

**SUBJECT:** Adjusting allocations from the Higher Education Fund

**COMMITTEE:** Higher Education — committee substitute recommended

**VOTE:** 8 ayes — Branch, Castro, Alonzo, Berman, D. Howard, McCall, Patrick, Rose  
0 nays  
1 absent — Cohen

**SENATE VOTE:** On final passage, April 24 — 30-0

**WITNESSES:** No public hearing

**BACKGROUND:** Texas Constitution, Art. 7, sec. 17 authorizes the Higher Education Fund (HEF), which was created by constitutional amendment as a counterpart to the Permanent University Fund (PUF) for those public higher education institutions constitutionally ineligible for proceeds from the PUF. The HEF may be used to acquire land, construct, equip, repair, or rehabilitate buildings, and acquire capital equipment, library books, and library materials. Institutions may use HEF allocations for debt service on HEF bonds.

While the Constitution requires the Legislature to review the HEF's formula allocation every ten years, the Legislature may once every five years adjust the amount and the allocation of the constitutional appropriation for the next five years, provided there is a two-thirds majority vote and provided the reallocation would not impair any debt service obligated on HEF bonds or notes.

The annual distribution of HEF appropriations is set forth in Education Code, sec. 62.021 and uses a formula consisting of the following elements: space deficit, facilities condition, and institutional complexity, plus a separate allocation for the Texas State Technical College System.

DIGEST:

CSSB 2146 would amend Education Code, sec. 62.021 to set forth the annual allocations for the Higher Education Fund beginning with fiscal 2011 for the second half of the HEF's decennial period.

The bill would stipulate certain amounts allocated in accordance with the equitable formula to eligible institutions, and would make a separate allocation for the Texas State Technical College System. Institutions would be prohibited from presenting a claim to be paid before the delivery of goods or services except for the payment of principal or interest on bonds or notes or for the payment of library materials.

The bill would specify that amounts allocated to the Texas State Technical College System Administration include its component campuses: Texas State Technical College at Harlingen; Texas State Technical College at Marshall; Texas State Technical College at West Texas; and Texas State Technical College at Waco. Extension centers or programs would be excluded.

The bill would establish a temporary provision that would expire September 1, 2010, applicable to state fiscal years 2009 and 2010, intended as a correction necessary to maintain an equitable distribution basis for the HEF through August 31, 2010, and which would allocate certain amounts to eligible institutions in each of those fiscal years. The bill would require the comptroller to distribute the funds allocated under the temporary provision only on presentation of a claim and issuance of a warrant in accordance with state law. Institutions would be prohibited from presenting a claim before the delivery of goods or services except for the payment of principal or interest on bonds or notes or for library material.

CSSB 2146 would authorize the University of North Texas at Dallas to participate in the HEF as soon as the university operated as a general academic teaching institution. The bill would require the comptroller, pursuant to the annual allocation amounts for each year of the remaining ten year allocation period that ends in 2015, to distribute to the Lamar Institute of Technology a portion of the total annual appropriation under the HEF.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009.

**SUPPORTERS  
SAY:**

CSSB 2146 would reallocate the amounts that individual public institutions of higher education receive from the HEF, but would not change the total amount appropriated to the HEF in any of the fiscal years that the bill would affect. Appropriations would be based on the amount generated by the updated HEF formula, which is based on updated information from the institutions regarding space deficit and condition of facilities. The temporary allocation provision would correct certain errors in the existing HEF allocation. The reallocation would provide additional HEF funding to those institutions that had been underallocated previously.

**OPPONENTS  
SAY:**

No apparent opposition.

**NOTES:**

The House committee substitute removed a prohibition in the Senate-passed bill against the comptroller issuing a warrant from any allocated funds before the delivery of goods and services, with certain exceptions. In the temporary provision making a correction of the formula, the substitute would stipulate that institutions would be prohibited from making a claim to be paid, rather than prohibiting the comptroller from issuing a warrant from any such funds. The substitute also made very slight adjustments to some allocation amounts.