

By: Shapiro, et al.

S.B. No. 1652

Substitute the following for S.B. No. 1652:

By: Morrison

C.S.S.B. No. 1652

A BILL TO BE ENTITLED

AN ACT

1
2 relating to institutions of higher education, including the
3 administration, operation, governance, and financing of those
4 institutions.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 ARTICLE 1. FINANCIAL MATTERS

7 SECTION 1.01. Subsection (e), Section 11.11, Tax Code, is
8 amended to read as follows:

9 (e) Property [~~It is provided, however, that property~~] that
10 is held or dedicated for the support, maintenance, or benefit of an
11 institution of higher education as defined by Section 61.003 [~~in~~
12 ~~Chapter 61~~], [~~Texas~~] Education Code, but is not rented or leased for
13 compensation to a private business enterprise to be used by it for a
14 purpose not related to the performance of the duties and functions
15 of the state or institution or is not rented or leased to provide
16 private residential housing to members of the public other than
17 students and employees of the state or institution is not taxable.
18 If a portion of property of an institution of higher education is
19 used for public purposes and a portion is not used for those
20 purposes, the portion of the property used for public purposes is
21 exempt under this subsection. All oil, gas, and other mineral
22 interests owned by an institution of higher education are exempt
23 from all ad valorem taxes. Property bequeathed to an institution is
24 exempt from the assessment of ad valorem taxes from the date of the

1 decedent's death, unless:

2 (1) the property is leased for compensation to a
3 private business enterprise as provided in this subsection; or

4 (2) the transfer of the property to an institution is
5 contested in a probate court, in which~~[. In this]~~ case~~[7]~~ ad
6 valorem taxes shall be assessed to the estate of the decedent until
7 the final determination of the disposition of the property is made.
8 The property is exempt from the assessment of ad valorem taxes upon
9 vesting of the property in the institution.

10 SECTION 1.02. Subdivision (2), Section 2254.021,
11 Government Code, is amended to read as follows:

12 (2) "Major consulting services contract" means a
13 consulting services contract for which it is reasonably foreseeable
14 that the value of the contract will exceed \$15,000, or \$25,000 for
15 an institution of higher education other than a public junior
16 college.

17 SECTION 1.03. Section 2254.028, Government Code, is amended
18 by adding Subsection (c) to read as follows:

19 (c) Subsection (a)(3) does not apply to a major consulting
20 services contract to be entered into by an institution of higher
21 education other than a public junior college if the institution
22 includes in the invitation published under Section 2254.029 a
23 finding by the chief executive officer of the institution that the
24 consulting services are necessary and an explanation of that
25 finding.

26 SECTION 1.04. Subsections (b) and (d), Section 2254.031,
27 Government Code, are amended to read as follows:

1 (b) A state agency that intends to renew a contract that is
2 not a major consulting services contract shall comply with Sections
3 2254.028 and 2254.029 if the original contract and the renewal
4 contract have a reasonably foreseeable value totaling more than
5 \$15,000, or \$25,000 for an institution of higher education other
6 than a public junior college.

7 (d) A state agency that intends to amend or extend a
8 contract that is not a major consulting services contract shall
9 comply with Sections 2254.028 and 2254.029 if the original contract
10 and the amendment or extension have a reasonably foreseeable value
11 totaling more than \$15,000, or \$25,000 for an institution of higher
12 education other than a public junior college.

13 SECTION 1.05. Section 54.5011, Education Code, is amended
14 to read as follows:

15 Sec. 54.5011. CHARGES AND [~~CREDIT CARD~~] FEES FOR CERTAIN
16 PAYMENTS. (a) This section applies to a payment of tuition, a fee,
17 or another charge to an institution of higher education that is made
18 or authorized in person, by mail, by telephone call, or through the
19 Internet by means of:

20 (1) an electronic funds transfer; or

21 (2) a credit card.

22 (b) An institution of higher education may charge a fee or
23 other amount in connection with a payment to which this section
24 applies, in addition to the amount of the tuition, fee, or other
25 charge being paid, including:

26 (1) a discount, convenience, or service charge for the
27 transaction; or

1 (2) a service charge in connection with a payment
2 transaction that is dishonored or refused for lack of funds or
3 insufficient funds [~~that accepts payment of tuition, a fee, or~~
4 ~~other charge by credit card may charge the credit card user a fee~~
5 ~~for processing the payment~~].

6 (c) [(b)] A fee or other charge [charged] under this section
7 must be in an amount reasonably related to the expense incurred by
8 the institution in processing and handling [~~may not exceed the~~
9 ~~amount charged the institution by the issuer of the credit card in~~
10 ~~connection with~~] the payment or payment transaction.

