

## BILL ANALYSIS

Senate Research Center  
78R4474 JSA-D

S.B. 1652  
By: Shapiro  
Subcommittee on Higher Education  
4/25/2003  
As Filed

### DIGEST AND PURPOSE

Currently, Texas higher education institutions are subject to thousands of laws, regulations, policies, and procedures mandated by the state and federal governments, regulatory agencies, and private-sector organizations. As proposed, S.B. 1652 sets forth a guide for the administration, operation, governance, and financing of Texas higher education institutions.

### RULEMAKING AUTHORITY

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

### SECTION BY SECTION ANALYSIS

#### ARTICLE 1. ACADEMIC MATTERS

SECTION 1.01. Amends the heading to Section 51.306, Education Code, to read as follows:

Sec. 51.306. HIGHER EDUCATION REMEDIAL PROGRAM.

SECTION 1.02. Amends Sections 51.306(b)-(g), (j)-(n), (s), (u), and (w), Education Code, as follows:

(b) Requires a student who is permitted to enroll without taking a test under Subsection (c) to take a test under Subsection (c) not later than the end of the first semester of enrollment.

(c) Requires the institution, for purposes of Subsection (b), to administer a certain test. Deletes text requiring the use of the Texas Academic Skills Program Test and text regarding students taking an alternative test.

(d) Prohibits an institution from using performance on a test administered under Subsection (c) as a condition of admission into the institution.

(e) Requires the Texas Higher Education Coordinating Board (THECB) to prescribe minimum performance standards for each assessment, rather than test, instrument described by Subsection (c).

(f) Requires the student, on completion of the developmental coursework or program to take that portion of a test described by Subsection (c), rather than the Texas Academic Skills Program Test, for which developmental education was required.

(g) Makes conforming changes.

(j) Requires the unit costs of each assessment instrument administered under Subsection (c), rather than each test, to be borne by the student. Requires costs of administering the assessment instruments, rather than tests, to students shown to be financially needy under criteria established by THECB to be borne by the state through appropriation to THECB for that purpose or other sources of funds. Requires appropriation to be made to THECB

to cover overall administrative costs of the higher education remedial, rather than testing, program.

(k) Requires THECB to publish annually a summary of the report required by Section 51.403(e) identifying by name the high school from which each student tested under this section graduated and a statement as to whether or not the student's performance was above or below the standard set by THECB under this section. Requires the summary to include the number of students at each high school who took the applicable assessment instruments described by Subsection (c)(1) while enrolled in high school and who at that time satisfied the standard set by THECB under this section, rather than passed the test while enrolled in high school. Requires THECB to publish certain student information annually in a report summarizing by institution of higher education for each academic year.

(l) Provides that a high school student who performs at or above a level set by THECB on the English language arts and mathematics exit-level assessment instruments required under Section 39.023(c) or on comparable assessment instruments, including college advanced placement tests or international baccalaureate examinations, is exempt from this section. Provides that this exemption is effective for three years from the date a student takes the assessment instruments and achieves the set score levels. Deletes text prohibiting a level set by THECB from exceeding a certain level.

(m) Deletes text prohibiting the score set by THECB from exceeding a certain score.

(n) Makes a conforming change.

(s) Makes a nonsubstantive change.

(u) Makes a conforming change.

(w) Prohibits a high school student who fails to achieve the minimum required score set by THECB under this section on the applicable assessment instruments described by Subsection (c)(1) from being required to take developmental classes while in high school. Deletes text regarding certain provisions that apply to high school students taking a certain test.

SECTION 1.03. Amends Section 39.023(c), Education Code, to delete text regarding a student who performs at a certain level established by THECB and an exemption from certain requirements.

SECTION 1.04. Repealer: Section 51.306(v) (Texas Academic Skills Program), Education Code.

SECTION 1.05. Provides that this article takes effect June 1, 2004, and applies beginning with the 2004 fall semester.

## ARTICLE 2. FINANCIAL MATTERS

SECTION 2.01. Section 11.11(e), Tax Code, to provide that property that is held or dedicated for the support, maintenance, or benefit of an institution of higher education as defined by Section 61.003, Education Code, but is not rented or leased for compensation to a private business enterprise to be used by it for a purpose not related to the performance of the duties and functions of the state or institution or is not rented or leased to provide private residential housing to members of the public other than students and employees of the state or institution is not taxable. Provides that the existence of a taxable leasehold described by Section 23.13 on the property does not affect the exemption of the property under this section. Requires the taxable leasehold to be listed in the appraisal records as provided by Section 25.07. Provides that if a portion of property of an institution of higher education is used for public purposes and a portion is not used for those purposes, the portion of the property used for public purposes is exempt

under this subsection. Provides that property bequeathed to an institution is exempt from the assessment of ad valorem taxes from the date of the decedent's death, unless a certain condition exists.

SECTION 2.02. Amends Section 2254.021(2), Government Code, to redefine "major consulting services contract."

SECTION 2.03. Amends Section 2254.028, Government Code, by adding Subsection (c) to provide that Subsection (a)(3) 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 a finding by the chief executive officer of the institution that the consulting services are necessary and an explanation of that finding.

