

## BILL ANALYSIS

Senate Research Center

S.B. 1652  
By: Shapiro  
Education  
7/14/2003  
Enrolled

### DIGEST AND PURPOSE

Currently, Texas higher education institutions are subject to a plethora of laws, regulations, policies, and procedures mandated by the state and federal governments, regulatory agencies, and private-sector organizations. 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. FINANCIAL MATTERS

SECTION 1.01. Amends 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 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 1.02. Amends Section 2254.021(2), Government Code, to redefine "major consulting services contract."

SECTION 1.03. 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 1.04. 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 1.05. Amends Section 53.02, Education Code, by adding Subdivision (14), to define "borrower."

SECTION 1.06. Amends Section 53.33, Education Code, as follows:

Sec. 53.33. LIMITED POWER TO ACQUIRE, OWN, AND OPERATE EDUCATIONAL AND HOUSING FACILITIES. (a) Authorizes an authority or a nonprofit instrumentality created under Section 53.35(b) to acquire, own, hold title to, lease, or operate an educational facility or housing facility or any facility incidental, subordinate, or related to or appropriate in connection with an educational facility or housing facility, under certain circumstances.

(b) Authorizes an authority or instrumentality that exercises the powers granted by Subsection (a) to contract for the operation of the facility by public or private entities or persons on the terms and conditions set forth in a contract relating to the operation of the facility.

(c) Provides that the changes in law made by the amendment of this section by the 78th Legislature, Regular Session, 2003, do not affect the acquisition, ownership, construction, or improvement of a facility, or the acquisition and ownership of land that were approved by official action of the authority or nonprofit corporate instrumentality before March 15, 2003, and the law in effect immediately before the effective date of the amendment of this section by the 78th Legislature, Regular Session, 2003, is continued in effect for that purpose.

SECTION 1.07. Amends Section 53.34, Education Code, as follows:

Sec. 53.34. REVENUE BONDS. (a) Authorizes an authority or a nonprofit instrumentality created under Section 53.35(b), including an authority or nonprofit instrumentality authorized to own facilities under Section 53.33(a), to issue and execute revenue bonds or other obligations to loan or otherwise provide funds to a borrower under certain circumstances.

(b) Provides that in issuing revenue bonds or other obligations under this chapter, the issuer of the bonds or other obligations is considered to be acting on behalf of the city by which it was created.

(c) Requires bonds or other obligations issued under Subsection (a) to be payable from and secured by a pledge of the revenue, income, or assets pledged for the purpose by the borrower. Authorizes the bonds or other obligations to be additionally secured by a mortgage, deed of trust, or chattel mortgage on real or personal property, or on both real and personal property, if granted by the borrower.

(d) Provides that a facility financed with the proceeds of a loan or loans made to a borrower under Subsection (a) is not required to be located within the corporate limits of the city that created the issuer of the bonds or other obligations.

(e) Authorizes an authority or a nonprofit instrumentality that is authorized to acquire and own educational facilities and housing facilities under Section 53.33(a) to issue and execute revenue bonds and other obligations for the purpose of acquiring, owning, and operating the educational and housing facilities, to create operating reserves for the facilities, and to create debt service reserves for and to pay issuance costs related to the bonds or other obligations.

(f) Requires bonds or other obligations issued under Subsection (e) to be payable from and secured by a pledge of all or any part of the gross or net revenues to be derived from the operation of the educational facilities and housing facilities being acquired and any other revenue, income, or assets, including the revenue and income of the educational facilities or housing facilities previously acquired or subsequently to be acquired. Authorizes the bonds or other obligations to be additionally secured by a mortgage, deed of trust, or chattel mortgage on real or

personal property, or on both real and personal property, if granted by the authority or nonprofit instrumentality issuing the bonds or other obligations.