11 (d) [(c)] Before accepting a payment by credit card, the
12 institution shall notify the student of any fee to be charged under
13 this section.

14 SECTION 1.06. Section 153.006, Education Code, is amended
15 to read as follows:

16 Sec. 153.006. SUPPORT OF CENTERS. (a) In order to carry
17 out the purposes of this chapter and to support the activities of
18 centers described in this chapter, to the extent authorized by its
19 governing board, an institution of higher education may:

20 (1) enter into agreements establishing royalties,
21 fees, and other consideration for technology developed in whole or
22 part by it;

23 (2) accept equity interests in organizations that
24 license, manage, or otherwise administer rights to technology
25 belonging to it or under its control in exchange for such rights, in
26 whole or in part;

27 (3) accept equity interests in organizations that

1 license or otherwise have rights in its technology as consideration
2 for its providing monetary, business, scientific, or engineering
3 services or technical assistance;

4 (4) use income from the commercialization of
5 technology to fund the activities of the center;

6 (5) solicit, accept, and administer gifts, grants, and
7 donations; ~~and~~

8 (6) enter into contracts for legal services with a
9 competent lawyer or law firm to:

10 (A) prepare, file, pursue, and maintain patent
11 applications in the United States or foreign jurisdictions;

12 (B) secure copyright protection for computer
13 software;

14 (C) prepare, file, and pursue trademark and
15 service mark applications;

16 (D) pursue litigation to prevent or stop
17 infringement of any intellectual property rights of the
18 institution; or

19 (E) handle any other legal matter related to the
20 operation and activities of the center; and

21 (7) enter into such other business arrangements as may
22 be appropriate for achieving the purposes of this chapter.

23 (b) The fees or other compensation paid in connection with a
24 legal services contract authorized by Subsection (a) may be paid on
25 a contingency fee basis, at an hourly rate, or on another basis the
26 governing board of the institution considers appropriate.

27 SECTION 1.07. Section 2254.102, Government Code, is amended

1 by adding Subsection (c) to read as follows:

2 (c) This subchapter does not apply to a contract for legal
3 services entered into by an institution of higher education under
4 Section 153.006, Education Code.

5 SECTION 1.08. Subsection (d), Section 404.097, Government
6 Code, is amended to read as follows:

7 (d) Legal fees and expenses may be paid from the recovered
8 funds under a contingent fee contract for legal services only:

9 (1) after the funds are deposited in accordance with
10 this section; and

11 (2) in accordance with Subchapter C, Chapter 2254, if
12 that subchapter applies to the contract.

13 SECTION 1.09. Section 21.042, Property Code, is amended by
14 adding Subsection (f) to read as follows:

15 (f) In awarding compensation or assessing damages for a
16 condemnation by an institution of higher education, as defined by
17 Section 61.003, Education Code, the special commissioners may not
18 include in the compensation or damages any amount that compensates
19 for, or is based on the present value of, an exemption from ad
20 valorem taxation applicable to the property before its
21 condemnation.

22 SECTION 1.10. Section 55.004, Property Code, is amended by
23 adding Subsection (f) to read as follows:

24 (f) If the physician is employed in that capacity by an
25 institution of higher education, as defined by Section 61.003,
26 Education Code, and the lien does not include the amount of the
27 physician's reasonable and necessary charges described by

1 Subsection (c), the physician has a lien on the cause of action in
2 the same manner as a hospital under this chapter. The lien is
3 subject to provisions of this chapter applicable to a hospital
4 lien, and the physician or the physician's employing institution
5 may secure and enforce the lien in the manner provided by this
6 chapter.

7 SECTION 1.11. Subchapter A, Chapter 56, Education Code, is
8 amended by adding Section 56.004 to read as follows:

9 Sec. 56.004. FILING FEES IN SUITS TO COLLECT DELINQUENT
10 STUDENT LOANS. Notwithstanding any other law, if an institution of
11 higher education brings suit to collect or enforce the repayment of
12 a delinquent student loan, the institution is required to pay in
13 advance one-half of the applicable filing fee and other costs
14 payable in advance to the clerk of the court. If the defaulting
15 borrower prevails in the suit, the institution shall pay the
16 remaining one-half of the filing fee and costs on the date of the
17 final disposition of the suit. If the institution prevails in the
18 suit:

19 (1) the judgment shall include a finding that the
20 defaulting borrower is liable to the institution for the full
21 amount of the filing fee and costs; and

22 (2) the institution shall pay the remaining one-half
23 of the filing fee and costs not later than the seventh day after the
24 date on which the defaulting borrower pays to the institution the
25 full amount, including the amount of the filing fee and costs, for
26 which the borrower is liable to the institution.

