

BILL ANALYSIS

Senate Research Center

H.B. 51
By: Branch et al. (Zaffirini)
Higher Education
5/5/2009
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The purpose of this bill is to create two funds and an incentive research program to create additional national research universities in Texas. The performance funding is not intended to supplant base formula funding but rather to serve as a supplement.

Currently, there are three tier one institutions in Texas: The University of Texas at Austin, Texas A&M University, and Rice University. In comparison, there are nine and five tier one institutions in California and New York, respectively. Tier one institutions bring together a critical mass of talent and enrich the area they are located. Texas loses out in research funding, venture capital, top students, faculty, researchers, and scientists, by not having more tier one institutions.

As there are no current statutes to support, aid, and encourage "emerging research universities" and create tier one higher education institutions, this legislation would create two new programs and enhance another to promote this effort.

H.B. 51 amends current law relating to funding and incentives to support emerging public research universities in developing and maintaining programs of the highest tier.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Higher Education Coordinating Board in SECTION 2 (Section 62.055, 62.075, and 62.126, Education Code) and SECTION 6 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Chapter 62, Education Code, to read as follows:

CHAPTER 62. CONSTITUTIONAL AND STATUTORY FUNDS TO SUPPORT INSTITUTIONS OF HIGHER EDUCATION

SECTION 2. Amends Chapter 62, Education Code, by adding Subchapters C and D, as follows:

SUBCHAPTER C. RESEARCH UNIVERSITY DEVELOPMENT FUND

Sec. 62.051. DEFINITIONS. Defines "eligible institution," "emerging research university," and "institution of higher education."

Sec. 62.052. PURPOSE. Provides that the purpose of this subchapter is to provide funding to eligible institutions for the enhancement of research productivity to enable those institutions to achieve national prominence as major research universities.

Sec. 62.053. FUNDING. (a) Requires the comptroller of public accounts (comptroller) to distribute any funds appropriated by the legislature for the purposes of this subchapter, and any other funds made available for the purposes of this subchapter, among eligible institutions in proportion to the total amount of restricted research funds expended by each institution in the two most recent state fiscal years.

(b) Provides that for purposes of Subsection (a), the amount of restricted research funds expended by an eligible institution in a state fiscal year is the amount of

those funds as reported to the Texas Higher Education Coordinating Board (THECB) by the institution for that year, subject to any adjustment by THECB in accordance with the standards and accounting methods THECB prescribes for purposes of this section.

(c) Prohibits the legislature from appropriating money for purposes of this subchapter in a state fiscal year unless the legislature appropriates an equal amount of money for that fiscal year for the Texas Research Incentive Program (TRIP) under Subchapter D.

Sec. 62.054. USE OF ALLOCATED AMOUNTS. Authorizes an eligible institution to use money received under this subchapter only for the support and maintenance of educational and general activities that promote increased research capacity at the institution.

Sec. 62.055. RULES. Requires THECB to adopt rules for the administration of this subchapter, including rules requiring eligible institutions to report necessary information to THECB.

SUBCHAPTER D. TEXAS RESEARCH INCENTIVE PROGRAM (TRIP)

Sec. 62.071. DEFINITIONS. Defines "eligible institution," "emerging research university," "institution of higher education," and "program."

Sec. 62.072. PROGRAM ADMINISTRATION. (a) Requires THECB to administer the Texas Research Incentive Program (TRIP) in accordance with this subchapter to provide matching funds to assist eligible institutions in leveraging private gifts for the enhancement of research productivity and faculty recruitment. Requires the comptroller to deliver any payment of matching funds to which an eligible institution is entitled under TRIP.

(b) Prohibits the legislature from appropriating money for purposes of this subchapter in a state fiscal year unless the legislature appropriates an equal amount of money for that fiscal year for the research university development fund under Subchapter C.

