

## **BILL ANALYSIS**

C.S.S.B. 286  
By: Shapleigh  
Higher Education  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The Texas Higher Education Coordinating Board (THECB) provides leadership and coordination among Texas' higher education institutions to ensure quality and efficiency in the state's public higher education system. To accomplish its goals, THECB has developed a new master plan for higher education in Texas, *Closing the Gaps by 2015*, which allows the agency and institutions to focus on the most critical challenges to overcome for the future social, educational, and economic health of the state. C.S.S.B. 286 continues THECB for the standard 12-year period and requires THECB to articulate implementation strategies for the higher education plan and to report to the legislature on statutory and institutional funding changes that best support the plan.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Higher Education Coordinating Board in SECTION 25 (Section 61.832, Education Code) and SECTION 38 (Section 56.3575, Education Code) of this bill.

### **ANALYSIS**

SECTION 1. Amends Section 61.0211, Education Code, to continue the Texas Higher Education Coordinating Board (THECB) for the standard 12-year period until September 1, 2015.

SECTION 2. Amends Section 61.022, Education Code, to update standard Sunset language on appointment and terms of office to THECB. Reduces THECB from 18 to 9 members.

SECTION 3. Amends Sections 61.0222(b)-(e), Education Code, to update standard Sunset language relating to prohibitions against certain persons from being a member or employee of THECB.

SECTION 4. Amends Sections 61.0223(a) and (c), Education Code, to update standard Sunset language relating to grounds for removal from THECB.

SECTION 5. Amends Chapter 61B, Education Code, by adding Section 61.0224, as follows:

Sec. 61.0224. TRAINING OF BOARD MEMBERS. Adds standard Sunset language relating to the training of THECB members.

SECTION 6. Amends Sections 61.028(f) and (g), Education Code, to update standard Sunset language requiring the commissioner of higher education or commissioner's designee to develop an equal opportunity program.

SECTION 7. Amends Chapter 61B, Education Code, by adding Section 61.0281, as follows:

Sec. 61.0281. STATE EMPLOYEE INCENTIVE PROGRAM. Applies standard Sunset language

requiring training on participation in the state employee incentive program.

SECTION 8. Amends Section 61.029, Education Code, as follows:

Sec. 61.029. INTERNAL AUDITOR.

- (a) Requires THECB, rather than the commissioner of higher education (commissioner) with THECB approval, to appoint an internal auditor for THECB.
- (b) Requires the internal auditor to report directly to THECB, on all matters, other than administrative matters, that require the decision of the commissioner.
- (c) Requires the commissioner to advise THECB regarding certain matters concerning the internal auditor.
- (d) Requires the internal auditor to develop an annual audit plan, conduct audits as specified in the audit plan, and fulfill the other duties required by Chapter 2102, Government Code.
- (e) Requires the internal auditor to review all audit reports with THECB and the commissioner.

SECTION 9. Amends Section 61.031, Education Code, to update standard Sunset language requiring information to be maintained on complaints.

SECTION 10. Amends Chapter 61B, Education Code, by adding Section 61.033, as follows:

Sec. 61.033. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE RESOLUTION. Adds standard Sunset language requiring THECB to develop and implement a policy to encourage the use of negotiated rulemaking and alternative dispute resolution procedures.

SECTION 11. Amends Chapter 61B, Education Code, by adding Section 61.034, as follows:

Sec. 61.034. EFFECTIVE USE OF TECHNOLOGY. Adds standard Sunset language requiring THECB to develop and implement a policy to research and propose appropriate technological solutions.

SECTION 12. Amends Section 61.051, Education Code, by amending Subsections (a), (j), and (m) and adding Subsections (a-1), (a-2), and (a-3), as follows:

- (a) Created from existing text.
- (a-1) Removes language requiring the five-year master plan for higher education be updated annually.
- (a-2) Requires THECB to periodically review and revise the five-year master plan. Specific elements of the review by THECB are to include the identification and analysis of the degree to which the plan reflects the continuing higher education needs of this state, as well as any policy changes necessary to improve overall implementation of the plan and the fiscal impact of those changes. The THECB shall establish procedures for monitoring the implementation of the plan, including an analysis of the degree to which its current activities support implementation of the plan and any change in board rules or practices necessary to improve implementation of the plan. THECB shall identify additional strategies necessary to achieve the goals of the plan, emphasizing implementation by institutions of higher education and specific recommendations for the different regions of the state. The board shall notify each institution of higher education of all strategies for implementing the plan.