27 SECTION 1.12. Section 403.072, Government Code, is amended

1 by adding Subsection (d) to read as follows:

2 (d) In its rules adopted under this section, the comptroller
3 may not require an institution of higher education, as defined by
4 Section 61.003, Education Code, that processes its own payroll to
5 submit payroll information to the comptroller relating to
6 individual employees of the institution that is not required by the
7 comptroller to make any distribution of state money to the
8 institution to cover the institution's payroll.

9 SECTION 1.13. Section 56.004, Education Code, as added by
10 this article, applies only to a suit filed by an institution to
11 collect or enforce the repayment of a delinquent student loan on or
12 after the effective date of this Act. A suit filed before the
13 effective date is covered by the law in effect when the suit was
14 filed, and the former law is continued in effect for that purpose.

15 ARTICLE 2. HUMAN RESOURCES

16 SECTION 2.01. Section 609.001, Government Code, is amended
17 by adding Subdivision (2-a) and amending Subdivision (8) to read as
18 follows:

19 (2-a) "Institution of higher education" means an
20 institution of higher education as defined by Section 61.003,
21 Education Code, other than a public junior college.

22 (8) "State agency" means a board, commission, office,
23 department, or other agency in the executive, judicial, or
24 legislative branch of state government, including an institution of
25 higher education [~~as defined by Section 61.003, Education Code, but~~
26 ~~does not include a public junior college].~~

27 SECTION 2.02. Section 609.002, Government Code, is amended

1 to read as follows:

2 Sec. 609.002. QUALIFICATIONS FOR QUALIFIED VENDOR. A
3 vendor may be a qualified vendor for a 457 plan or a 401(k) plan
4 created by a political subdivision, ~~or~~ group of political
5 subdivisions, an institution of higher education, or a group of
6 institutions of higher education only if the vendor satisfies the
7 requirements for participation in the deferred compensation plan
8 provided by:

- 9 (1) this chapter; and
10 (2) the plan administrator.

11 SECTION 2.03. Subsection (b), Section 609.003, Government
12 Code, is amended to read as follows:

13 (b) The approval of an investment product for a 401(k) plan
14 of a political subdivision, ~~or~~ group of political subdivisions,
15 an institution of higher education, or a group of institutions of
16 higher education, or for a 457 plan of an institution of higher
17 education or group of institutions of higher education, must be in
18 accordance with a contract between the plan administrator and a
19 qualified vendor.

20 SECTION 2.04. Section 609.007, Government Code, is amended
21 by adding Subsection (e) to read as follows:

22 (e) An institution of higher education may contract with an
23 employee of the institution of higher education for the deferment
24 of any part of the employee's compensation.

25 SECTION 2.05. Chapter 609, Government Code, is amended by
26 adding Subchapter D to read as follows:

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

3 Sec. 609.701. DEFINITIONS. In this subchapter:

4 (1) "Deferred compensation plan" means a plan
5 established under this subchapter.

6 (2) "Deferred compensation trust fund" means the fund
7 in which deferred amounts and investment income of participating
8 employees are temporarily held.

9 (3) "Investment product" includes a fixed or variable
10 rate annuity, mutual fund, certificate of deposit, money market
11 account, passbook savings account, stock, bond, obligation, and any
12 other investment product not prohibited under Section 457, Internal
13 Revenue Code of 1986, as amended.

14 Sec. 609.702. CREATION OF PLAN. (a) An institution of
15 higher education may create and administer for its employees a 457
16 plan under this subchapter.

17 (b) An institution of higher education may contract with
18 other institutions of higher education to create a single deferred
19 compensation plan for their employees under Subsection (a).

20 Sec. 609.703. DESIGNATION OF PLAN ADMINISTRATOR. (a) An
21 institution of higher education that creates a deferred
22 compensation plan shall designate a plan administrator for the
23 plan.

24 (b) Institutions of higher education that create a single
25 plan shall designate jointly a plan administrator for the plan.

26 (c) A plan administrator may be an employee, a nonprofit
27 corporation, an individual, a trustee, a private entity, another

1 institution of higher education, or an association of institutions
2 of higher education.

3 Sec. 609.704. REMOVAL OF PLAN ADMINISTRATOR. An
4 institution of higher education or group of institutions of higher
5 education that designates a plan administrator may remove the plan
6 administrator at any time unless specifically provided otherwise by
7 contract.

