

BILL ANALYSIS

Senate Research Center
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H.B. 4189
By: Rose (Watson)
Higher Education
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The goal of a compliance program is to prevent theft, fraud, and ethics violations. Texas law does not currently provide a means for an institution of higher education to protect the identity of an employee who makes a report to a compliance office or who participates in a compliance investigation. However, to be most effective, a compliance program needs to provide a method for employees to confidentially report potential problems. The willingness of employees to raise issues, make reports, and participate in the investigation and evaluation of those issues is often dependant on whether the employee's identity can be protected.

H.B. 4189 relates to the conduct of compliance programs by institutions of higher education.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter Z, Chapter 51, Education Code, by adding Section 51.971, as follows:

Sec. 51.971. COMPLIANCE PROGRAM. (a) Defines "compliance program" and "institution of higher education."

(b) Authorizes an institution of higher education that maintains a compliance program to establish procedures, such as a telephone hotline, to permit private access to the compliance program office and to preserve the confidentiality of communications and the anonymity of a person making a compliance report or participating in a compliance investigation.

(c) Provides that the following are confidential:

(1) information that directly or indirectly reveals the identity of an individual who made a report to the compliance program office of an institution of higher education, sought guidance from the office, or participated in an investigation conducted under the compliance program; and

(2) information that directly or indirectly reveals the identify of an individual as a person who is alleged to have or may have planned, initiated, or participated in activities that are the subject of a report made to the compliance program office of an institution of higher education if, after completing an investigation, the office determines the report to be unsubstantiated or without merit.

(d) Provides that Subsection (c) does not apply to information related to an individual who consents to disclosure of the information.

(e) Provides that information produced in a compliance program investigation the release of which would interfere with an ongoing compliance investigation is

excepted from disclosure under Chapter 552 (Public Information), Government Code.

(f) Authorizes that information made confidential or excepted from public disclosure by this section be made available to a law enforcement agency or prosecutor for official purposes of the agency or prosecutor upon proper request made in compliance with applicable law and procedure.

SECTION 2. Effective date: upon passage or September 1, 2009.