(g) Provides that the changes in law made by the amendment of this section by the 78th Legislature, Regular Session, 2003, affect and apply only to transactions involving bonds or other obligations that are issued or executed under this chapter on or after March 15, 2003. Provides that bonds or other obligations that are issued or executed under this chapter before March 15, 2003, are governed by the law in effect immediately before the amendment of this section by the 78th Legislature, Regular Session, 2003, and that former law is continued in effect for that purpose.

SECTION 1.08. Amends Section 53.35(b), Education Code, to authorize, in addition to or in lieu of establishing an authority under the provisions of this chapter, the governing body of a city or cities to request or order created one or more nonprofit corporations to act on its behalf and as its duly constituted authority and instrumentality to exercise the powers granted to an authority under the provisions of Sections 53.33 and 53.34. Provides that if a nonprofit corporation is created for such purposes or agrees to such request, the directors thereof shall thereafter be appointed and be subject to removal by the governing body of the city or cities. Requires the corporation to have all powers granted under the Texas Non-Profit Corporation Act for the purpose of aiding institutions of higher education in providing educational facilities and housing facilities and facilities incidental, subordinate, or related thereto or appropriate in connection therewith, in addition to the powers granted under, and subject to the limitations provided by, Sections 53.33 and 53.34. Provides that in addition to Sections 53.33 and 53.34 and the Texas Non-Profit Corporation Act, as amended (Article 1396-1.01, V.T.C.S.), Sections 53.131, 53.14, 53.15, 53.31, 53.32, 53.331, 53.34, 53.35, 53.38, and 53.41 of this code apply to and govern such corporation and its procedures, bonds, and other obligations.

SECTION 1.09. Amends Section 53.48, Education Code, as follows:

Sec. 53.48. BONDS FOR ACCREDITED PRIMARY OR SECONDARY SCHOOLS. Authorizes a corporation created under Section 53.35(b) to issue and execute bonds or other obligations to finance or refinance educational facilities or housing facilities to be used by an accredited primary or secondary school or by an authorized charter school, in the same manner that a corporation may issue and execute bonds or other obligations under this chapter for an institution of higher education

SECTION 1.10. Amends Subchapter D, Chapter 54, Education Code, by adding Section 54.2111, as follows:

Sec. 54.2111. EXEMPTIONS FOR ADOPTED STUDENTS FORMERLY IN FOSTER OR OTHER RESIDENTIAL CARE. Provides that a student is exempt from the payment of tuition and fees authorized by this chapter if the student:

- (1) was adopted; and
- (2) was the subject of an adoption assistance agreement under Subchapter D, Chapter 162, Family Code.

SECTION 1.11. 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 is made or authorized in person, by mail, by telephone call, or through the Internet by certain means.

(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.

(d) Redesignated from Subsection (c).

SECTION 1.12. Amends 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 1.13. 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 1.14. 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 1.15. 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 1.16. 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 (Definitions), Education Code, 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.

SECTION 1.17. Amends Subchapter A, Chapter 56, Education Code by adding Section 56.004, as follows:

Sec. 56.004. FILING FEES IN SUITS TO COLLECT DELINQUENT STUDENT LOANS. Requires the institution of higher education, if it brings suit to collect or enforce the repayment of a delinquent student loan, to pay in advance one-half of the applicable filing fee and other costs payable in advance to the clerk of the court, notwithstanding any other law. Requires the institution, if the defaulting borrower prevails in the suit, to pay the remaining one-half of the filing fee and costs on the date of the final disposition of the suit. Sets forth the required actions should the institution prevail.

SECTION 1.18. Amends Section 403.072, Government Code, by adding Subsection (d) prohibit the comptroller, in its rules adopted under this section, from requiring an institution of higher

education, as defined by Section 61.003 (Definitions), Education Code, that processes its own payroll to submit payroll information to the comptroller relating to individual employees of the institution that is not required by the comptroller to make any distribution of state money to the institution to cover the institution's payroll.