8 Sec. 609.705. OVERSIGHT COMMITTEE. (a) An institution of
9 higher education or group of institutions of higher education that
10 creates a deferred compensation plan may direct and supervise the
11 activities of the plan administrator through an oversight
12 committee.

13 (b) The institution of higher education or group shall
14 determine the authority, activities, and composition of an
15 oversight committee created under this section.

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

21 (b) A plan administrator shall develop and implement
22 criteria and procedures for any matter not covered by this
23 subchapter that the plan administrator considers appropriate for
24 the operation of the deferred compensation plan.

25 Sec. 609.707. INVESTMENT AND TRANSFER OF DEFERRED AMOUNTS
26 AND INCOME. The plan administrator shall:

27 (1) invest the deferred amounts and investment income

1 of a participating employee in the qualified investment products
2 designated by the employee; and

3 (2) transfer the deferred amounts and investment
4 income of a participating employee from one qualified investment
5 product to another on the employee's request.

6 Sec. 609.708. PARTICIPATION OF INDEPENDENT CONTRACTORS.

7 (a) The plan administrator shall determine whether a person who
8 provides services as an independent contractor to an institution of
9 higher education that created the plan may participate in the
10 deferred compensation plan.

11 (b) For the purposes of Subchapter A and this subchapter, an
12 independent contractor that is authorized to participate in a
13 deferred compensation plan is treated as an employee of the
14 institution of higher education creating the plan.

15 Sec. 609.709. CHANGING AMOUNT DEFERRED. An employee may
16 change the amount to be deferred by notifying the plan
17 administrator of the change in accordance with the requirements of
18 the administrator.

19 Sec. 609.710. DISTRIBUTION. A plan administrator shall
20 develop and implement procedures for:

21 (1) the designation by a participating employee of a
22 beneficiary to receive the employee's deferred amounts and
23 investment income after the employee's death; and

24 (2) the distribution of a participating employee's
25 deferred amounts and investment income to the employee or the
26 employee's beneficiary, as appropriate, because of the employee's
27 death or termination of employment, a financial hardship, or

1 another reason permissible under federal law.

2 Sec. 609.711. FEE. (a) An institution of higher education
3 or group of institutions of higher education that creates a
4 deferred compensation plan may assess a fee for the administration
5 of the plan against each participating employee.

6 (b) The institution of higher education or group of
7 institutions of higher education shall determine the method for
8 computing and assessing the fee.

9 Sec. 609.712. EVALUATION AND APPROVAL OF QUALIFIED VENDOR.

10 (a) A plan administrator shall develop and implement criteria and
11 procedures for evaluating a vendor's application to become a
12 qualified vendor.

13 (b) A plan administrator may not approve a vendor's
14 application if the vendor is:

15 (1) a state or national bank or savings and loan
16 association, the deposits of which are not insured by the Federal
17 Deposit Insurance Corporation;

18 (2) a credit union, the deposits of which are not
19 insured by the National Credit Union Administration Board; or

20 (3) an insurance company that:

21 (A) is not a member of the Texas Life, Accident,
22 Health, and Hospital Service Insurance Guaranty Association; or

23 (B) is an impaired or insolvent insurer under
24 Article 21.28-D, Insurance Code.

25 (c) On written request, the Texas Department of Insurance
26 shall certify in writing to a plan administrator whether an
27 insurance company is prohibited from being approved as a qualified

1 vendor under Subsection (b)(3). The plan administrator may rely on
2 the certification.

3 Sec. 609.713. NUMBER OF VENDORS UNDER 457 PLAN. The plan
4 administrator of a 457 plan shall determine the minimum and maximum
5 number of vendors that may be qualified vendors for the plan at any
6 given time.

7 Sec. 609.714. CONTRACT WITH QUALIFIED VENDOR. (a) After a
8 plan administrator approves an application of a vendor to become a
9 qualified vendor, the plan administrator shall execute a written
10 contract with the vendor to participate in the deferred
11 compensation plan.

12 (b) A plan administrator shall develop and implement
13 criteria and procedures for evaluating a qualified vendor's
14 investment products to determine whether those products are
15 acceptable as qualified investment products.

16 (c) A qualified vendor may offer to employees participating
17 in a 457 plan only qualified investment products.

18 Sec. 609.715. REGULATION OF QUALIFIED VENDORS. A plan
19 administrator shall develop and implement requirements for
20 qualified vendors and their employees concerning disclosure,
21 reporting, standards of conduct, solicitation, advertising,
22 relationships with participating employees, the nature and quality
23 of services provided to those employees, and other matters.