(a-3) Requires THECB to report to the legislature not later than the January 1 of each odd-numbered year on the state of higher education in Texas. Requires THECB, in the biennial report, to assess the state's progress in meeting the goals stated in the plan developed under Subsection (a-1) and to recommend legislative action to assist the state in meeting those goals. Requires the report to include the analyses performed in connection with THECB's periodic review under Subsection (a-2).

(j) Adds new language relating to distance learning programs.

(m) Adds "certificate" to proposed text relating to obtaining a degree from an institution of higher education.

SECTION 13. Amends Section 61.059, Education Code, by amending Subsections (a) and (i) and adding Subsection (i-1), as follows:

(a) Requires funding policies to ensure that certain conditions are met.

(i) Makes a conforming and a nonsubstantive change.

(i-1) Requires THECB, not later than January 1 of each odd-numbered year, to make and submit to the legislature findings and recommendations regarding the degree to which the current higher education funding system, including formula funding and any other transfers of legislative appropriations to institutions of higher education, supports the implementation of the long-range statewide plan developed and revised under Section 61.051. Authorizes THECB to include its findings and recommendations in the biennial report submitted to the legislature under Section 61.051. Requires THECB, in its findings, to perform certain actions.

SECTION 14. Amends Section 61.065(a), Education Code, to authorize THECB to require institutions to report additional financial information as THECB considers necessary.

SECTION 15. Amends Section 61.066, Education Code, by adding Subsection (c), to require THECB to conduct a study and make findings and recommendations regarding methods for reducing administrative burdens and increasing participation in student financial aid programs to maximize the value of those programs to the state. Requires THECB, in conducting the study, to seek input from financial aid officers and student groups at institutions of higher education. Requires THECB, not later than November 1, 2004, to report to the standing committee of each house of the legislature with primary jurisdiction over higher education its findings and recommendations for legislative action necessary to consolidate, expand, or otherwise modify existing student financial aid programs. Provides that this subsection expires January 1, 2005.

SECTION 16. Amends Section 61.076, Education Code, as follows:

(a) Requires THECB to use the P-16 Council, rather than a Joint Advisory Committee, in assuring that plans and programs are coordinated.

(b) Makes a conforming change. Adds new language to plans and programs.

SECTION 17. Amends Section 61.077, Education Code, as follows:

Sec. 61.077. New heading: P-16 COUNCIL. (a) Makes a conforming change.

(b) Provides that the P-16 Council (council) is composed of the commissioner of education, the commissioner of higher education, the executive director of the Texas Workforce Commission, and the executive director of the State Board for Educator Certification. Authorizes existing members of the council to appoint additional members as the members consider necessary.

Provides that the position of presiding officer rotates among the members of the council in the order the members are listed in this subsection, with each member serving as the presiding officer for one two-year term.

(c) Requires the council to meet at least once each calendar quarter and authorizes it to hold other meetings as necessary at the call of the presiding officer. Requires each member of the council or the member's designee to make a report of the council's activities at least twice annually to the governing body of the member's agency or, in the case of the commissioner of education, to the State Board of Education.

(d) Makes a conforming change. Adds new language relating to the duties of the council.

(e) Provides that subsection (d)(5) does not require the council to establish curriculum or testing or assessment standards.

SECTION 18. Amends Section 61.0771(a), Education Code, to authorize THECB to develop a master plan for the development of distance learning and authorizes THECB as necessary to revise the plan.

SECTION 19. Amends Chapter 61C, Education Code, by adding Section 61.0902, as follows:

Sec. 61.0902. PUBLICATION OF PERFORMANCE DATA OF GENERAL ACADEMIC TEACHING INSTITUTIONS. (a) Requires THECB to administer a program to publish performance data provided to THECB by general academic teaching institutions under this section.

(b) Requires each general academic teaching institution, not later than the next November 1 following the completion of an academic year, to provide to THECB one or more reports containing data related to certain information.

(c) Requires THECB each year to publish and post in a grid format on THECB's Internet site the names of the general academic teaching institutions, the performance data required by Subsection (b) for the most recent academic year for which the data is available, and any other information considered appropriate by THECB. Requires THECB to use the classification system developed by the Carnegie Foundation in publishing and posting the data and other information.

(d) Requires each general academic teaching institution to provide a link on the institution's Internet home page to THECB's Internet site described by Subsection (c).

(e) Provides that a general academic teaching institution is not required to report to THECB the data required by Subsection (b) if the data is available to THECB from another source.

SECTION 20. Amends Section 61.093(c), Education Code, to require money appropriated for payment of contracts under the authority of Section 61.092 to be paid to Baylor College of Medicine according to specified yearly entitlements.

SECTION 21. Amends Section 61.532(a), Education Code, to delete existing text relating to conditions for repayment assistance.

