. 62.149. USE OF ALLOCATED AMOUNTS. (a) Authorizes an eligible institution to use money received under this subchapter only for the support and maintenance of educational and general activities that promote increased research capacity at the institution.

(b) Provides that for purposes of Subsection (a), permitted activities include the use of the money to provide faculty support and pay faculty salaries, purchase equipment or library materials, pay graduate stipends, and support research preformed at the institution, including undergraduate research.

(c) Authorizes money received in a fiscal year by an institution under this subchapter that is not used in that fiscal year by the institution to be held and used by the institution in subsequent fiscal years for the purposes prescribed by this section.

SECTION 9. Amends Section 62.094, Education Code, as follows:

Sec. 62.094. FUNDING. (a) Provides that the research development fund consists of the amounts appropriated or transferred to the credit of the fund under this section or other law, rather the amount deposited to the credit of the fund under Section 62.025 (Deposit of \$50 Million) in each state fiscal year, the amount appropriated or transferred to the credit of the fund by the legislature under Subsection (b), and any other amounts transferred to the fund under this section.

(b) Deletes existing text authorizing the legislature, in each state fiscal year, to appropriate or provide for the transfer to the credit of the research development fund of an amount not less than the amount deposited to the credit of the fund under Section 62.025 in that fiscal year. Makes a nonsubstantive change.

(c) Redesignates existing Subsection (d) as Subsection (c).

SECTION 10. Repealer: Section 62.025 (Deposit of \$50 Million), Education Code.

Repealer: Section 62.026 (Higher Education Fund), Education Code.

SECTION 11. (a) Requires THECB, in consultation with institutions of higher education that are eligible institutions under Subchapter C, Chapter 62, Education Code, as added by this Act, to study and make recommendations regarding the appropriate definitions and categories of research expenditures to be included and applied in determining an institution's eligibility for distributions from the Research University Development Fund.

(b) Requires THECB, not later than December 1, 2010, to report its study and deliver its recommendation to certain elected state officials.

(c) Requires THECB, at the request of an institution of higher education that consults with THECB under this section, to include with its recommendations the written response of the institution to those recommendations.

SECTION 12. Requires THECB to adopt rules relating to the administration of Subchapters C, D, F, and G, Chapter 62, Education Code, as added by this Act, as soon as practicable after the effective date of this Act.

SECTION 13. (a) Effective date, except as provided by Subsections (b), (c), and (d) of this section: September 1, 2009.

(b) Prohibits money from being appropriated to or distributed from the research university development fund under Subchapter C, Chapter 62, Education Code, as added by this Act, or the national research university fund under Subchapter G, Chapter 62, Education Code, as added by this Act, before the state fiscal biennium that begins September 1, 2011.

(c) Provides that the funding for Section 8 of this Act is contingent on the approval by voters of the constitutional amendment proposed by the 81st Legislature, Regular Session, 2009, establishing the national research university fund to enable emerging research universities in this state to achieve national prominence as major research universities and transferring the balance of the higher education fund to the national research university fund. Provides that if that constitutional amendment is not approved by the voters, Sections 9 and 10 of this Act do not take effect.

(d) Provides that this Act does not make an appropriation. Provides that this Act takes effect only if a specific appropriation for the implementation of this Act is provided in a general appropriations act of the 81st Legislature.