

BILL ANALYSIS

S.B. 5
By: Zaffirini
Higher Education
Committee Report (Unamended)

BACKGROUND AND PURPOSE

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 multiple reporting requirements imposed by law, rule, or policy. Interested parties contend 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.

S.B. 5 amends current law relating to the administration and business affairs of public institutions of higher education.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to a state agency or THECB is modified in SECTION 6.02 (Section 51.406, Education Code) of this bill.

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Rulemaking authority previously granted to the Texas Higher Education Coordinating Board (THECB) is rescinded in SECTION 7.01 (Sections 51.216, Education Code) of this bill.

Rulemaking authority previously granted to the attorney general is rescinded in SECTION 7 (Section 2107.005, Government Code) of this bill.

ANALYSIS

ARTICLE 1. FINANCIAL MANAGEMENT

SECTION 1.01. Section 51.003, Education Code, is amended as follows:

Subsection (b) is amended to require that funds enumerated in Section 51.002 (Funds Subject to Control) of this code that are to be deposited in the depository bank or banks be deposited within seven days from the date of receipt by the institution of higher education, rather than within seven days from the date of collection.

Subsection (f) is added to authorize the governing board of each institution, notwithstanding any other provision of this section, to maintain unsecured deposits in a foreign bank as necessary to support the institution's operations in a foreign country. The foreign bank must be licensed and supervised by a central bank; be audited annually by an accounting firm that follows international financial reporting standards; and maintain a capital to total assets ratio that is not less than the greater of four percent or the minimum tier 1 capital to total assets ratio required for depository institutions insured by the Federal Deposit Insurance Corporation.

SECTION 1.02. Amends Subchapter A, Chapter 51, Education Code, by amending Section 51.005 and adding Sections 51.010, 51.011, and 51.012 as follows:

Sec. 51.005. REPORTS. Deletes existing Subsection (a) designation. Requires each institution of higher education to prepare a complete annual financial report as prescribed by Section 2101.011 (Financial Information Required of State Agencies), Government Code.

Deletes existing text of Subsection (a) requiring that true and full accounts be kept by the governing board and by the employees of the institution of all funds collected from all sources and of all sums paid out and the persons to whom and the purposes for which the sums are paid. Deletes existing text requiring the governing board to annually print a complete report of all sums collected, all expenditures, and all sums remaining on hand. Deletes existing text requiring that the report show the true condition of all funds as of the August 31 preceding as well as the collections and expenditures for the preceding year.

Deletes existing Subsection (b) requiring that reports under this section be in a form approved jointly by the Texas Higher Education Coordinating Board (THECB) and the comptroller of public accounts (comptroller). Deletes existing text requiring that the accounting and classification procedures of each institution be consistent with uniform procedures prescribed for that purpose by the coordinating board and the comptroller. Deletes existing text requiring that the requirements imposed by the coordinating board and the comptroller be designed to reduce paperwork and duplicative reports.

Deletes existing Subsection (c) requiring the governing board to furnish one copy of the report each to the governor, comptroller of public accounts, state auditor, THECB, Legislative Budget Board (LBB), House Appropriations Committee, Senate Finance Committee, and Legislative Reference Library. Deletes existing text requiring that a copy of the report be submitted to the comptroller by the deadline established by the comptroller or the General Appropriations Act as necessary to prepare an audited comprehensive financial report. Deletes existing text requiring the governing board to retain five copies of the report for distribution to legislators or other state officials on request.

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. Provides that a deposit to the unclaimed money fund does not affect the ownership of the amount deposited. Requires the institution of higher education to:

(1) adopt procedures for owners to make and receive payments of claims against the fund; and

(2) maintain a database that permits members of the public to search for ownership of unclaimed funds.

(c) Requires the institution of higher education to use the fund to pay the claims of persons establishing ownership of amounts transferred to the fund and to hold and to account for the unclaimed money fund as educational and general funds of the institution of higher education. Requires the institution, if the fund balance is insufficient to pay a valid claim, to pay the claim from the institution's other educational and general fund.

(d) Requires the institution of higher education, each fiscal year, after deducting funds sufficient to pay anticipated expenses of and claims against the unclaimed money fund, to use the balance of the fund as other educational and general funds of the institution of higher education.