SECTION 1.19. Provides that Section 54.2111, Education Code, as added by this Act, applies beginning with tuition and fees charged for the 2003 fall semester. Provides that tuition and fees charged for a semester or session before the 2003 fall semester are governed by the applicable law in effect before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 1.20. Makes application of Section 56.004, Education Code, as added by this Act, prospective.

## ARTICLE 2. HUMAN RESOURCES

SECTION 2.01. Amends Section 609.001, Government Code, by adding Subdivision (2-a) and amending Subdivision (8) to define "institution of higher education" and make a conforming change.

SECTION 2.02. Amends Section 609.002, Government Code, to include an institution of higher education, or a group of institutions of higher education, in the list of entities that create 457 or 401(k) plans, for which vendor can be a qualified vendor under certain circumstances. Makes a nonsubstantive change.

SECTION 2.03. Amends Section 609.003(b), Government Code, to require the approval of an investment product for a 401(k) plan of a political subdivision, or a group thereof; an institution of higher education; or a 457 plan of an institution of higher education to be in accordance with a contract between the plan administrator and a qualified vendor.

SECTION 2.04. Amends Section 609.007, Government Code, by adding Subsection (e), to authorize an institution of higher education to contract with an employee of the institution of higher education for the deferment of any part of the employee's compensation.

SECTION 2.05. Amends Chapter 609, Government Code, by adding Subchapter D, as follows:

### SUBCHAPTER D. DEFERRED COMPENSATION PLANS FOR EMPLOYEES OF INSTITUTIONS OF HIGHER EDUCATION

Sec. 609.701. DEFINITIONS. Defines "deferred compensation plan," "deferred compensation trust fund," and "investment product."

Sec. 609.702. CREATION OF PLAN. (a) Authorizes an institution of higher education to create and administer for its employees a 457 plan under this subchapter.

(b) Authorizes an institution of higher education to contract with other institutions of higher education to create a single deferred compensation plan for their employees under Subsection (a).

Sec. 609.703. DESIGNATION OF PLAN ADMINISTRATOR. (a) Requires an institution of higher education that creates a deferred compensation plan to designate a plan administrator for the plan.

(b) Requires institutions of higher education that create a single plan to designate jointly a plan administrator for the plan.

(c) Authorizes certain persons and entities to be a plan administrator.

Sec. 609.704. REMOVAL OF PLAN ADMINISTRATOR. Authorizes an institution of

higher education, or group of institutions of higher education, that designates a plan administrator to remove that plan administrator at any time unless specifically provided otherwise by the contract.

Sec. 609.705. OVERSIGHT COMMITTEE. (a) Authorizes an institution of higher education, or group of institutions of higher education, that creates a deferred compensation plan to direct and supervise the plan administrator's activities through an oversight committee.

(b) Requires the institution of higher education, or group of institutions of higher education, to determine the authority, activities, and composition of an oversight committee created under this section.

Sec. 609.706. AUTHORITY OF PLAN ADMINISTRATOR. (a) Requires a plan administrator to execute necessary contracts for the administration of the deferred compensation plan, subject to any prior approval by the institution of higher education, or group of institutions of higher education, that created the plan.

(b) Requires a plan administrator to develop and implement criteria and procedures for any matter not covered by this subchapter that the plan administrator considers appropriate for the operation of the deferred compensation plan.

Sec. 609.707. INVESTMENT AND TRANSFER OF DEFERRED AMOUNTS AND INCOME. Require the plan administrator to perform certain activities.

Sec. 609.708. PARTICIPATION OF INDEPENDENT CONTRACTORS. (a) Requires the plan administrator to determine whether a person who provides services as an independent contractor to an institution of higher education that created the plan is authorized to participate in the deferred compensation plan.

(b) Provides that for the purposes of this chapter and Subchapter A, an independent contractor is authorized to participate in a deferred compensation plan is treated as an employee of the institution of higher education creating the plan.

Sec. 609.709. CHANGING AMOUNT DEFERRED. Authorizes an employee to change the amount to be deferred by notifying the plan administrator of the change in accordance with the administrator's requirements.

