

BILL ANALYSIS

Senate Research Center

H.B. 1000
By: Branch et al. (Zaffirini)
Higher Education
4/25/2011
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 1000 specifies the criteria used to determine annual distributions from the National Research University Fund (NRUF) and defines the criteria used to allocate the distributions among the eligible institutions.

The bill requires the comptroller of public accounts (comptroller) to distribute in each fiscal year to eligible institutions the appropriated funds. It stipulates that the total amount appropriated from NRUF corpus for any state fiscal year could not exceed 4.5 percent of the average net market value of the investment assets of NRUF for the 20 consecutive state fiscal quarters ending with the last quarter of the preceding state fiscal year, as determined by the comptroller.

For a state fiscal quarter that includes any period before NRUF was established on January 1, 2010, the average net market value of the investment assets of the fund would include the average net market value of the investment assets of the former higher education fund for the applicable quarter. This provision expires January 1, 2016.

In each fiscal year, each eligible institution is entitled to an equal share of the total amount to be distributed. The total amount to be distributed to eligible institutions in that year is a portion of the total amount appropriated from the fund for that year, as follows:

- (1) one-half of the total amount appropriated if only one institution has established eligibility;
- (2) two-thirds of the total amount appropriated if two institutions have established eligibility;
- (3) three-fourths of the total amount appropriated if three institutions have established eligibility;
- (4) four-fifths of the total amount appropriated if four institutions have established eligibility;
- (5) five-sixths of the total amount appropriated if five institutions have established eligibility; and
- (6) six-sevenths of the total amount appropriated if six institutions have established eligibility.

If the number of eligible institutions is more than six, each institution will receive an equal share of the total amount appropriated from the fund for that fiscal year. The total amount appropriated from the fund for a state fiscal year will not include any portion of the amount used to reimburse the costs of an audit. The comptroller will retain within the fund any portion of an appropriated amount that remains after all distributions are made. The appropriation of the retained amount will lapse at the end of the fiscal year.

H.B. 1000 requires the Texas Higher Education Coordinating Board (THECB) to prescribe by rule standard methods of accounting and reporting information for the purposes of determining the amount of restricted research funds expended by an eligible institution in a fiscal year. Data

submitted to THECB from institutions for the purposes of establishing eligibility to receive allocations of NRUF proceeds would be subject to audit by the state auditor. THECB can request one or more audits as necessary after an institution begins receiving distributions. The bill requires the comptroller, from money appropriated from the fund, to reimburse the state auditor for the expense of such audits.

H.B. 1000 amends current law relating to the distribution of money appropriated from the national research university fund and to one or more audits of certain general academic teaching institutions in connection with that distribution, and makes an appropriation.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Higher Education Coordinating Board is modified in SECTION 2 (Section 62.146, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 62.145(a), Education Code, as follows:

(a) Provides that a general academic teaching institution becomes eligible to receive an initial distribution of money appropriated under this subchapter for a state fiscal year, rather than 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 meets certain criteria, including that in each of the two state fiscal years preceding the state fiscal year for which the appropriation is made, rather than preceding the state fiscal biennium, the institution expended at least \$45 million in restricted research funds. Makes conforming changes.

SECTION 2. Amends Section 62.146, Education Code, as follows:

Sec. 62.146. ACCOUNTING STANDARDS; VERIFICATION OF INFORMATION.

(a) Requires the Texas Higher Education Coordinating Board (THECB) by rule to prescribe standard methods of accounting and standard methods of reporting information for the purpose of determining:

(1) the eligibility of institutions under Section 62.145 (Eligibility to Receive Distributions from Fund); and

(2) the amount of restricted research funds expended by an eligible institution in a state fiscal year.

(b) Requires THECB, as soon as practicable in each state fiscal year, rather than in each even-numbered year, based on information submitted by the institutions to THECB as required by THECB, to certify to the comptroller of public accounts (comptroller) and the legislature verified information relating to the criteria established by Section 62.145 to be used to determine which institutions are eligible, rather than initially eligible, for distributions of money from the National Research University Fund (fund).