(e) Authorizes the 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 (Report, Delivery, and Claim Process), Property Code.

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

Sec. 51.012. PAYMENTS BY ELECTRONIC FUNDS TRANSFER OR ELECTRONIC PAY CARD. Authorizes an institution of higher education to make any payment, including a payment of salary or wages, through electronic funds transfer or by electronic pay card.

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 (UT System) on its own behalf or on behalf of a component institution of the UT System to recover a delinquent loan, account, or debt owed to the UT System or a component institution of the UT 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 Bond Review Board (BRB) approves the issuance; or

(2) the security is exempted under law, including a BRB rule adopted under Section 1231.022(2) (relating to exempting certain state securities from the application of certain provisions if BRB 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 BRB 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) and (f) and adding Subsections (g) and (h), as follows:

(d) Provides that Subtitle D, Title 10, Government Code, and Subchapter B, Chapter 2254, Government Code, do not apply to the acquisition of goods and services under this section, except that an institution of higher education is required to comply with any provision of those laws, or a rule adopted under a provision of those laws relating to contracting with historically underutilized businesses or relating to the procurement of goods and services from persons with disabilities. An institution of higher education may, but is not required to, acquire goods or services as provided by Subtitle D, Title 10, Government Code.

(f) Provides that this section does not apply to professional services as defined by Section 2254.002 (Definitions), Government Code. Requires that professional services be procured in accordance with Subchapter A (Professional Services), Chapter 2254 (Professional and Consulting Services), Government Code.

(g) Provides that an institution of higher education may 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 51.9337, as follows:

Sec. 51.9336. ELECTRONIC AND DIGITAL 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 or digital signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely on electronic or digital signatures. Authorizes the institution or system to adopt rules and procedures governing the use of electronic or digital signatures.

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

Sec. 51.9337. INTERAGENCY CONTRACTS FOR INFORMATION RESOURCE TECHNOLOGIES. (a) Defines, in this section, "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(b) (requiring a state agency that elects to provide insurance under this section to purchase one or more policies from a liability insurance company authorized to transact business in this state), Government Code, does not apply to an institution of higher education or university system purchasing insurance under this section.

(d) Creates this subsection from existing text. Defines, in this section, "university system." Makes nonsubstantive changes.

SECTION 2.05. 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, in this section, "institution of higher education" and "university system."

SECTION 2.06. Amends Section 2054.008, Government Code, by adding Subsection (c), as follows:

(c) Requires a university system or institution of higher education to provide written notice to the LBB under Subsection (b) (requiring state agency to provide written notice to the LBB of a contract for a major information system) only if the cost of the major information system exceeds \$1 million. Defines, in this subsection, "university system."

SECTION 2.07. 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.

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 university system or institution of higher education, as applicable, to provide for enrollment periods.

(d) Authorizes a university system or institution of higher education 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.

SECTION 3.04. Amends Section 1601.201(d), Insurance Code, as follows:

(d) Provides that Subsection (c) (authorizing the system, for an employee designated by the system as working less than 40 hours a week, including an individual employed by the system in a position that as a condition of employment requires the individual to be enrolled as a student in the system in graduate-level courses, from money appropriated from the general revenue fund, to contribute not more than 50 percent of the cost of basic coverage for the employee and not more than 25 percent of the cost of dependent coverage) does not prohibit a system from contributing, from money not appropriated from the general revenue fund, amounts in excess of the amount specified by that subsection for:

(1) an individual employed by the system in a position that as a condition of employment requires the individual to be enrolled as a student in the system in graduate level courses; or

(2) an individual who is a tenured faculty member with whom the system has entered into a phased retirement agreement under which the individual will work less than 40 hours a week for a specified period of time at the end of which the individual will retire.

ARTICLE 4. REAL ESTATE AND CONSTRUCTION

SECTION 4.01. Amends Subchapter C, Chapter 61, Education Code, by adding Section 61.0573, as follows:

Sec. 61.0573. PROJECTS EXEMPT FROM BOARD APPROVAL. (a) Defines, in this section, "project."