Sec. 609.710. DISTRIBUTION. Requires a plan administrator to develop and implement certain procedures.

Sec. 609.711. FEE. (a) Authorizes an institution of higher education, or group of institutions of higher education, that creates a deferred compensation plan to assess a fee for the administration of the plan against each participating employee.

(b) Requires the institution of higher education, or group of institutions of higher education, to determine the method for computing and assessing the fee.

Sec. 609.712. EVALUATION AND APPROVAL OF QUALIFIED VENDOR. (a) Requires a plan administrator to develop and implement criteria and procedures for evaluating a vendor's application to become a qualified vendor.

(b) Prohibits a plan administrator from approving a vendor's application under certain circumstances.

(c) Requires the Texas Department of Insurance (TDI), upon written request, to certify in writing to a plan administrator whether an insurance company is

prohibited from being approved as a qualified vendor under Subsection (b)(3).  
Authorizes the plan administrator to rely on the certification.

Sec. 609.713. NUMBER OF VENDORS UNDER 457 PLAN. Requires the administrator of a 457 plan to determine the minimum and maximum number of vendors authorized to be qualified vendors for the plan at any given time.

Sec. 609.714. CONTRACT WITH QUALIFIED VENDOR. (a) Requires the plan administrator, after approving a vendor's application to become a qualified vendor, to execute a written contract with the vendor to participate in the deferred compensation plan.

(b) Requires a plan administrator to develop and implement criteria and procedures for evaluating a qualified vendor's investment products to determine whether those products are acceptable as qualified investment products.

(c) Authorizes a qualified vendor to offer to employees participating in a 457 plan only qualified investment products.

Sec. 609.715. REGULATION OF QUALIFIED VENDORS. Requires a plan administrator to develop and implement requirements for qualified vendors and their employees concerning certain matters.

Sec. 609.716. TRANSFER ON VENDOR'S FAILURE. Authorizes an institution of higher education, or group of institutions of higher education, that creates a deferred compensation plan to authorize or require as a part of the plan that the plan administrator immediately transfer to the deferred compensation trust fund all deferred amounts and investment income from a vendor who fails to satisfy the requirements of this subchapter or the plan administrator.

SECTION 2.06. 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 2.07. Amends Subchapter A, Chapter 51, Education Code, by adding Section 51.0065, as follows:

Sec. 51.0065. APPLICABILITY OF ACROSS-THE-BOARD SALARY INCREASE. Entitles an institution of higher education that has adopted a pay-for-performance program that is in effect when an across-the-board salary increase for state employees made by an appropriation act of the legislature takes effect to receive any appropriation made for purposes of the across-the-board salary increase, and authorizes the use of the amount appropriated for an across-the-board salary increase or for increases in compensation under the institution's pay-for-performance program.

SECTION 2.08. Amends Section 1601.102, Insurance Code, by amending Subsection (b) and adding Subsections (f) and (g), as follows:

(b) Increases the minimum time of service with a system required for eligibility to participate in the uniform program as provided by Subsection (a) from three to 10 years.

(f) Sets forth the prerequisites for an individual to whom this subsection applies to be eligible to participate in the uniform program as provided by Subsection (a), notwithstanding Subsection (b).

(g) Sets forth to whom Subsection (f) applies.

SECTION 2.09. Amends the heading to Section 51.961, Education Code, as added by Chapter 118, Acts of the 77th Legislature, Regular Session, 2001, to read as follows:

Sec. 51.961. LEAVE PROVISIONS FOR EMPLOYEES OF UNIVERSITY SYSTEM OR COMPONENT INSTITUTION OF SYSTEM.

SECTION 2.10. Amends Sections 51.961(a) and (b), Education Code, as added by Chapter 118, Acts of the 77th Legislature, Regular Session, 2001, as follows:

(a) Provides that in this section “governing board” and “university system” rather than “governing board,” “university system,” and “medical and dental unit” have the meaning assigned by Section 61.003.