SECTION 22. Amends Chapter 61J, Education Code, by adding Section 61.540, as follows:

Sec. 61.540. SERVICE AGREEMENTS ENTERED INTO UNDER FORMER LAW; SAVING PROVISION. (a) Provides that this section applies only to a person who entered into a written agreement to perform service as a physician in exchange for loan repayment assistance under this subchapter before September 1, 2003.

(b) Provides that the agreement continues in effect and this subchapter, as it existed when the person entered into the agreement, is continued in effect for purposes of that agreement until the person satisfies all the conditions of the agreement or repays all amounts due under the agreement if the person does not satisfy the conditions of the agreement.

SECTION 23. Amends Section 61.822(b), Education Code, to make nonsubstantive changes.

SECTION 24. Amends Section 61.830, Education Code, to make nonsubstantive changes.

SECTION 25. Amends Chapter 61S, Education Code, by adding Section 61.832, as follows:

Sec. 61.832. COMMON COURSE NUMBERING SYSTEM. (a) Requires THECB to approve a common course numbering system for lower-division courses to facilitate the transfer of those courses among institutions of higher education by promoting consistency in course designation and identification.

(b) Authorizes THECB to approve only a common course numbering system already in common use in this state by institutions of higher education.

(c) Authorizes THECB to cooperate with institutions of higher education in any additional development or alteration of the common course numbering system, including the taxonomy to be used, and in the development of rules for the administration and applicability of the system.

(d) Requires an institution of higher education to use the common course numbering system adopted by the board under this section. Authorizes THECB, for good cause, to grant to an institution of higher education an exemption from the requirements of this subchapter.

SECTION 26. Amends Sections 61.873 and 61.876, Education Code, as added by Chapter 833, Acts of the 76th Legislature, Regular Session, 1999, as follows:

Sec. 61.873. Adds new condition to be eligible to receive loan repayment assistance.

Sec. 61.876. Makes conforming changes. Deletes current language in existing text relating to the amount of repayment assistance.

SECTION 27. Amends Chapter 61T, Education Code, as added by Chapter 833, Acts of the 76th Legislature, Regular Session, 1999, by adding Section 61.879, as follows:

Sec. 61.879. SERVICE AGREEMENTS ENTERED INTO UNDER FORMER LAW; SAVING PROVISION. (a) Provides that this section applies only to a person who was awarded loan repayment assistance under this subchapter and entered into a written agreement to perform service as an early childhood child-care worker in exchange for that assistance under this subchapter before September 1, 2003.

(b) Provides that the agreement continues in effect and this subchapter, as it existed when the person entered into the agreement, is continued in effect for purposes of that agreement until the person satisfies all the conditions of the agreement or repays all amounts due under the agreement if the person does not satisfy the conditions of the agreement.

SECTION 28. Amends Sections 61.952 and 61.954, Education Code, as added by Chapter 1403, Acts of the 77th Legislature, Regular Session, 2001, as follows:

Sec. 61.952. Adds a new condition for an attorney to be eligible to receive repayment assistance.

Sec. 61.954. New heading: MAXIMUM AMOUNT OF REPAYMENT ASSISTANCE. (a) Makes a conforming change.

SECTION 29. Adds 61.955, Education Code, amending Chapter 148, Acts of the 77th Legislature, Regular Session, 2001, as follows:

Sec. 61.955. Adds new language relating to the sale of promotional items and media and training materials.

SECTION 30. Amends Section 142.005 and 142.006, Education Code, as follows:

Sec. 142.005. Adds new language relating to date of progress reports.

Sec. 142.006. Adds new language relating to the date of merit review.

SECTION 31. Amends Chapter 142, Education Code, by adding Section 142.007, as follows:

Sec. 142.007. CONFIDENTIALITY. Provides that information submitted as part of a proposal or related to the evaluation and selection of research projects to be funded by the program is confidential unless made public by coordinating board rule.

SECTION 32. Amends Sections 143.006 and 143.007, Education Code, to make conforming changes.

SECTION 33. Amends Chapter 143, Education Code, by adding Section 143.008, to make a conforming change.

SECTION 34. Amends Section 7.005, Education Code, to make a conforming change.

SECTION 35. Amends Section 52.34, Education Code, as follows:

Sec. 52.34. PAYMENTS TO STUDENT. (a) through (e). Creates these subsections from existing text. Makes nonsubstantive changes.

(f) Requires THECB to distribute money to a participating institution through the electronic funds transfer system maintained by the Texas Guaranteed Student Loan Corporation for disbursing loan funds from commercial lenders participating in the guaranteed student loan program under Chapter 57, except that at the request of a participating institution THECB is authorized to distribute the money through other means. Requires THECB to enter into a contract with the corporation for the use of the system, and requires the corporation to make the system available to THECB as necessary to carry out this subsection.