(b) Provides that THECB approval of a project at an institution of higher education is not required under Section 61.0572 (New Construction and Repair and Rehabilitation Projects) or 61.058 (Construction Funds and Development of

Physical Plants) if the institution notifies THECB of the project and certifies to THECB that:

- (1) the institution meets the current published THECB standards applicable to the institution for space need, usage efficiency, deferred maintenance, and critical deferred maintenance or THECB has approved the institution's plan to correct any deficiencies in the institution's compliance with those applicable standards;
- (2) the project meets current published THECB standards applicable to the project for cost, efficiency, and space use;
- (3) the project is identified on the institution's campus master plan, as submitted to THECB; and
- (4) the institution has no deficiencies according to THECB's most recent facilities audit or THECB has approved the institution's plan to correct any such deficiencies.

(c) Requires THECB's staff to promptly review a certification submitted under Subsection (b) and notify the institution whether the certification is sufficient and whether the information certified is consistent with the records of THECB. Provides that if the staff review determines that the certification is sufficient and that the information certified is consistent with the records of THECB, the project is considered approved by THECB.

(d) Provides that this section does not apply to a project that is a new branch campus or a new higher education center.

SECTION 4.02. 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 4.03. 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 4.04. 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 4.05. Amends Section 33.06, Tax Code, by adding Subsection (g), as follows:

(g) Provides that if the ownership interest of an individual entitled to a deferral under this section is a life estate, a lien for the deferred tax attaches to the estate of the life tenant, and not to the remainder interest, if the owner of the remainder is an institution of higher education that has not consented to the deferral. Defines, in this subsection, "institution of higher education." 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 UT 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 providing for one ex-officio nonvoting member being appointed as a member of the board of directors governing the Gaines County Solid Waste Management District.

ARTICLE 6. REPORTS; RECORDS; AUDITS; NOTICES

SECTION 6.01. Amends Section 51.403(d), Education Code, as follows:

(d) Deletes 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) Section 51.0051 (Annual Operating Budgets);

(4) Section 59.07 (Exemption From Insurance Code; Report);

- (5) Section 130.086 (Branch Campuses);
- (6) Section 325.007 (Agency Report to Commission), Government Code;
- (7) Section 669.003 (Contracting with Executive Head of State Agency), Government Code;
- (8) Section 2005.007 (Reports), Government Code;
- (9) Section 2052.103 (Reports), Government Code;
- (10) Section 2054.097 (Analysis of Information Resources Deployment Review), Government Code;
- (11) Section 2101.011 (Financial Information Required of State Agencies), Government Code;
- (12) Section 2102.009 (Annual Report), Government Code;
- (13) Chapter 2114 (Customer Service), Government Code; and
- (14) Section 2205.041 (Aircraft Use Form), Government 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 51.005 (Reports);
 - (B) Section 51.3062 (Success Initiative);
 - (C) Section 51.402 (Report of Institutional and Academic Duties);
 - (D) Section 56.039 (Full Use of Funds);
 - (E) Section 61.051(k) (relating to establishing and maintaining a management information system);
 - (F) Section 61.059 (Appropriations); or
 - (G) Section 62.095(b) (providing that, for purposes of Subsection (a), the amount of restricted research funds expended by an institution in a 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 the coordinating board prescribes under Section 62.096).

SECTION 6.03 Amends Section 51.914, Education Code, to provide that information maintained by or for an institution of higher education that would reveal the institution's plans or negotiations for commercialization or research, or that consists of unpublished research results or data, is not subject to Chapter 552, Government Code, unless the information has been published, is patented, or is otherwise subject to an executed license, sponsored research agreement, or research contract or grant. In this subsection, "institution of higher education" has the meaning assigned by Section 61.003.

SECTION 6.04. 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 6.05. 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 6.06. Amends Section 130.152, Education Code, as follows:

Sec. 130.152. **CRITERIA FOR PROGRAMS FOR THE DISADVANTAGED.** Authorizes a junior college to develop programs to serve persons from backgrounds of economic or educational deprivation by submission of a plan based on the following criteria to THECB, rather than the Texas College and University System:

- (1) an instructional program that accommodates the different learning rates of students and compensates for prior economic and educational deprivation;
- (2) an unrestricted admissions policy allowing the enrollment of any person 18 years of age or older with a high school diploma or its equivalent who can reasonably be expected to benefit from instruction;
- (3) the assurance that all students, regardless of their differing programs of study, will be considered, known, and recognized as full members of the student body, provided that the administrative officers of a junior college may deny admission to a prospective student or attendance of an enrolled student if, in their judgment, the person, rather than he, would not be competent to benefit from a program of the college, or would by the person's, rather than his, presence or conduct create a disruptive atmosphere within the college not consistent with the statutory purposes of the college;
- (4) any other criteria consistent with the provisions of this subchapter specified by THECB; and
- (5) a junior college must obtain approval of THECB, rather than THECB, Texas College and University System, before offering any course under the provisions of this Act.