(b) Authorizes the governing board of a university system to adopt a comprehensive leave policy that applies to employees of the university system or any component institution of the system.

SECTION 2.11. Amends Section 1601.101, Insurance Code, by adding Subsection (d), to provide that an individual is eligible to participate in the uniform program as provided by Subsection (a) if the individual is serving a postdoctoral fellowship with an institution in a system.

SECTION 2.12. Provides that the changes in law made by this article to Sections 609.001, 609.002, 609.003, and 609.007, Government Code, and Subchapter D, Chapter 609, Government Code, as added by this article, take effect January 1, 2004.

SECTION 2.13. Provides that Section 1601.101(d), Insurance Code, as added by this article, takes effect September 1, 2003.

### ARTICLE 3. INFORMATION TECHNOLOGY

SECTION 3.01. Amends Section 2054.100, Government Code, by adding Subsection (d), as follows:

(d) Provides that the biennial operating plan of an institution of higher education is required to include only operational projects and infrastructure projects. Prohibits the instructions provided under Section 2054.101 from requiring an institution of higher education to include other projects in the plan.

SECTION 3.02. Amends Section 2054.121, Government Code, as follows:

Sec. 2054.121. New heading: COORDINATION WITH INSTITUTIONS OF HIGHER EDUCATION. (a) Creates this subsection from existing text.

(b) Provides that the Information Technology Council for Higher Education consists of the chief information officer or equivalent employee of:

- (1) The Texas A&M University System;
- (2) The University of Texas System;
- (3) The Texas State University System;
- (4) The University of North Texas System;
- (5) The University of Houston System;
- (6) The Texas Tech University System; and
- (7) one institution of higher education, other than a public junior college, not included in a university system listed in this subsection who is selected by a majority of the chief executive officers of all the institutions of higher education, other than public junior colleges, not included in a listed university system.



(c) Requires the Department of Information Resources (DIR), before adopting a proposed rule that applies to institutions of higher education, to prepare, in consultation with the council established by Subsection (b), an analysis of the impact of the rule on institutions of higher education that includes consideration of:

- (1) the impact of the rule on the mission of higher education, student populations, and federal grant requirements;
- (2) alternate methods of implementation to achieve the purpose of the rule; and
- (3) exempting institutions of higher education from all or part of the requirements of the rule.

(d) Requires DIR to include its analysis as part of the notice of the proposed rule that the agency files with the secretary of state for publication in the Texas Register and to provide copies to the governor, the lieutenant governor, and the speaker of the house of representatives.

(e) Provides that each DIR rule that applies to institutions of higher education and that is in effect on September 1, 2003, ceases to apply to institutions of higher education on September 1, 2004, unless readopted by DIR on or after September 1, 2003, in a form that expressly applies to institutions of higher education.

#### ARTICLE 4. REGULATORY AND ADMINISTRATIVE MATTERS

SECTION 4.01. Amends Section 51.782(i), Education Code, to require a construction manager-at-risk to publicly advertise, in the manner prescribed by the institution, and receive bids or proposals from trade contractors or subcontractors for the performance of all major elements of the work other than general conditions work. Authorizes construction manager-at-risk to seek to perform major elements, rather than portions, of the work itself if the construction manager-at-risk submits its bid or proposals for that, rather than those portions, work in the same manner as all other trade contractors or subcontractors and if the board determines that the construction manager-at-risk's bid or proposal provides that best value for the institution. Authorizes the board, if no satisfactory bid or proposal for a major element of the work is received in the time allowed, to negotiate directly with the construction manager-at-risk for performance of that work. Authorizes the board to negotiate directly with the manager-at-risk for the performance of minor elements of the work that are not included in major work packages.

SECTION 4.02. Amends Subchapter B, Chapter 502, Labor Code, by adding Section 502.025, as follows:

Sec. 502.025. **COVERAGE FOR OUT-OF-STATE EMPLOYEES.** (a) Provides that an employee who performs services outside the state is entitled to benefits under this chapter even if the person meets certain criteria.