Sec. 62.073. MATCHING GRANTS. (a) Entitles an eligible institution that receives cash gifts from private sources in a state fiscal year for the purpose of enhancing research activities at the institution, including gifts for endowments or endowed chairs or professorships, research or academic facilities, equipment, program costs, or graduate stipends or fellowships, to receive, out of funds appropriated for the purposes of TRIP for that fiscal year, a matching grant in an amount determined according to the following rates: 50 percent of the total amount of the gifts received, if the total amount of those gifts is \$100,000 or more, but not more than \$999,999; 75 percent of the total amount of the gifts received, if the total amount of those gifts is \$1 million or more, but not more than \$1,999,999; or 100 percent of the total amount of the gifts received, if the total amount of those gifts is \$2 million or more.

(b) Provides that an eligible institution is not entitled to matching funds under TRIP for a in-kind gift, a gift that has been pledged but has not been received by the institution, a gift for undergraduate scholarships, grants, or other financial aid, or any portion of gifts received by the institution from a single source in a state fiscal year in excess of \$10 million.

(c) Requires THECB to establish procedures for the certification by THECB of an eligible institution's receipt of a qualifying gift. Requires that a gift be certified as of the date the gift was deposited by the institution in a depository bank or invested by the institution as authorized by law.

(d) Requires THECB, if the funds appropriated for TRIP for a state fiscal year are insufficient to provide matching grants in the amounts specified by this section for

all qualifying private gifts received by eligible institutions during that fiscal year, to authorize matching grants for those gifts in order of their certification dates under Subsection (c) and authorize matching grants for any remaining unmatched gifts in the following fiscal year. Requires that unmatched gifts carried forward from a preceding fiscal year under this subsection be given priority over gifts received in the current fiscal year, and be provided matching grants under this section in order of their certification dates. Requires that an unmatched gift continue to be carried forward to subsequent fiscal years until a matching grant is awarded for the gift.

(e) Prohibits matching grants received by an eligible institution under this section from being considered as a basis to reduce, directly or indirectly, the amount of money otherwise appropriated or allocated to the institution under any other law.

Sec. 62.074. **USE OF MATCHING GRANTS.** Authorizes an eligible institution to use matching grant money received under this subchapter for the same purpose as that for which the matched gift was received or for the support and maintenance of educational and general activities that promote increased research capacity at the institution.

Sec. 62.075. **RULES.** Requires THECB to adopt rules for the administration of this subchapter, including rules requiring eligible institutions to report necessary information to THECB.

SECTION 3. Amends Chapter 62, Education Code, by adding Subchapter F, as follows:

SUBCHAPTER F. NATIONAL RESEARCH UNIVERSITY FUND

Sec. 62.121. **PURPOSE.** Provides that the purpose of this subchapter is to allocate appropriations from the national research university fund to provide a dedicated, independent, and equitable source of funding to enable emerging research universities in this state to achieve national prominence as major research universities.

Sec. 62.122. **DEFINITIONS.** Defines "eligible institution," "fund," and "general academic teaching institution."

Sec. 62.123. **ADMINISTRATION AND INVESTMENT OF FUND.** (a) Provides that the national research university fund is a fund outside the state treasury in the custody of the comptroller.

(b) Requires the comptroller to administer and invest the fund in accordance with Section 20, Article VII (Education), Texas Constitution.

Sec. 62.124. **FUNDING.** (a) Provides that the fund consists of any amounts appropriated or transferred to the credit of the fund under the Texas Constitution or otherwise appropriated or transferred to the credit of the fund under this section or another law.

(b) Requires the comptroller to deposit to the credit of the fund all interest, dividends, and other income earned from investment of the fund.

(c) Authorizes the comptroller to accept gifts or grants from any public or private source for the fund.

Sec. 62.125. **ELIGIBILITY TO RECEIVE DISTRIBUTIONS FROM FUND.** (a) Provides that a general academic teaching institution is eligible to receive a distribution of money under this subchapter for each year of a state fiscal biennium if the institution is designated as an emerging research university under THECB's accountability system, in each of the two state fiscal years preceding the state fiscal biennium, the institution expended at least \$45 million in restricted research funds, and the institution satisfies at least four of a list of certain criteria.