SECTION 2.04. Amends Sections 2254.031(b) and (d), Government Code, as follows:

(b) Requires a state agency that intends to renew a contract that is not a major consulting services contract to comply with Sections 2254.028 and 2254.029 if the original contract and the renewal contract have a reasonably foreseeable value totaling more than \$15,000, or \$25,000 for an institution of higher education other than a public junior college.

(d) Makes a conforming change.

SECTION 2.05. Amends Section 54.5011, Education Code, as follows:

Sec. 54.5011. New heading: CHARGES AND FEES FOR CERTAIN PAYMENTS. (a) Provides that this section applies to a payment of tuition, a fee, or another charge to an institution of higher education that fits certain criteria.

(b) Authorizes an institution of higher education to charge a certain fee or other amount in connection with a payment to which this section applies, in addition to the amount of the tuition, fee, or other charge being paid. Deletes text regarding a credit card fee.

(c) Requires a fee or other charge under this section to be in an amount reasonably related to the expense incurred by the institution in processing and handling the payment or payment transaction. Deletes text prohibiting a certain amount from being exceeded, and text requiring the institution to notify the student of any fee to be charged under this section.

SECTION 2.06. Section 153.006, Education Code, as follows:

Sec. 153.006. SUPPORT OF CENTERS. (a) Authorizes an institution of higher education, in order to carry out the purposes of this chapter and to support the activities of centers described in this chapter, to the extent authorized by its governing board, to perform certain acts, including to enter into certain contracts for legal services with a competent lawyer or law firm.

(b) Authorizes the fees or other compensation paid in connection with a legal services contract authorized by Subsection (a) to be paid on a contingency fee basis, at an hourly rate, or on another basis the governing board of the institution considers appropriate.

SECTION 2.07. Amends Section 2254.102, Government Code, by adding Subsection (c), to provide that this subchapter does not apply to a contract for legal services entered into by an institution of higher education under Section 153.006, Education Code.

SECTION 2.08. Amends Section 404.097(d), Government Code, to authorize legal fees and expenses to be paid from the recovered funds under a contingent fee contract for legal services

only under certain conditions.

SECTION 2.09. Amends Section 21.042, Property Code, by adding Subsection (f) to prohibit the special commissioners, in awarding compensation or assessing damages for a condemnation by an institution of higher education, as defined by Section 61.003, Education Code, from including in the compensation or damages any amount that compensates for, or is based on the present value of, an exemption from ad valorem taxation applicable to the property before its condemnation.

SECTION 2.10. Amends Section 55.004, Property Code, by adding Subsection (f), to provide that if the physician is employed in that capacity by an institution of higher education, as defined by Section 61.003, and the lien does not include the amount of the physician's reasonable and necessary charges described by Subsection (c), the physician has a lien on the cause of action in the same manner as a hospital under this chapter. Provides that the lien is subject to provisions of this chapter applicable to a hospital lien. Authorizes the physician or the physician's employing institution to secure and enforce the lien in the manner provided by this chapter.

### ARTICLE 3. HUMAN RESOURCES

SECTION 3.01. Amends Section 51.964(a), Education Code, to reduce from one calendar year to 30 days the period of time a person must be retired before being employed by an institution of higher education as defined by Section 61.003 if the person retired under the Teacher Retirement System (Subtitle C, Title 8, Government Code) or the optional retirement program (Chapter 830, Government Code).

SECTION 3.02. Amends Section 659.018, Government Code, as follows:

Sec. 659.018. COMPENSATORY TIME: PLACE WHERE WORK PERFORMED. (a) Created from existing text.

(b) Prohibits the employee's personal residence, for purposes of Subsection (a), from being considered the employee's regular or temporarily assigned place of employment unless the employee is employed by an institution of higher education as defined by Section 61.003, Education Code, and is participating in a telecommuting program approved by the employee's supervisor.

### ARTICLE 4. INFORMATION TECHNOLOGY

SECTION 4.01. Amends Section 2054.003(12), Government Code, to redefine "state agency."

SECTION 4.02. Amends Section 2054.077, Government Code, by adding Subsection (a-1), to define "state agency."

SECTION 4.03. Amends Section 2054.2011, Government Code, by adding Subdivision (3), to define "state agency."

SECTION 4.04. Amends Section 2054.251, Government Code, by adding Subdivision (7), to define "state agency."

SECTION 4.05. Repealer: Sections 2054.113(a) (Duplication With Texas Online) and 2054.121 (Coordination Among Institutions of Higher Education), Government Code.

### ARTICLE 5. REGULATORY AND ADMINISTRATIVE MATTERS

SECTION 5.01. Amends Section 2166.302, Government Code, as follows:

Sec. 2166.302. ADOPTION OF CONDITIONS. (a) Requires the commission to adopt uniform general conditions to be incorporated into all building construction contracts made by the state, including a contract for a project excluded from this chapter by Section

2166.003 other than a project constructed by and for an institution of higher education, but not including a contract for a project excluded from this chapter by Section 2166.004.