SECTION 36. Amends Chapter 52C, Education Code, by adding Section 52.41, as follows:

Sec. 52.41. RESTRICTION ON ISSUANCE OF CERTAIN FEDERALLY INSURED STUDENT LOANS. (a) Authorizes THECB as provided by Subsection (c), except to issue a student loan under the Federal Family Education Loan Program (20 U.S.C. Section 1071 et seq.), as amended, only to a borrower who has been or will be issued a student loan under another student loan program administered by THECB.

(b) Authorizes THECB to service any outstanding student loans issued by the board under the Federal Family Education Loan Program.

(c) Authorizes THECB to issue student loans under the Federal Family Education Loan Program to borrowers other than borrowers described by Subsection (a) if the commissioner of higher education determines that market conditions warrant the issuance of those loans.

SECTION 37. Amends the heading to Chapter 56O, Education Code, as added by Chapter 1261,

Acts of the 77th Legislature, Regular Session, 2001, to read as follows:

**SUBCHAPTER O. TEACH FOR TEXAS LOAN REPAYMENT ASSISTANCE PROGRAM**

**SECTION 38.** Amends Chapter 56O, Education Code, as added by Chapter 1261, Acts of the 77th Legislature, Regular Session, 2001, by amending Sections 56.351 through 56.355 and adding Sections 56.3575 and 56.359, as follows:

Sec. 56.351. New heading: **DEFINITION.** Defines “coordinating board.”

Sec. 56.352. New heading: **PURPOSE OF PROGRAM; LOAN REPAYMENT AUTHORIZED.** (a) Provides that the purpose of this subchapter is to attract to the teaching profession persons who have expressed interest in teaching and to support the employment of those persons as classroom teachers by providing student loan repayment assistance for service as a classroom teacher in the public schools of this state.

(b) Requires THECB to provide, in accordance with this subchapter and board rules, assistance in the repayment of eligible student loans for persons who apply and qualify for the assistance.

Sec. 56.353. **ELIGIBILITY** (a) Provides that Teach for Texas repayment assistance is available only to a person who applies for the assistance and who meets certain requirements.

(b) Requires THECB in awarding repayment assistance to give priority to applicants who demonstrate financial need.

(c) Requires THECB, if the money available for loan repayment assistance in a period for which assistance is awarded is insufficient to provide assistance to alleligible applicants described by Subsection (b), to establish priorities for awarding repayment assistance to address the most critical teacher shortages described by Subsection (a).

(d) Provides that a person may not receive loan repayment assistance for more than five, rather than three academic, years.

Sec. 56.354. **ELIGIBLE LOANS.** (a) Authorizes a person to receive Teach for Texas loan repayment assistance under this subchapter for the repayment of any student loan for education at any public or private institution of higher education through any lender. Requires the note or other writing governing the terms of the loan, if the loan is not a state or federal guaranteed student loan, to require the loan proceeds to be used for expenses incurred by a person to attend a public or private institution of higher education.

(b) Prohibits THECB from providing loan repayment assistance for a student loan that is in default at the time of the person's application. Deletes text of existing Section 56.354 (Amount of Grant; Payment of Grant).

Sec. 56.355. **PAYMENT OF ASSISTANCE.** (a) Authorizes THECB to determine the manner in which Teach for Texas loan repayment assistance is to be paid. Authorizes THECB to provide for the payment of a portion of the repayment assistance in one or more installments before the person completes a full year of service as a teacher and for the payment of the remainder of the repayment assistance for that year after the completion of the full year of service.

(b) Authorizes loan repayment assistance received under this subchapter to be applied to the principal amount of the loan and to interest that accrues. Deletes text of existing Section 56.355 (Eligibility for Texas Grant Not Affected).

Sec. 56.3575. ADMINISTRATION; RULES. (a) Requires THECB to adopt rules necessary for the administration of this subchapter.

(b) Requires THECB to distribute a copy of the rules adopted under this section and pertinent information relating to this subchapter to each public or private institution of higher education in this state that offers an educator certification program, including an alternative educator certification program or another equivalent program.

Sec. 56.359. GRANTS AND SERVICE AGREEMENTS ENTERED INTO UNDER FORMER LAW; SAVING PROVISION. (a) Provides that this section applies only to a person who was awarded a Teach for Texas grant and entered into a written agreement to perform service as a public school teacher in this state in order to receive the grant under this subchapter before September 1, 2003.

