

BILL ANALYSIS

Senate Research Center

H.B. 1945
By: Junell (Ratliff)
Finance
5/2/1999
Engrossed

DIGEST

On March 28, 1996, the attorney general filed suit against the tobacco industry on behalf of the State of Texas which resulted in a settlement agreement in which the industry agreed to pay the state \$1.5 billion over the next 25 years. Subsequent to the settlement, several legal challenges were filed, including one to ensure the deposit of the settlement proceeds into the state treasury and to preserve the authority of the legislature to appropriate the funds, and one to ensure the allocation of some of the proceeds to counties and hospital districts with indigent care responsibilities. On February 3, 1998, an agreement was reached between the attorney general and Representative Robert Junell, chairman of the House Appropriations Committee, and Senator Bill Ratliff, chairman of the Senate Finance Committee, to deposit the proceeds into the treasury for appropriation by the legislature. On July 24, 1998, an agreement was reached between the attorney general and certain counties and hospital districts to preserve the entire amount of the original \$1.5 billion for the benefit of the State of Texas. Under this agreement, the parties also agreed that the additional payments of \$2.275 billion received under the "Most Favored Nation" provision of the settlement agreement would be used for the benefit of counties and hospital districts. This bill would provide for the implementation of these two agreements. This bill would create a permanent health fund for higher education and sets forth a formula for distributing the funds to certain health-related institutions of higher education. This bill would also create separate permanent funds for those institutions. This bill would provide for the creation, administration, and use of the permanent fund for higher education nursing and allied health programs.

PURPOSE

As proposed, H.B. 1945 creates a permanent health fund for higher education and sets forth a formula for distributing the funds to certain health-related institutions of higher education; creates separate permanent funds for those institutions; and provides for the creation, administration, and use of the permanent fund for higher education nursing and allied health programs.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Texas Higher Education Coordinating Board in SECTION 1 (Section 63.202(c), Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 3B, Education Code, by adding Chapter 63, as follows:

CHAPTER 63. PERMANENT FUNDS FOR HEALTH-RELATED INSTITUTIONS OF HIGHER EDUCATION

SUBCHAPTER A. PERMANENT HEALTH FUND FOR HIGHER EDUCATION

Sec. 63.001. PERMANENT HEALTH FUND FOR HIGHER EDUCATION. Provides that the permanent health fund for higher education (fund) is a special fund in the treasury outside the general revenue fund. Provides that the fund is composed of money transferred to the fund at the direction of the legislature, gifts and grants contributed to the fund, and the returns received from investment of money in the fund.

Sec. 63.002. ADMINISTRATION AND USE OF FUND. (a) Requires the board of regents of the University of Texas System (board) to administer the fund. Authorizes the board to manage and invest the money in the fund in the same manner as the board manages and invests other

permanent endowments. Requires the board to invest funds in a manner that preserves the purchasing power of the fund's assets and the fund's annual distribution.

(b) Prohibits the use of the money in the fund for any purpose except as provided by Subsections (c) and (d).

(c) Authorizes the appropriation of the investment returns of the fund only for programs that benefit medical research, health education, or treatment programs at certain public health-related institutions of higher education.

(d) Authorizes the governing board of a health-related institution of higher education entitled to receive money under this subchapter to solicit and accept gifts and grants to the fund. Requires a gift or grant to the fund to be distributed and used in the same manner as the earnings of the fund, subject to the discretion of the donor or granting entity.

(e) Provides that Sections 403.095 and 404.071, Government Code, do not apply to the fund.

Sec. 63.003. DISTRIBUTION OF INVESTMENT RETURNS. (a) Requires the legislature to appropriate the investment returns of the fund to certain health-related institutions of higher education. Sets forth the distribution of the investment returns to certain institutions.

(b) Requires the amount of investment returns appropriated under this section to be distributed quarterly by the comptroller of public accounts (comptroller) to each health-related institution of higher education.

(c) Requires the Legislative Budget Board (LBB) to determine each institution's portion of investment returns and provide that information to the legislature and the comptroller.

(d) Authorizes the Baylor College of Medicine to receive certain funds under specified conditions.

Sec. 63.004. REPORTING REQUIREMENT. Requires an institution receiving a distribution from the fund to provide a report to LBB by November 1 of each year. Requires the report include certain information.

SUBCHAPTER B. PERMANENT FUNDS FOR HEALTH-RELATED INSTITUTIONS

Sec. 63.101. CREATION OF FUNDS. Establishes a separate permanent endowment for the benefit of certain institutions of higher education. Provides that each permanent endowment fund (permanent fund) is a special fund in the treasury outside the general revenue fund. Provides that the permanent fund is composed of money transferred to the permanent fund at the direction of the legislature, gifts and grants contributed to the permanent fund, and the returns received from investment of money in the fund.

Sec. 63.102. ADMINISTRATION AND USE OF FUNDS. (a) Authorizes the comptroller to contract with certain governing boards of institutions or components to administer any permanent fund. Authorizes the governing board to manage and invest the money in the permanent fund, if the governing board administers the permanent fund, in the same manner as the board manages and invests other permanent endowments. Requires the administrator of the permanent fund to invest any fund in the specified manner.

(b) Prohibits the use of the money in the fund for any purpose except as provided by Subsections (c) and (d).

(c) Authorizes the investment returns of each permanent fund to be appropriated only for research and other programs that are conducted by the institution or components for which the permanent fund is established and that benefit the public health. Requires the comptroller or governing board to report to the legislature the amount of funds that are eligible for appropriation. Authorizes the investment returns of the permanent fund established for certain universities to be used according to the provisions set forth in this section.