(b) Defines “institution of higher education.”

SECTION 5.02. Amends Section 2007.002(1), Government Code, to redefine “governmental entity.”

SECTION 5.03. Amends Section 65.45, Education Code, is amended to read as follows:

Sec. 65.45. New heading: SCIENCE AND TECHNOLOGY DEVELOPMENT, MANAGEMENT, AND TRANSFER. (a) Provides that the legislature finds that it is essential to the economic growth of the state that the potential for the development and growth of high technology industry be promoted and expanded. Authorizes THECB, as a means of accomplishing this purpose, to enter into agreements with individuals, corporations, partnerships, associations, and local, state, or federal agencies for funding the discovery, development, and commercialization of new products, technology, and scientific information, including an agreement to manage a national laboratory engaged in any of those endeavors. Authorizes, at the discretion of the board, research facilities, funding, and personnel at the various component institutions of The University of Texas System to be utilized to achieve the purposes of this section. Deletes text regarding THECB being authorized to perform certain acts.

(b) Authorizes THECB, as a means of carrying out the purposes of this section, to, through one or more corporations incorporated by THECB or under any other cooperative arrangement, perform certain acts.

(c) Authorizes THECB to cooperate in any manner THECB considers appropriate with similar programs operated by other state-supported institutions of higher education in this state or in other states. Deletes text prohibiting the Center for Technology Development and Transfer from receiving general revenue funds.

SECTION 5.04. Amends the heading to Section 551.121, Government Code, to read as follows:

Sec. 551.121. GOVERNING BOARD OF INSTITUTION OF HIGHER EDUCATION; BOARD FOR LEASE OF UNIVERSITY LANDS.

SECTION 5.05. Amends Sections 551.121(b), (c), and (e), Government Code, as follows:

(b) Provides that this chapter does not prohibit the governing board of an institution of higher education or the Board for Lease of University Lands (BLUL) from holding an open or closed meeting by telephone conference call.

(c) Authorizes a meeting held by telephone conference call to be held only if certain criteria is met.

(e) Requires the notice of a telephone conference call meeting of a governing board to specify as the location of the meeting the location where meetings of the governing board are usually held. Requires the notice, for a meeting of BLUL, to specify as the location of the meeting a suitable conference or meeting room at The University of Texas System office.

## ARTICLE 6. REPORTING

SECTION 6.01. Amends Sections 51.680(b) and (c), Education Code, as follows:

(b) Authorizes an institution, rather than institutions, of higher education to file or post on the institution’s website on the Internet in a manner available to the public policies amended to overcome any failure to meet the standards. Makes nonsubstantive changes.

(c) Provides that it is a policy of the state that each institution of higher education shall at all times after August 31, 1988, have a current copy of its intellectual property policies that meet the minimum standards set out in Subsection (a) on file with THECB or publicly posted on the institution's website on the Internet in a manner available to the public.

SECTION 6.02. Amends Section 403.021(a), Government Code, to redefine "state agency."

SECTION 6.03. Amends Subchapter B, Chapter 572, Government Code, by adding Section 572.0211, as follows:

Sec. 572.0211. EXEMPTION FOR CERTAIN APPOINTED STATE OFFICERS NOT REAPPOINTED. (a) Provides that a state officer who is a member of the governing board of an institution of higher education is exempt from the filing requirement of Section 572.021 in the year in which the member's term expires if certain conditions exist.

(b) Requires the individual to file a financial statement as required by Section 572.021 for the preceding calendar year not later than August 1, if notwithstanding the expiration of the term of office the individual is serving as a member of the same governing board on July 1 of that year, whether the individual continues in office because a successor has not qualified for the next term of office or because the individual has been reappointed to the same governing board.

SECTION 6.04. Amends Section 2152.064, Government Code, by adding Subsection (f), to provide that this section does not apply to a university system or an institution of higher education as those terms are defined by Section 61.003, Education Code.

SECTION 6.05. Amends Section 2155.448, Government Code, by adding Subsection (d), to provide that this section does not apply to a university system or an institution of higher education as those terms are defined by Section 61.003, Education Code.

SECTION 6.06. Amends Section 2166.101(a), Government Code, to provide that this section applies to a state-owned building, including a building otherwise exempt from this chapter under Section 2166.003, except that this section does not apply to a building owned by an institution of higher education as defined by Section 61.003, Education Code.

SECTION 6.07. Amends Section 2254.006, Government Code, as follows:

Sec. 2254.006. CONTRACT NOTIFICATION. Requires a state agency, other than, rather than including, an institution of higher education as defined by Section 61.003, Education Code, to provide written notice to the Legislative Budget Board of a contract for professional services, other than a contract for physician or optometric services, if the amount of the contract, including an amendment, modification, renewal, or extension of the contract, exceeds \$14,000.

SECTION 6.08. Repealer: Section 2166.101(f) (Compilation of Construction and Maintenance Information), Government Code.

#### ARTICLE 7. EFFECTIVE DATE

SECTION 7.01. Effective date: upon passage or September 1, 2003 except as otherwise provided by another provision of this Act.