

BILL ANALYSIS

Senate Research Center

C.S.H.B. 1945
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Finance
5/6/1999
Committee Report (Substituted)

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.

PURPOSE

As proposed, C.S.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; and creates separate permanent funds for those institutions.

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 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. Requires the board to determine the amount available for distribution from the fund in a manner consistent with the board's procedures

for making distributions to other endowment beneficiaries. Requires the amount available for distribution to be determined by the investment and distribution policy for the fund's assets adopted by the board. Requires expenses of managing the fund's assets to be paid from the fund.

(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 amount available for distribution from 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 appropriated and distributed and used in the same manner as an amount appropriated under Section 63.003, 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. Provides that Section 404.094(d), Government Code, applies to the fund.

(f) Requires an institution of higher education that has accepted a gift under Chapter 51I, that was conditioned on the receipt by the institution of state matching funds from the eminent scholars fund to use money the institution receives under this subchapter to provide the state matching funds.

Sec. 63.003. ALLOCATION OF DISTRIBUTION. (a) Requires the legislature to appropriate the amount available for distribution from 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 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 an amount appropriated under this section and provide that information to the legislature and the comptroller.

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

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 governing board of an institution or component to administer the permanent fund of that institution. Requires the comptroller to administer the permanent fund, if a governing board elects not to administer the permanent fund. Requires the administrator of the permanent fund to invest any fund in the specified manner. Requires annual distributions for any permanent fund to be determined by the investment and distribution policy adopted by the administrator of the permanent fund for the permanent fund's assets. Requires the expenses of managing the assets of a permanent fund to be paid from the 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, and requires the board to make distributions from the fund in a manner consistent with the board's procedures for making distributions to other endowment beneficiaries. Sets forth certain authorized activities by the comptroller regarding the administration of a permanent fund.

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

(c) Authorizes the amount available for distribution from 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 an amount appropriated from 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. Provides that Section 404.094(d), Government Code, applies to the permanent fund.

(f) Requires an institution of higher education that has accepted a gift under Chapter 51I, that was conditioned on the receipt by the institution of state matching funds from the eminent scholars fund to use money the institution receives under this subchapter to provide the state matching funds.

SECTION 2. Amends Section 61.092, Education Code, to authorize funds received by Baylor College of Medicine under Subchapter A or B, Chapter 63, to be used only to support programs of the college used for the purposes described by this section. Requires the board and Baylor College of Medicine to enter into a contract that requires Baylor College of Medicine to administer the fund in the same manner as required of the comptroller, if Baylor College of Medicine elects to administer the fund established for the institution under Chapter 63B. Makes conforming and nonsubstantive changes.

SECTION 3. (a) Requires the comptroller, on the effective date of this Act, to transfer from the general revenue fund to the permanent health fund for higher education established by Subchapter A, Chapter 63, Education Code, the amount appropriated in the General Appropriations Act for the permanent health fund.

(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) 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. the American Tobacco Co., et al.*, No. 5-96CV-91, in the United States District Court, Eastern District of Texas.

SECTION 4. Emergency clause.
Effective date: upon passage.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Chapter 63, Title 3B, Education Code, as follows:

Sec. 63.002. (a) Requires the board to determine the amount available for distribution from the fund in a manner consistent with the board's procedures for making distributions to other endowment beneficiaries. Requires the amount available for distribution to be determined by the investment and distribution policy for the fund's assets adopted by the board. Requires expenses of managing the fund's assets to be paid from the fund. Makes a nonsubstantive change.

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

(d) Requires a gift or grant to the fund to be appropriated and distributed, rather than just distributed, and used in the same manner as an amount appropriated under Section 63.003, rather than the earnings of the fund, subject to the discretion of the donor or granting entity.

(e) Provides that Section 404.094(d), Government Code, applies to the fund.

(f) Requires an institution of higher education that has accepted a gift under Chapter 51I, that was conditioned on the receipt by the institution of state matching funds from the eminent scholars fund to use money the institution receives under this subchapter to provide the state matching funds.

Sec. 63.003. Provides a new heading for the section. (a) Revises the distribution of the investment returns to certain institutions. Makes conforming changes.

(b) Makes a nonsubstantive change.

(c) Makes a conforming change. Deletes proposed Section 63.004, regarding a reporting requirement.

Sec. 63.101. Establishes a separate permanent endowment for the benefit of certain institutions of higher education, including the Baylor College of Medicine, under certain conditions.

Sec. 63.102. (a) Authorizes the governing board of an institution to administer the permanent fund of that institution, rather than authorizing the comptroller to contract with certain governing boards of institutions or components to administer any permanent fund. Requires the comptroller to administer the permanent fund, if a governing board elects not to administer the permanent fund. Requires the annual distribution for any permanent fund to be determined by the investment and distribution policy adopted by the administrator of the permanent fund for the permanent fund's assets. Requires the expenses of managing the assets of a permanent fund to be paid from the permanent fund. Requires the board to make distributions from the fund in a manner consistent with the board's procedures for making distributions to other endowment beneficiaries. Sets forth certain authorized activities by the comptroller regarding the administration of a permanent fund. Makes conforming and nonsubstantive changes.

(c) Authorizes an amount appropriated from the permanent fund established for certain universities to be used according to the provisions set forth in this section, including an amount appropriated from the permanent fund established for the Texas A&M University Health Science Center may be used for the establishment and operation of the Coastal Bend Health Education Center in Corpus Christi. Makes conforming and nonsubstantive changes.

(d) Makes a conforming change.

(e) Provides that Section 404.094(d), Government Code, applies to the permanent fund.

(f) Requires an institution of higher education that has accepted a gift under Chapter 51I, that was conditioned on the receipt by the institution of state matching funds from the eminent scholars fund to use money the institution receives under this subchapter to provide the state matching funds. Deletes Section 63.103, regarding a reporting requirement.

Deletes Subchapters C and D regarding a permanent fund for higher education nursing and allied health programs and minority health research and education. Makes conforming and nonsubstantive changes.

SECTION 2.

Amends Section 61.092, Education Code, to authorize funds received by Baylor College of Medicine under Subchapter A or B, Chapter 63, rather than just Subchapter A, to be used only

to support programs of the college used for the purposes described by this section. Requires the board and Baylor College of Medicine to enter into a contract that requires Baylor College of Medicine to administer the fund in the same manner as required of the comptroller, if Baylor College of Medicine elects to administer the fund established for the institution under Chapter 63B.

SECTION 3.

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

(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, but with only \$150 million transferred to the University of Texas Health Science Center at San Antonio, rather than \$200 million, the University of Texas M.D. Anderson Cancer Center receiving \$150 million, rather than \$100 million, and the Baylor College of Medicine receiving \$25 million. Makes conforming changes.

SECTION 4.

Revises the effective date to upon passage, rather than August 31, 1999. Redesignates SECTION 5 as SECTION 4.