(b) Provides that an employee who elects to pursue remedies provided by the state where the injury occurred is not entitled to benefits under this chapter.

SECTION 4.03. Amends Subchapter B, Chapter 503, Labor Code, by adding Section 503.025, as follows:

Sec. 503.025. **COVERAGE FOR OUT-OF-STATE EMPLOYEES.** (a) Provides that an employee who performs services outside the state is entitled to benefits under this chapter event if the person meets certain criteria.

(b) Provides that an employee who elects to pursue remedies provided by the state where the injury occurred is not entitled to benefits under this chapter.

SECTION 4.04. Amends Section 65.45, Education Code, as follows:

Sec. 65.45. New heading: SCIENCE AND TECHNOLOGY DEVELOPMENT, MANAGEMENT, AND TRANSFER. (a) Authorizes the board of regents of The University of Texas (board) 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.

(b) Redesignated from former Subsection (c) to authorize the board to perform certain functions as a means of carrying out the purposes of this section, through one or more corporations incorporated by the board or under any other cooperative arrangement.

(c) Redesignated from former Subsection (e) to authorize the board to cooperate in any manner the board considers appropriate with similar programs operated by other state-supported institutions of higher education in this state or in other states.

SECTION 4.05. 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 4.06. 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.

SECTION 4.07. Amends Subchapter C, Chapter 552, Government Code, by adding Section 552.1235, as follows:

Sec. 552.1235. EXCEPTION: IDENTITY OF PRIVATE DONOR TO INSTITUTION OF HIGHER EDUCATION. (a) Provides that the name or other information that would tend to disclose the identity of a person, other than a governmental body, who makes a gift, grant, or donation of money or property to an institution of higher education or to another person with the intent that the money or property be transferred to an institution of higher education is excepted from the requirements of Section 552.021.

(b) Provides that Subsection (a) does not except from required disclosure other information relating to gifts, grants, and donations described by Subsection (a), including the amount or value of an individual gift, grant, or donation.

(c) Defines "institution of higher education."

SECTION 4.08. Amends Section 2161.123(a), Government Code, to require each state agency, including the Texas Building and Procurement Commission (TBPC), that is required to have a strategic plan under Chapter 2056, to include in its strategic plan a written plan for increasing the

agency's use of historically underutilized business in purchasing the public works contracting. Requires the governing board of each university system or institution of higher education not included in a university system, other than a public junior college, to prepare a written plan for increasing the use of historically underutilized business in purchasing and public works contracting by the system or institution.

SECTION 4.09. Amends Section 85.51, Education Code, as follows:

Sec. 85.51. **AUTHORITY TO LEASE.** (a) Creates this subsection from existing text to authorize the board to lease for oil, gas, sulphur, mineral ore, and other mineral developments all lands and mineral interests under its control, owned or in the future acquired by the state for the use of the university system.

(b) Authorizes the board to offer oil and gas leases at public auction, by sealed bid, by negotiated agreement, or through any other means that the board considers to be in the best interest of the university system.

SECTION 4.10. Amends Subchapter B, Chapter 85, Education Code, by adding Section 85.18, as follows:

Sec. 85.18. **MANDATORY VENUE.** (a) Provides that venue for a suit filed against the board or a member of the board in the member's official capacity is in Brazos County.

(b) Provides that venue for a suit filed against The Texas A&M University System, any component of The Texas A&M University System, or any officer or employee of The Texas A&M University System is in the county in which the primary office of the chief executive officer of the system or component, as applicable, is located.

(c) Provides that this section does not waive any defense to or immunity from suit or liability that may be asserted by an entity or individual described by this section.

(d) Provides that in case of a conflict between this section and any other law, this section controls.

(e) Provides that the changes in law made by the adoption of this section apply only to an action brought on or after September 1, 2003.