(b) Authorizes a person to whom this section applies to receive any unpaid installments of the grant as provided by the agreement and in accordance with this subchapter as it existed when the grant was awarded. Provides that the agreement continues in effect and this subchapter, as it existed when the person entered into the agreement, is continued in effect for purposes of that agreement until the person satisfies all the conditions of the agreement or repays all amounts due under the agreement if the person does not satisfy the conditions of the agreement.

SECTION 39. Repealer: Sections 61.0592 (Upper-Level Transition Funding for Texas A&M), 61.0593 (Funding for Certain Four-Year Institutions), 61.070 (Duties of Central Education Agency Not Affected), and 61.071 (Contract With United States for New Medical School), Education Code.

SECTION 40. Repealer: Section 61.0771(e), Education Code (Distance Learning Master Plan).

SECTION 41. Repealer: Section 61.094 (Contracts With Baylor College of Dentistry) and 61.096 (Restrictions: Medical School Admission Policies), Education Code.

SECTION 42. Repealer: Chapter 61E, Education Code (Contracts With The Texas College of Osteopathic Medicine).

SECTION 43. Repealer: Chapter 61Q, Education Code (State Postsecondary Review Program).

SECTION 44. (a) Repealer: Section 56.356, Education Code, as added by Chapter 1261, Acts of the 77th Legislature, Regular Session, 2001 (Grant Use).

(b) Repealer: Section 61.875, Education Code, as added by Chapter 833, Acts of the 76th Legislature, Regular Session, 1999 (Agreement).

(c) Repealer: Section 61.953, Education Code, as added by Chapter 1403, Acts of the 77th Legislature, Regular Session, 2001 (Coordination with Other Agencies).

SECTION 45. (a) Provides that of the six positions on the Texas Higher Education Coordinating Board that have terms scheduled to expire on August 31, 2003, three of the positions is abolished on September 1, 2003. Requires the governor, on or before September 1, 2003, to designate which three of the six positions must be abolished and to appoint five persons to fill the other positions for terms expiring August 31, 2009.

(b) Provides that of the six positions on the Texas Higher Education Coordinating Board that have terms scheduled to expire on August 31, 2005, three of the positions is abolished on September 1, 2003. Requires the members whose terms are scheduled to expire on August 31, 2005, on or before September 1, 2003, to determine by unanimous agreement or by lot which

three of the six positions must be abolished and to inform the presiding officer of the Texas Higher Education Coordinating Board of that determination.

(c) Provides that of the six positions on the Texas Higher Education Coordinating Board that have terms scheduled to expire on August 31, 2007, three of the positions is abolished on September 1, 2003. Requires the members whose terms are scheduled to expire on August 31, 2007, on or before September 1, 2003, to determine by unanimous agreement or by lot which three of the six positions must be abolished and to inform the presiding officer of the Texas Higher Education Coordinating Board of that determination.

SECTION 46. Makes application of this Act prospective.

SECTION 47. Provides that on the effective date of this Act:

(1) the P-16 Council replaces the Joint Advisory Committee as the advisory board for the Texas Higher Education Coordinating Board and the State Board of Education;

(2) all functions and activities performed by the Joint Advisory Committee are transferred to the P-16 Council to the extent consistent with the functions and duties of the P-16 Council provided by law; and

(3) a reference in law to the Joint Advisory Committee that relates to providing advisory functions to the Texas Higher Education Coordinating Board and the State Board of Education means the P-16 Council.

SECTION 48. (a) Requires each general academic teaching institution to provide the performance data as required by Section 61.0902, Education Code, as added by this Act, beginning with the data for the 2003-2004 academic year.

(b) Requires THECB, not later than March 1, 2005, to publish and post on THECB's Internet site the performance data provided by the general academic teaching institutions in this state as required by Section 61.0902, Education Code, as added by this Act.

SECTION 49. Requires THECB, not later than June 1, 2004, to perform certain tasks.

SECTION 50. (a) Requires THECB to enter into a contract with the Texas Guaranteed Student Loan Corporation to use the corporation's electronic funds transfer system, as required by Section 52.34, Education Code, as amended by this Act, not later than January 1, 2004.

(b) Makes application of Section 52.41(a), Education Code, prospective.

SECTION 51. Effective date: September 1, 2003.

### **EFFECTIVE DATE**

This Act take effect September 1, 2003.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

CSSB 286 modifies the original to reduce the number of board members of the Texas Higher Education Coordinating Board (THECB) from 15 members to 9 members. The substitute provides that the THECB may sell promotional items to fund the College for Texans public awareness campaign. The substitute provides provisions for the THECB's five-year master plan and technical changes

regarding the common course numbering system.