24 Sec. 609.716. TRANSFER ON VENDOR'S FAILURE. An institution
25 of higher education or group of institutions of higher education
26 that creates a deferred compensation plan may authorize or require
27 as a part of the plan that the plan administrator immediately

1 transfer to the deferred compensation trust fund all deferred
2 amounts and investment income from a vendor who fails to satisfy the
3 requirements of this subchapter or the plan administrator.

4 SECTION 2.06. Subsection (a), Section 51.964, Education
5 Code, is amended to read as follows:

6 (a) An institution of higher education as defined by Section
7 61.003 may employ a person who has retired under the Teacher
8 Retirement System (Subtitle C, Title 8, Government Code) or the
9 optional retirement program (Chapter 830, Government Code) if:

10 (1) the governing board of the institution determines
11 that the employment is in the best interests of the institution; and

12 (2) the person has been retired for at least 30 days
13 ~~[one calendar year]~~ before the effective date of the employment,
14 except that a person retired under the optional retirement program
15 may be rehired after retirement without a break in service.

16 SECTION 2.07. Subchapter A, Chapter 51, Education Code, is
17 amended by adding Section 51.0065 to read as follows:

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

27 SECTION 2.08. Section 1601.102, Insurance Code, is amended

1 by amending Subsection (b) and adding Subsections (f) and (g) to
2 read as follows:

3 (b) An individual is eligible to participate in the uniform
4 program as provided by Subsection (a) if:

5 (1) the individual has at least 10 [~~three~~] years of
6 service with a system for which the individual was eligible to
7 participate in the uniform program under Section 1601.101;

8 (2) the individual's last state employment before
9 retirement was with that system; and

10 (3) the individual retires under the jurisdiction of:

11 (A) the Teacher [~~Teachers~~] Retirement System of
12 Texas under Subtitle C, Title 8, Government Code;

13 (B) the Employees Retirement System of Texas; or

14 (C) subject to Subsection (c):

15 (i) the optional retirement program
16 established by Chapter 830, Government Code; or

17 (ii) any other federal or state statutory
18 retirement program to which the system has made employer
19 contributions.

20 (f) Notwithstanding Subsection (b), an individual to whom
21 this subsection applies is eligible to participate in the uniform
22 program as provided by Subsection (a) if:

23 (1) the individual has at least three years of service
24 with a system for which the individual was eligible to participate
25 in the uniform program under Section 1601.101;

26 (2) the individual's last state employment before
27 retirement was with that system; and

1 (3) the individual retires under the jurisdiction of:

2 (A) the Teacher Retirement System of Texas under
3 Subtitle C, Title 8, Government Code;

4 (B) the Employees Retirement System of Texas; or

5 (C) subject to Subsection (c):

6 (i) the optional retirement program
7 established by Chapter 830, Government Code; or

8 (ii) any other federal or state statutory
9 retirement program to which the system has made employer
10 contributions.

11 (g) Subsection (f) applies only to a person who, on August
12 31, 2003:

13 (1) was eligible to participate in the uniform program
14 as an employee under Section 1601.101; or

15 (2) was eligible to participate in the uniform program
16 as a retired employee under this section as this section existed on
17 January 1, 2003.

18 SECTION 2.09. The heading to Section 51.961, Education
19 Code, as added by Chapter 118, Acts of the 77th Legislature, Regular
20 Session, 2001, is amended to read as follows:

21 Sec. 51.961. LEAVE PROVISIONS FOR [~~CERTAIN~~] EMPLOYEES OF
22 UNIVERSITY SYSTEM OR COMPONENT INSTITUTION OF SYSTEM.

23 SECTION 2.10. Subsections (a) and (b), Section 51.961,
24 Education Code, as added by Chapter 118, Acts of the 77th
25 Legislature, Regular Session, 2001, are amended to read as follows:

26 (a) In this section:

27 (1) "Governing board[~~7~~]" [~~"medical and dental unit,"~~]

1 and "university system" have the meanings assigned by Section
2 61.003.

3 (2) "Leave" includes vacation leave, sick leave, and
4 holidays.

5 (b) The governing board of a university system may adopt a
6 comprehensive leave policy that applies to employees [~~working in a~~
7 ~~hospital or clinic of a medical and dental unit~~] of the university
8 system or any component institution of the system.