(d) Authorizes the comptroller or the governing board of each institution or component to solicit and accept gifts and grants to the institution or component's permanent fund. Authorizes a gift

or grant to the permanent fund to be expended and used according to the provisions of this section and subject to the discretion of the donor or granting entity.

(e) Provides that Sections 403.095 and 404.071, Government Code, do not apply to a permanent fund established under this subchapter.

Sec. 63.103. REPORTING REQUIREMENT. Requires an institution listed in Section 63.101 to provide a report on the permanent fund to LBB by November 1 of each year. Requires the report to include certain information.

SUBCHAPTER C. PERMANENT FUND FOR HIGHER EDUCATION NURSING, ALLIED HEALTH AND OTHER HEALTH-RELATED PROGRAMS

Sec. 63.201. PERMANENT FUND FOR HIGHER EDUCATION NURSING AND ALLIED HEALTH PROGRAMS. Provides that the permanent health fund for higher education nursing and allied health programs (program fund) is a special fund in the treasury outside the general revenue fund. Provides that the program fund is composed of money transferred to the program fund at the direction of the legislature, gifts and grants contributed to the program fund, and returns received from investment of money on the program fund.

Sec. 63.202. ADMINISTRATION OF USE OF THE FUND. (a) Authorizes the comptroller to contract with certain governing boards of institutions or components to administer the program fund. Authorizes the governing board to manage and invest the money in the program fund, if the governing board administers the program fund, in the same manner as the board manages and invests other permanent endowments. Requires the administrator of the program fund to invest any fund in the specified manner.

(b) Prohibits the use of the money in the program fund for any purpose except as provided by Subsections (c) and (d).

(c) Authorizes the investment returns of each program fund to be appropriated to the Texas Higher Education Coordinating Board (THECB) for the purpose of providing grants to public institutions of higher education that offer upper-level academic instruction and training in the field of nursing or allied health education. Requires THECB to adopt rules relating to the award of grants under this subchapter. Provides that an institution or component receiving funds under Subchapter A or B is not eligible to receive a grant under this subchapter. Requires the comptroller or governing board to report to the legislature the amount of funds that are eligible for appropriation.

(d) Authorizes the comptroller or the governing board of the program fund to solicit and accept gifts and grants for the benefit of the program fund. Authorizes a gift or grant to the program fund to be expended and to be used according to the provisions of this section and subject to the discretion of the donor or granting entity.

(e) Provides that Sections 403.095 and 404.071, Government Code, do not apply to a program fund established under this subchapter.

Sec. 63.203. REPORTING REQUIREMENT. Requires THECB to provide a report on the program fund to LBB by November 1 of each year. Requires the report include certain information.

SUBCHAPTER D. PERMANENT FUND FOR MINORITY HEALTH RESEARCH AND EDUCATION

Sec. 63.301. PERMANENT FUND FOR MINORITY HEALTH RESEARCH AND EDUCATION. (a) Provides that the permanent fund for minority health research and education (minority health fund) is a special fund in the treasury outside the general revenue fund. Provides that the minority health fund is composed of money transferred to the minority health fund at the direction of the legislature, gifts and grants contributed to the minority health fund, and returns received from investment of money on the minority health fund.

Sec. 63.302. ADMINISTRATION OF USE OF THE FUND. (a) Authorizes the comptroller to contract with certain governing boards of institutions or components to administer the minority health fund. Authorizes the governing board to manage and invest the money in the minority health fund, if the governing board administers the minority health fund, in the same manner as the board manages and invests other permanent endowments. Requires the administrator of the minority health fund to invest any fund in the specified manner.

(b) Prohibits the use of the money in the program fund for any purpose except as provided by Subsections (c) and (e).

(c) Authorizes the investment returns of each minority health fund to be appropriated to THECB for the purpose of providing grants to public institutions of higher education that conduct research or educational programs that address minority health issues or from partnerships with minority organizations, colleges, or universities to conduct research and educational programs that address minority health issues.

(d) Requires THECB to adopt rules relating to the award of grants under this subchapter.

(e) Authorizes the comptroller or the governing board of the minority health fund to solicit and accept gifts and grants for the benefit of the minority health fund. Authorizes a gift or grant to the minority health fund to be expended and used according to the provisions of this section and subject to the discretion of the donor or granting entity.

(f) Requires THECB to report to the legislature annually the total amount of funds awarded and certain other information regarding the grants.

(g) Provides that Sections 403.095 and 404.071, Government Code, do not apply to a program fund established under this subchapter.

SECTION 2. Amends Section 61.092, Education Code, to authorize funds received by Baylor College of Medicine under Subchapter A, Chapter 63, to be used only to support programs of the college used for the purposes described by this section. Makes nonsubstantive changes.

SECTION 3. (a) Requires the comptroller, on the effective date of this Act, to transfer \$375 million from the general revenue fund to the permanent health fund for higher education established by Subchapter A, Chapter 63, Education Code.

(b) Requires the comptroller, on the effective date of this Act, to transfer from the general revenue fund certain amounts to the separate endowment fund established by Subchapter B, Chapter 63, Education Code, to certain institutions of higher education or components of an institution of higher education.

(c) Requires the comptroller to transfer \$46 million from the general revenue fund to the permanent fund for higher education nursing and allied health programs established by Subchapter C, Chapter 63, Education Code.

(d) Requires the comptroller to transfer \$25 million from the general revenue fund to the permanent fund for minority health research and education established by Subchapter D, Chapter 63, Education Code.

(e) Authorizes appropriation of money in the fund to pay any amount of money that the federal government determines the state should repay or that it should recoup from the state in the event of national legislation regarding *The State of Texas v. American Tobacco Co., et al.*, No. 5-96CV-91, in the United States District court, Eastern District of Texas.

SECTION 4. Effective date: August 31, 1999.

SECTION 5. Emergency clause.