Deletes existing Subdivision (4) relating to the submission of a plan for a financial aid program which removes to the maximum extent possible the financial barriers to the educational aspirations of the citizens of this state.

Deletes existing Subdivision (5) relating to an annual evaluation report based on scientific methods and utilizing control groups wherever possible to be submitted to the coordinating board at the end of each school year, covering each remedial-compensatory course or program offered at the college.

Makes nonsubstantive changes.

SECTION 6.07. Amends Section 401.042, Government Code, by adding Subsection (c), to require the offices of the governor and the LBB, 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 6.08. 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 403.273(h) (authorizing the state auditor, based on a risk assessment and subject to the legislative audit committee's approval of including the examination in the audit plan under Section 321.013, to periodically examine property records or inventory as necessary to determine if controls are adequate to safeguard state property), 403.275 (Liability for Property Loss), and 403.278 (Transfer of Personal Property) apply to a university system or institution of higher education.

SECTION 6.09. Amends Section 2101.0115(d), Government Code, by adding Subdivision (4) to define "institution of higher education" and "university system."

SECTION 6.10. 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 6.11. 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 6.12. 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 6.13. 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 LBB, and the State Energy Conservation Office. Makes a nonsubstantive change.

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 asset management division of the General Land Office (GLO) or any other division delegated the duties of the asset management division by the commissioner of GLO, 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 51.216 (Crime Statistics Report), Education Code;
- (2) Sections 51.403(b) (requiring each institution, after the end of each spring semester the chief executive officer of each institution, to provide its governing board a report for the preceding fall and spring semesters indicating for each instructor the number of students enrolled in each class, the number of semester-credit hours accrued to each course, the course number and title, the department in which the course is offered, and the identity and academic rank of the instructor) and (c) (requiring that a report prepared under Subsection (b) of this section compare student enrollments in each class on the last day of each semester with enrollments at the beginning of that semester), Education Code;
- (3) Section 51.4033 (Report of Efforts Concerning Timely Graduation), 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 61.087(c) (requiring each public or private or independent institution of higher education to report to THECB all scholarships or grants offered by out-of-state institutions for which the reporting institution offered a matching scholarship or grant under this section and all scholarships or grants offered or awarded by the reporting institution under this section and the methods used to encourage Texas high school graduates to attend that institution), Education Code;
- (7) Section 62.098 (Annual Report), Education Code;
- (8) Section 1434.054 (Project Approval by Texas Higher Education Coordinating Board), Government Code;
- (9) Section 2107.005 (Reports to Attorney General), Government Code;
- (10) 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
- (11) 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 UT System), Chapter 670 (Gaines County Solid Waste Management Act), Acts of the 72nd Legislature, 1991 (Article 4477-7j, V.T.C.S.).

(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 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;
- (9) Section 63.004 (Reporting Requirement), Education Code;
- (10) Section 63.103 (Reporting Requirement), Education Code;
- (11) 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;
- (12) Section 88.210 (Reports), Education Code;
- (13) Section 106.54 (Biennial Report), Education Code;
- (14) Section 142.005 (Progress Reports), Education Code;
- (15) Section 143.006 (Progress Reports), Education Code;
- (16) Section 147.005 (Progress Reports), Education Code;
- (17) Section 148.005 (Progress Reports), Education Code; and
- (18) Section 153.008 (Biennial Report), Education Code.

SECTION 7.02. (a) Provides that this section governs a conflict between this Act and any other Act of the 82nd Legislature, Regular Session, 2011, without regard to the relative dates of enactment.

(b) Provides that if this Act and any other Act repeal the same statute, the earlier effective date of repeal controls.

(c) Provides that if this Act amends a statute that any other Act repeals, the repeal controls.

ARTICLE 8. EFFECTIVE DATE

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

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2011.