9 SECTION 2.11. Section 1601.101, Insurance Code, as
10 effective June 1, 2003, is amended by adding Subsection (d) to read
11 as follows:

12 (d) An individual is eligible to participate in the uniform
13 program as provided by Subsection (a) if the individual is serving a
14 postdoctoral fellowship with an institution in a system.

15 SECTION 2.12. The changes in law made by this article to
16 Sections 609.001, 609.002, 609.003, and 609.007, Government Code,
17 and Subchapter D, Chapter 609, Government Code, as added by this
18 article, take effect January 1, 2004.

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

21 ARTICLE 3. INFORMATION TECHNOLOGY

22 SECTION 3.01. Section 2054.100, Government Code, is amended
23 by adding Subsection (d) to read as follows:

24 (d) The biennial operating plan of an institution of higher
25 education is required to include only operational projects and
26 infrastructure projects. The instructions provided under Section
27 2054.101 may not require an institution of higher education to

1 include other projects in the plan.

2 SECTION 3.02. Section 2054.121, Government Code, is amended
3 to read as follows:

4 Sec. 2054.121. COORDINATION WITH [~~AMONG~~] INSTITUTIONS OF
5 HIGHER EDUCATION. (a) An institution of higher education shall
6 coordinate its use of information technologies with other such
7 institutions to more effectively provide education, research, and
8 community service.

9 (b) The Information Technology Council for Higher Education
10 consists of the chief information officer or equivalent employee
11 of:

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

24 (c) Before adopting a proposed rule that applies to
25 institutions of higher education, the department shall prepare, in
26 consultation with the council established by Subsection (b), an
27 analysis of the impact of the rule on institutions of higher

1 education that includes consideration of:

2 (1) the impact of the rule on the mission of higher
3 education, student populations, and federal grant requirements;

4 (2) alternate methods of implementation to achieve the
5 purpose of the rule; and

6 (3) exempting institutions of higher education from
7 all or part of the requirements of the rule.

8 (d) The department shall include its analysis as part of the
9 notice of the proposed rule that the agency files with the secretary
10 of state for publication in the Texas Register and shall provide
11 copies to the governor, the lieutenant governor, and the speaker of
12 the house of representatives.

13 (e) Each department rule that applies to institutions of
14 higher education and that is in effect on September 1, 2003, ceases
15 to apply to institutions of higher education on September 1, 2004,
16 unless readopted by the department on or after September 1, 2003, in
17 a form that expressly applies to institutions of higher education.

18 ARTICLE 4. REGULATORY AND ADMINISTRATIVE MATTERS

19 SECTION 4.01. Subsection (i), Section 51.782, Education
20 Code, is amended to read as follows:

21 (i) A construction manager-at-risk shall publicly
22 advertise, in the manner prescribed by the institution, and receive
23 bids or proposals from trade contractors or subcontractors for the
24 performance of all major elements of the work other than [~~the minor~~
25 ~~work that may be included in the~~] general conditions work. A
26 construction manager-at-risk may seek to perform major elements
27 [~~portions~~] of the work itself if the construction manager-at-risk

1 submits its bid or proposal for that [~~those portions of the~~] work in
2 the same manner as all other trade contractors or subcontractors
3 and if the board determines that the construction manager-at-risk's
4 bid or proposal provides the best value for the institution. If no
5 satisfactory bid or proposal for a major element of the work is
6 received in the time allowed, the board may negotiate directly with
7 the construction manager-at-risk for performance of that work. The
8 board may negotiate directly with the manager-at-risk for the
9 performance of minor elements of the work that are not included in
10 major work packages.

11 SECTION 4.02. Subchapter B, Chapter 502, Labor Code, is
12 amended by adding Section 502.025 to read as follows:

13 Sec. 502.025. COVERAGE FOR OUT-OF-STATE EMPLOYEES. (a) An
14 employee who performs services outside this state is entitled to
15 benefits under this chapter even if the person:

- 16 (1) is hired or not hired in this state;
- 17 (2) does not work in this state;
- 18 (3) works both in this state and out of state;
- 19 (4) is injured outside this state; or
- 20 (5) has been outside this state for more than one year.

21 (b) An employee who elects to pursue remedies provided by
22 this state where the injury occurred is not entitled to benefits
23 under this chapter.

24 SECTION 4.03. Subchapter B, Chapter 503, Labor Code, is
25 amended by adding Section 503.025 to read as follows:

26 Sec. 503.025. COVERAGE FOR OUT-OF-STATE EMPLOYEES. (a) An
27 employee who performs services outside this state is entitled to

1 benefits under this chapter even if the person:

2 (1) is hired or not hired in this state;

3 (2) does not work in this state;

4 (3) works both in this state and out of state;

5 (4) is injured outside this state; or

6 (5) has been outside this state for more than one year.