(b) Provides that a general academic teaching institution that becomes eligible to receive a distribution of money under this subchapter remains eligible to receive a distribution in each subsequent state fiscal year.

Sec. 62.126. ACCOUNTING STANDARDS; VERIFICATION OF INFORMATION.

(a) Requires THECB, in consultation with the State Auditor's Office (SAO), by rule to prescribe standard methods of accounting and standard methods of reporting information for the purpose of determining the eligibility of institutions under Section 62.125.

(b) Requires THECB, as soon as practicable in each even-numbered year, based on information submitted by the institutions to THECB as required by THECB, to certify to the comptroller the institutions that are determined to be initially eligible for distributions of money from the fund for the following state fiscal biennium.

(c) Requires SAO, at the request of THECB, to verify the information supporting THECB's determination under Subsection (b).

Sec. 62.127. INELIGIBILITY OF INSTITUTIONS RECEIVING PERMANENT UNIVERSITY FUND SUPPORT AND MAINTENANCE. Provides that The University of Texas at Austin, Texas A&M University, and Prairie View A&M University are ineligible to receive money under this subchapter.

Sec. 62.128. ALLOCATION OF APPROPRIATED FUNDS TO ELIGIBLE INSTITUTIONS. Requires the comptroller, in each state fiscal year, to distribute to eligible institutions the total amount appropriated from the fund for that fiscal year. Requires that the amount allocated to the eligible institutions be based on an equitable formula adopted by the legislature to carry out the purposes of the fund as established by Section 20, Article VII, Texas Constitution. Requires the legislature, in adopting the allocation formula, to consider the recommendations of THECB, including recommendations on the appropriate elements and relative weights of elements of the formula.

Sec. 62.129. USE OF ALLOCATED AMOUNTS. (a) Authorizes an eligible institution to use money received under this subchapter only for the support and maintenance of educational and general activities that promote increased research capacity at the institution.

(b) Provides that for purposes of Subsection (a), permitted activities include the use of the money to provide faculty support and pay faculty salaries, purchase equipment or library materials, pay graduate stipends, and support research preformed at the institution, including undergraduate research.

(c) Authorizes money received in a fiscal year by an institution under this subchapter that is not used in that fiscal year by the institution to be held and used by the institution in subsequent fiscal years for the purposes prescribed by this section.

SECTION 4. Amends Section 62.094, Education Code, as follows:

Sec. 62.094. FUNDING. (a) Provides that the research development fund consists of the amounts appropriated or transferred to the credit of the fund under this section or other law, rather the amount deposited to the credit of the fund under Section 62.025 (Deposit of \$50 Million) in each state fiscal year, the amount appropriated or transferred to the credit of the fund by the legislature under Subsection (b), and any other amounts transferred to the fund under this section.

(b) Deletes existing text that authorizes the legislature, in each state fiscal year, to appropriate or provide for the transfer to the credit of the research development fund of an amount not less than the amount deposited to the credit of the fund under Section 62.025 in that fiscal year. Makes a nonsubstantive change.

(c) Redesignates existing Subsection (d) as Subsection (c).

SECTION 5. Repealers: Sections 62.025 (Deposit of \$50 Million) and 62.026 (Higher Education Fund), Education Code.

SECTION 6. Requires THECB to adopt rules relating to the administration of Subchapters C, D, and F, Chapter 62, Education Code, as added by this Act, as soon as practicable after the effective date of this Act.

SECTION 7. (a) Effective date except as provided by Subsection (b) of this section: September 1, 2009

(b) Effective date, Sections 3, 4, and 5 of this Act: January 1, 2010, contingent upon approval by the voters of the constitutional amendment relating to establishing the national research university fund to enable emerging research universities in this state to achieve national prominence as major research universities and transferring the balance of the higher education fund to the national research university fund.