(c) Creates this subsection from existing text. Provides that information submitted to THECB by institutions for purposes of establishing eligibility under this subchapter and THECB's certification or verification of that information under this section, rather than this subsection, are subject to a mandatory audit by the state auditor in accordance with Chapter 321 (State Auditor), Government Code. Authorizes THECB to also request one or more audits by the state auditor as necessary or appropriate at any time after an eligible institution begins receiving distributions under this subchapter. Requires that each audit be based on an examination of all or a representative sample of the restricted research funds awarded to the institution and the institution's expenditures of those funds, and must include, among other elements:

(1) verification of the amount of restricted research funds expended by the institution in the appropriate state fiscal year or years; and

(2) verification of compliance by the institution and THECB with the standard methods of accounting and standard methods of reporting prescribed by THECB under Subsection (a), including verification of:

(A) the institution's compliance with THECB's standards and accounting methods for reporting expenditures of restricted research funds; and

(B) whether the institution's expenditures meet THECB's definition of restricted research expenditures.

(d) Requires the comptroller, from money appropriated from the fund, to reimburse the state auditor for the expenses of any audits conducted under Subsection (c).

SECTION 3. Amends Section 62.148, Education Code, as follows:

Sec. 62.148. New heading: DISTRIBUTION OF APPROPRIATED FUNDS TO ELIGIBLE INSTITUTIONS. (a) Creates this subsection from existing text. Requires the comptroller, in each state fiscal year, to distribute to eligible institutions in accordance with this section an amount, rather than the total amount, appropriated from the fund for that fiscal year.

(b) Prohibits the total amount appropriated from the fund for any state fiscal year from exceeding an amount equal to 4.5 percent of the average net market value of the investment assets of the fund for the 20 consecutive state fiscal quarters ending with the last quarter of the preceding state fiscal year, as determined by the comptroller.

(b-1) Provides that for purposes of Subsection (b), for a state fiscal quarter that includes any period before the fund was established on January 1, 2010, a reference to the average net market value of the investment assets of the fund includes the average net market value of the investment assets of the former higher education fund for the applicable state fiscal quarter. Provides that this subsection expires January 1, 2016.

(c) Entitles each eligible institution, in each state fiscal year, to an equal share of the total amount to be distributed from the fund in that year. Provides that, subject to Subsection (e), the total amount to be distributed from the fund to those eligible institutions in that year is a portion of the total amount appropriated from the fund for that year determined as follows:

(1) one-half of the total amount appropriated if only one institution has established eligibility;

(2) two-thirds of the total amount appropriated if two institutions have established eligibility;

(3) three-fourths of the total amount appropriated if three institutions have established eligibility;

(4) four-fifths of the total amount appropriated if four institutions have established eligibility;

(5) five-sixths of the total amount appropriated if five institutions have established eligibility; and

(6) six-sevenths of the total amount appropriated if six institutions have established eligibility.

(d) Requires the comptroller to retain within the fund any portion of an appropriated amount that remains after all distributions are made for a state fiscal year under this section. Provides that the appropriation of that retained amount lapses at the end of that state fiscal year.

(e) Entitles each eligible institution, if the number of institutions that are eligible for distributions in a state fiscal year is more than six, to an equal share of the total amount appropriated from the fund for that fiscal year.

(f) Provides that for purposes of this section, the total amount appropriated from the fund for a state fiscal year does not include any portion of the amount appropriated that is used to reimburse the costs of an audit conducted under Section 62.146(c). Deletes existing text requiring that the amount be allocated to the eligible institutions based on an equitable formula adopted by the legislature to carry out the purposes of the fund as established by Section 20 (National Research University Fund), Article VII, Texas Constitution. Deletes existing text authorizing 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.

SECTION 4. Provides that for each fiscal year of the state fiscal biennium ending August 31, 2013, the maximum amount permitted by Section 20, Article VII, Texas Constitution, and by Section 62.148(b), Education Code, as added by this Act, is appropriated to the comptroller from the national research university fund for distribution to eligible institutions in accordance with and for the purposes described by Subchapter G, Chapter 62 (National Research University Fund), Education Code.

SECTION 5. Effective date: upon passage or September 1, 2011.