7 (b) An employee who elects to pursue remedies provided by
8 this state where the injury occurred is not entitled to benefits
9 under this chapter.

10 SECTION 4.04. Section 65.45, Education Code, is amended to
11 read as follows:

12 Sec. 65.45. SCIENCE AND [~~CENTER FOR~~] TECHNOLOGY
13 DEVELOPMENT, MANAGEMENT, AND TRANSFER. (a) The legislature finds
14 that it is essential to the economic growth of the state that the
15 potential for the development and growth of high technology
16 industry be promoted and expanded. As a means of accomplishing this
17 purpose, the board [~~is authorized to establish, maintain, and~~
18 ~~support a Center for Technology Development and Transfer at The~~
19 ~~University of Texas at Austin and may accept and administer, upon~~
20 ~~terms and conditions acceptable to the board, gifts, grants, and~~
21 ~~donations to aid in the establishment, maintenance, and operation~~
22 ~~of the center.~~

23 [~~(b) Subject to the rules and regulations of the board, the~~
24 ~~center]~~ may enter into [~~solicit and submit for approval of the~~
25 ~~board]~~ agreements with individuals, corporations, partnerships,
26 associations, and local, state, or federal agencies for funding the
27 discovery, development, and commercialization of new products,

1 technology, and scientific information, including an agreement to
2 manage a national laboratory engaged in any of those endeavors. At
3 the discretion of the board, research facilities, funding, and
4 personnel at the various component institutions of The University
5 of Texas System may be utilized to achieve the purposes of this
6 section.

7 (b) [~~(c)~~] As a means of carrying out the purposes of [~~the~~
8 ~~center under~~] this section, the board may, [~~either through the~~
9 ~~center or~~] through one or more corporations incorporated by the
10 board or under any other cooperative arrangement:

11 (1) own and license rights to products, technology,
12 and scientific information;

13 (2) own shares in corporations engaged in the
14 discovery, development, manufacture, management, or marketing of
15 products, technology, or scientific information in this state or
16 outside this state [~~under a license from the board, the center, or a~~
17 ~~corporation owned or controlled by the board~~];

18 (3) participate [~~as the general partner or as a~~
19 ~~limited partner~~], either directly or through a subsidiary
20 corporation or other legal entity formed for that purpose, [~~in~~
21 ~~limited partnerships, general partnerships, or joint ventures~~
22 ~~engaged~~] in the discovery, development, manufacture, management,
23 or marketing of products, technology, or scientific information on
24 behalf of the United States or a state or local governmental entity
25 [~~under a license from the board, the center, or a corporation owned~~
26 ~~or controlled by the board~~]; and

27 (4) carry on and support such other activities as the

1 board may deem appropriate for achieving the purposes of this
2 section.

3 (c) [~~(d)~~ ~~The Center for Technology Development and~~
4 ~~Transfer established by this section shall not receive general~~
5 ~~revenue funds through special item appropriation in the biennial~~
6 ~~General Appropriations Act.~~

7 ~~[(e)]~~ The board may [~~Center for Technology Development and~~
8 ~~Transfer established by this section shall~~] cooperate in any manner
9 the board considers appropriate [~~fully~~] with similar programs
10 operated by other state-supported institutions of higher education
11 in this state or in other states.

12 SECTION 4.05. The heading to Section 551.121, Government
13 Code, is amended to read as follows:

14 Sec. 551.121. GOVERNING BOARD OF INSTITUTION OF HIGHER
15 EDUCATION; BOARD FOR LEASE OF UNIVERSITY LANDS.

16 SECTION 4.06. Subsections (b), (c), and (e), Section
17 551.121, Government Code, are amended to read as follows:

18 (b) This chapter does not prohibit the governing board of an
19 institution of higher education or the Board for Lease of
20 University Lands from holding an open or closed meeting by
21 telephone conference call.

22 (c) A meeting held by telephone conference call may be held
23 only if:

24 (1) the meeting is a special called meeting and
25 immediate action is required; and

26 (2) the convening at one location of a quorum of the
27 governing board or Board for Lease of University Lands is difficult

1 or impossible.

2 (e) The notice of a [the] telephone conference call meeting
3 of a governing board must specify as the location of the meeting the
4 location where meetings of the governing board are usually held.
5 For a meeting of the governing board of a university system, the
6 notice must specify as the location of the meeting the board's
7 conference room at the university system office. For a meeting of
8 the Board for Lease of University Lands, the notice must specify as
9 the location of the meeting a suitable conference or meeting room at
10 The University of Texas System office.

