

## **BILL ANALYSIS**

Senate Research Center

S.B. 536  
By: Ogden  
State Affairs  
3-5-97  
Committee Report (Amended)

### **DIGEST**

Currently, Article III, Section 40, of the Texas Constitution prohibits the granting of extra compensation to a state employee after service has been rendered. Additionally, the state's doctrine of at-will employment and restrictions on contracting for amounts of money beyond the biennium essentially prohibits state agencies from entering into employment contracts that include severance provisions. Except for institutions of higher education, severance pay and/or settlement agreements are relatively uncommon at state institutions. In cases where severance payments at state institutions have occurred concern has been expressed about the appropriateness and legality of the payment. The goal of S.B. 536 is to clarify the actions a governing board of a state agency or state-supported institution of higher education may take in the settlement agreement between a current or former employee of the agency or institution.

### **PURPOSE**

As proposed, S.B. 536 outlines provisions and provides penalties regarding restrictions on certain actions involving the executive head of a state agency.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Title 6B, Government Code, by adding Chapter 666, as follows:

#### **CHAPTER 666. RESTRICTIONS ON CERTAIN ACTIONS INVOLVING EXECUTIVE HEAD OF STATE AGENCY**

Sec. 666.001. DEFINITIONS. Defines "executive head of a state agency," and "state agency."

Sec. 666.002. REASSIGNMENT OF EXECUTIVE HEAD OF STATE AGENCY. Prohibits the executive head of a state agency from being reassigned to another position in the agency or at another agency that is also controlled by the governing body unless the governing body, in an open meeting, votes to approve the proposed reassignment.

Sec. 666.003. CONTRACTING WITH EXECUTIVE HEAD OF STATE AGENCY. Prohibits a state agency from entering into a contract with the executive head of the state agency, with a person who at any time during the four years before the date of the contract was the executive head of the state agency, or with a person who employs a current or former executive head of a state agency affected by this section, unless the governing body votes, in an open meeting, to approve the contract and notifies the Legislative budget Board, not later than the fifth day before the date of the vote, of the terms of the proposed contract.

Sec. 666.004. ACTIONS INVOLVING EXECUTIVE HEAD OF STATE AGENCY ARE OPEN RECORDS. Outlines provisions regarding actions involving an executive head of a state agency which are open records. Provides that a party that attempts to withhold a record from public disclosure commits a Class A misdemeanor.

SECTION 2. Effective date: September 1, 1997.  
Makes application of this Act prospective.

SECTION 3. Emergency clause.

**SUMMARY OF COMMITTEE CHANGES**

Amends SECTION 1, Sections 666.002 and 666.003, Government Code, regarding the reassignment of an executive head of a state agency and contracting with an executive head of a state agency.