SECTION 4.11. Provides that Sections 502.025 and 503.025, Labor Code, as added by this article, apply only to a claim for workers' compensation benefits based on a compensable injury that occurs on or after the effective date of this Act. Provides that a claim based on a compensable injury that occurs before the effective date of this Act is governed by the law in effect on the date injury occurred, and the former law is continued in effect for that purpose.

SECTION 4.12. Provides that Section 552.1235, Government Code, as added by this article, applies to a request for information made before, on, or after the effective date of this Act.

## ARTICLE 5. REPORTING

SECTION 5.01. 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 5.02. 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 5.03. 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 5.04. 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 5.05. Repealer: Section 2166.101(f) (Compilation of Construction and Maintenance Information), Government Code.

#### ARTICLE 6. INTERCOLLEGIATE ATHLETICS FEE AT PRAIRIE VIEW A&M UNIVERSITY

SECTION 6.01. Amends Subchapter E, Chapter 54, Education Code, by adding Section 54.5393, as follows:

Sec. 54.5393. INTERCOLLEGIATE ATHLETICS FEE: PRAIRIE VIEW A&M UNIVERSITY. (a) Authorizes the board of regents of The Texas A&M University System to impose an intercollegiate athletics fee on each student enrolled at Prairie View A&M University in an amount not to exceed \$10 per semester credit hour.

(b) Prohibits the amount of the fee imposed on a student in a semester or session from exceeding the amount of the fee imposed on a student enrolled in 15 semester credit hours during the same semester or session.

(c) Prohibits the fee from being imposed unless approved by a majority vote of the students of the university participating in a general student election held for that purpose.

(d) Requires a fee imposed under this section to be used to develop and maintain an intercollegiate athletics program at the university.

(e) Provides that a fee imposed under this section is in addition to any other fee authorized by law and may not be considered in determining the maximum amount of student services fees that may be imposed under Section 54.503.

(f) Provides that this section expires September 1, 2013.

SECTION 6.02. Provides that this article applies beginning with the 2003 fall semester.

#### ARTICLE 7. UNIVERSITY OF NORTH TEXAS AT DALLAS

SECTION 7.01. Amends Section 105.451(d), Education Code, as follows:

(d) Authorizes the University of North Texas at Dallas to operate as a general academic teaching institution with its own chief executive officer, administration, and faculty only after the Texas Higher Education Coordinating Board certifies that enrollment at the University of North Texas System Center at Dallas has reached an enrollment equivalent to 1,000, rather than 2,500, full-time students for one semester. Prohibits the University of North Texas at Dallas from receiving general revenue in excess of the 2003 expended

amount with the exception of funding provided through the General Academic Instruction and Operations Formula for semester credit hour increases and the Tuition Revenue Bond debt service for bonds approved in the 78th Legislature, prior to reaching 2,500 full-time equivalent students. Provides that the institution will not be eligible to receive the small school supplement in the General Academic Instruction and Operations Formula until it reaches 2,500 full-time equivalent student enrollment.

ARTICLE 8. STUDY OF ORGANIZATION, OPERATIONS,  
AND FUNDING OF HIGHER EDUCATION

SECTION 8.01. Provides that the legislature finds that:

- (1) it is vital to the economy of this state that all areas of the state have access to quality higher education;
- (2) it is in the interest of all residents of this state that an efficient and sufficiently funded higher education infrastructure exist that affords residents opportunities to become educated and productive members of the state's economy; and
- (3) the Texas Higher Education Coordinating Board's report on closing the gaps provides an appropriate starting point for constructing a plan for meeting the state's current and future higher education needs.

SECTION 8.02. (a) Provides that an interim committee is established to study the organization, operations, and funding of higher education. Provides the composition of the interim committee.

(b) Requires the membership of the committee to be representative of all geographic areas of the state.

(c) Requires the committee to be cochaired by the chairs of the standing committee of each house of the legislature with primary jurisdiction over higher education.

(d) Requires the committee to perform certain functions.