11 SECTION 4.07. Subchapter C, Chapter 552, Government Code,
12 is amended by adding Section 552.1235 to read as follows:

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

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

25 (c) In this section, "institution of higher education" has
26 the meaning assigned by Section 61.003, Education Code.

27 SECTION 4.08. Subsection (a), Section 2161.123, Government

1 Code, is amended to read as follows:

2 (a) Each state agency, including the commission, that is
3 required to have a [~~shall prepare as part of its~~] strategic plan
4 under Chapter 2056 shall include in its strategic plan a written
5 plan for increasing the agency's use of historically underutilized
6 businesses in purchasing and public works contracting. The
7 governing board of each university system or institution of higher
8 education not included in a university system, other than a public
9 junior college, shall prepare a written plan for increasing the use
10 of historically underutilized businesses in purchasing and public
11 works contracting by the system or institution.

12 SECTION 4.09. Section 85.51, Education Code, is amended to
13 read as follows:

14 Sec. 85.51. AUTHORITY TO LEASE. (a) The board may lease
15 for oil, gas, sulphur, mineral ore, and other mineral developments
16 [~~to the highest bidder at public auction~~] all lands and mineral
17 interests [~~used for experimental stations and all other lands~~]
18 under its [~~exclusive~~] control, [~~or any part of those lands,~~] owned
19 or in the future acquired by the state for the use of the university
20 system.

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

25 SECTION 4.10. Subchapter B, Chapter 85, Education Code, is
26 amended by adding Section 85.18 to read as follows:

27 Sec. 85.18. MANDATORY VENUE. (a) Venue for a suit filed

1 against the board or a member of the board in the member's official
2 capacity is in Brazos County.

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

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

11 (d) In case of a conflict between this section and any other
12 law, this section controls.

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

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

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

26 ARTICLE 5. REPORTING

27 SECTION 5.01. Subsections (b) and (c), Section 51.680,

1 Education Code, are amended to read as follows:

2 (b) No later than January 31, 1988, the commissioner of
3 higher education shall inform institutions of higher education
4 whether their intellectual property policies meet the minimum
5 standards set out in Subsection (a) [~~of this section~~]. Thereafter,
6 an institution [institutions] of higher education may file or post
7 on the institution's website on the Internet in a manner available
8 to the public policies amended to overcome any failure to meet the
9 [~~said~~] standards. The commissioner shall within a reasonable time
10 after receiving an amended policy inform the submitting institution
11 whether it meets the [~~said~~] standards.

12 (c) It is a policy of the state that each institution of
13 higher education shall at all times after August 31, 1988, have [~~on~~
14 ~~file with the Coordinating Board, Texas College and University~~
15 ~~System,~~] a current copy of its intellectual property policies
16 that[, which policies shall at all times] meet the minimum
17 standards set out in Subsection (a) on file with the Texas Higher
18 Education Coordinating Board or posted on the institution's website
19 on the Internet in a manner available to the public [~~of this~~
20 ~~section~~]. The commissioner of higher education shall establish
21 procedures for the monitoring of this policy of the state.

22 SECTION 5.02. Section 2152.064, Government Code, is
23 amended by adding Subsection (f) to read as follows:

24 (f) This section does not apply to a university system or an
25 institution of higher education as those terms are defined by
26 Section 61.003, Education Code.

27 SECTION 5.03. Section 2155.448, Government Code, is amended

1 by adding Subsection (d) to read as follows:

2 (d) This section does not apply to a university system or an
3 institution of higher education as those terms are defined by
4 Section 61.003, Education Code.

5 SECTION 5.04. Subsection (a), Section 2166.101, Government
6 Code, is amended to read as follows:

7 (a) This section applies to a state-owned building,
8 including a building otherwise exempt from this chapter under
9 Section 2166.003, except that this section does not apply to a
10 building owned by an institution of higher education as defined by
11 Section 61.003, Education Code.

12 SECTION 5.05. Subsection (f), Section 2166.101, Government
13 Code, is repealed.

14 ARTICLE 6. EFFECTIVE DATE

15 SECTION 6.01. Except as otherwise provided by this Act,
16 this Act takes effect immediately if it receives a vote of
17 two-thirds of all the members elected to each house, as provided by
18 Section 39, Article III, Texas Constitution. If this Act does not
19 receive the vote necessary for immediate effect, this Act takes
20 effect September 1, 2003.