(e) Requires the committee, in its review, to examine the effects of student and community characteristics on the costs of higher education, including the income and education levels of the families of students, unemployment rates, population growth, and other uncontrollable factors.

(f) Requires the committee, in its review, to identify the number and types of classified and unclassified positions in the administration of each university system and examine each major function, service, or activity performed by university system offices, including:

- (1) central administration;
- (2) academic affairs coordination and support;
- (3) general counsel and other legal services;
- (4) budgeting, accounting, and data reporting;
- (5) fiscal management;
- (6) facilities planning and construction;
- (7) governmental relations;
- (8) audit services;
- (9) real estate management;
- (10) information technology services; and
- (11) aircraft operation and usage.

(g) Requires the committee, in its recommendations, to identify opportunities for legislative and administrative action relating to certain areas.

(h) Requires the committee's recommendations under Subsection (g) of this section to include a plan for deregulating seminaries and similar institutions offering exclusively

religious education or training. Requires the plan to permit those institutions to confer or offer to confer religious degrees without accreditation and may include disclosure requirements and other appropriate safeguards to address potential fraud or deception. Prohibits the requirements or safeguards to authorize the state or a political subdivision of the state to assert regulatory authority over religious degree programs offered by those institutions.

(i) Requires the committee, not later than November 1, 2004, to prepare a report describing its findings and recommendations and deliver the report to the governor, lieutenant governor, speaker of the house of representatives, Legislative Budget Board, and members of the standing committee of each house of the legislature with primary jurisdiction over higher education.

(j) Provides that the committee is abolished and this section expires September 1, 2005.

## ARTICLE 9. SECURITY OFFICERS

SECTION 9.01. (a) Amends Section 51.214, Education Code, as follows:

Sec. 51.214. SECURITY OFFICERS FOR MEDICAL CORPORATIONS IN CERTAIN MUNICIPALITIES. (a) Authorizes the governing board of a private, nonprofit medical corporation, in any municipality with a population of 1.18 million or more, that provides security services for an institution of higher education or a private postsecondary educational institution and other entities located within the same medical complex, or that provides security services for a branch of that medical corporation, rather than complex, to employ and commission security personnel to enforce the law of this state within the jurisdiction designated by Subsection (c).

(b) Authorizes an officer commissioned under this section to make arrests and has all the powers, privileges, and immunities of a peace officer while performing the officer's assigned duties within the jurisdiction designated by Subsection (c). Makes conforming changes.

(c) Provides that the jurisdiction of an officer commissioned under this section is limited to:

- (1) property owned, leased, managed, or controlled by the medical corporation; and
- (2) a street or alley that abuts the property or an easement in or a right-of-way over or through the property.

(d) Provides that an officer commissioned by a medical corporation under this section is not entitled to compensation or benefits provided by this state or a political subdivision of this state.

(e) Provides that the state or a political subdivision of this state is not liable for an act or omission of an officer commissioned under this section during the performance of the officer's assigned duties.

(f) Prohibits a medical corporation to commission a person under this section unless the person obtains a peace officer license issued by the Commission on Law Enforcement Officer Standards and Education. Requires the medical corporation to pay to the Commission on Law Enforcement Officer Standards and Education on behalf of an employee any fees that are necessary to obtain a required license.

(g) Provides that a person's commission and any authority to act as an officer under this section are automatically revoked if the person's employment with a medical corporation is terminated for any reason.

(b) Provides that this section takes effect September 1, 2003.

(c) Requires a person commissioned before the effective date of this section by a private nonprofit medical corporation under Section 51.214, Education Code, to obtain a peace officer license issued by the Commission on Law Enforcement Officer Standards and Education not later than September 1, 2004. Provides that if that person does not obtain the license by that date, the person's commission and any authority to act as an officer under Section 51.214, Education Code, as amended by this section, are automatically revoked.

#### ARTICLE 10. EFFECTIVE DATE

SECTION 10.01. Effective date: upon passage or September 1, 2003 except as otherwise provided by another provision of this Act.