

1-1 By: Shapiro, West S.B. No. 1652
1-2 (In the Senate - Filed March 14, 2003; March 20, 2003, read
1-3 first time and referred to Subcommittee on Higher Education;
1-4 May 1, 2003, reported to Committee on Education; May 6, 2003,
1-5 reported adversely, with favorable Committee Substitute by the
1-6 following vote: Yeas 5, Nays 0; May 6, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1652 By: Shapiro

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to institutions of higher education, including the
1-11 administration, operation, governance, and financing of those
1-12 institutions.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 ARTICLE 1. FINANCIAL MATTERS

1-15 SECTION 1.01. Subsection (e), Section 11.11, Tax Code, is
1-16 amended to read as follows:

1-17 (e) Property [~~It is provided, however, that property~~] that
1-18 is held or dedicated for the support, maintenance, or benefit of an
1-19 institution of higher education as defined by Section 61.003 [~~in~~
1-20 ~~Chapter 61~~], [~~Texas~~] Education Code, but is not rented or leased for
1-21 compensation to a private business enterprise to be used by it for a
1-22 purpose not related to the performance of the duties and functions
1-23 of the state or institution or is not rented or leased to provide
1-24 private residential housing to members of the public other than
1-25 students and employees of the state or institution is not taxable.
1-26 If a portion of property of an institution of higher education is
1-27 used for public purposes and a portion is not used for those
1-28 purposes, the portion of the property used for public purposes is
1-29 exempt under this subsection. All oil, gas, and other mineral
1-30 interests owned by an institution of higher education are exempt
1-31 from all ad valorem taxes. Property bequeathed to an institution is
1-32 exempt from the assessment of ad valorem taxes from the date of the
1-33 decedent's death, unless:

1-34 (1) the property is leased for compensation to a
1-35 private business enterprise as provided in this subsection; or

1-36 (2) the transfer of the property to an institution is
1-37 contested in a probate court, in which [~~In this~~] case [~~7~~]
1-38 ad valorem taxes shall be assessed to the estate of the decedent until
1-39 the final determination of the disposition of the property is made.
1-40 The property is exempt from the assessment of ad valorem taxes upon
1-41 vesting of the property in the institution.

1-42 SECTION 1.02. Subdivision (2), Section 2254.021,
1-43 Government Code, is amended to read as follows:

1-44 (2) "Major consulting services contract" means a
1-45 consulting services contract for which it is reasonably foreseeable
1-46 that the value of the contract will exceed \$15,000, or \$25,000 for
1-47 an institution of higher education other than a public junior
1-48 college.

1-49 SECTION 1.03. Section 2254.028, Government Code, is amended
1-50 by adding Subsection (c) to read as follows:

1-51 (c) Subsection (a)(3) does not apply to a major consulting
1-52 services contract to be entered into by an institution of higher
1-53 education other than a public junior college if the institution
1-54 includes in the invitation published under Section 2254.029 a
1-55 finding by the chief executive officer of the institution that the
1-56 consulting services are necessary and an explanation of that
1-57 finding.

1-58 SECTION 1.04. Subsections (b) and (d), Section 2254.031,
1-59 Government Code, are amended to read as follows:

1-60 (b) A state agency that intends to renew a contract that is
1-61 not a major consulting services contract shall comply with Sections
1-62 2254.028 and 2254.029 if the original contract and the renewal
1-63 contract have a reasonably foreseeable value totaling more than

2-1 \$15,000, or \$25,000 for an institution of higher education other
2-2 than a public junior college.

2-3 (d) A state agency that intends to amend or extend a
2-4 contract that is not a major consulting services contract shall
2-5 comply with Sections 2254.028 and 2254.029 if the original contract
2-6 and the amendment or extension have a reasonably foreseeable value
2-7 totaling more than \$15,000, or \$25,000 for an institution of higher
2-8 education other than a public junior college.

2-9 SECTION 1.05. Section 54.5011, Education Code, is amended
2-10 to read as follows:

2-11 Sec. 54.5011. CHARGES AND [CREDIT CARD] FEES FOR CERTAIN
2-12 PAYMENTS. (a) This section applies to a payment of tuition, a fee,
2-13 or another charge to an institution of higher education that is:

2-14 (1) made or authorized in person, by mail, by
2-15 telephone call, or through the Internet;

2-16 (2) made by electronic funds transfer; or

2-17 (3) made by credit card.

2-18 (b) An institution of higher education may charge a fee or
2-19 other amount in connection with a payment to which this section
2-20 applies, in addition to the amount of the tuition, fee, or other
2-21 charge being paid, including:

2-22 (1) a discount, convenience, or service charge for the
2-23 transaction; or

2-24 (2) a service charge in connection with a payment
2-25 transaction that is dishonored or refused for lack of funds or
2-26 insufficient funds [that accepts payment of tuition, a fee, or
2-27 other charge by credit card may charge the credit card user a fee
2-28 for processing the payment].

2-29 (c) [~~(b)~~] A fee or other charge [~~charged~~] under this section
2-30 must be in an amount reasonably related to the expense incurred by
2-31 the institution in processing and handling [~~may not exceed the~~
2-32 ~~amount charged the institution by the issuer of the credit card in~~
2-33 ~~connection with] the payment or payment transaction.~~

2-34 [~~(c) Before accepting a payment by credit card, the~~
2-35 ~~institution shall notify the student of any fee to be charged under~~
2-36 ~~this section.]~~

2-37 SECTION 1.06. Section 153.006, Education Code, is amended
2-38 to read as follows:

2-39 Sec. 153.006. SUPPORT OF CENTERS. (a) In order to carry
2-40 out the purposes of this chapter and to support the activities of
2-41 centers described in this chapter, to the extent authorized by its
2-42 governing board, an institution of higher education may:

2-43 (1) enter into agreements establishing royalties,
2-44 fees, and other consideration for technology developed in whole or
2-45 part by it;

2-46 (2) accept equity interests in organizations that
2-47 license, manage, or otherwise administer rights to technology
2-48 belonging to it or under its control in exchange for such rights, in
2-49 whole or in part;

2-50 (3) accept equity interests in organizations that
2-51 license or otherwise have rights in its technology as consideration
2-52 for its providing monetary, business, scientific, or engineering
2-53 services or technical assistance;

2-54 (4) use income from the commercialization of
2-55 technology to fund the activities of the center;

2-56 (5) solicit, accept, and administer gifts, grants, and
2-57 donations; [~~and~~]

2-58 (6) enter into contracts for legal services with a
2-59 competent lawyer or law firm to:

2-60 (A) prepare, file, pursue, and maintain patent
2-61 applications in the United States or foreign jurisdictions;

2-62 (B) secure copyright protection for computer
2-63 software;

2-64 (C) prepare, file, and pursue trademark and
2-65 service mark applications;

2-66 (D) pursue litigation to prevent or stop
2-67 infringement of any intellectual property rights of the
2-68 institution; or

2-69 (E) handle any other legal matter related to the

3-1 operation and activities of the center; and

3-2 (7) enter into such other business arrangements as may
3-3 be appropriate for achieving the purposes of this chapter.

3-4 (b) The fees or other compensation paid in connection with a
3-5 legal services contract authorized by Subsection (a) may be paid on
3-6 a contingency fee basis, at an hourly rate, or on another basis the
3-7 governing board of the institution considers appropriate.

3-8 SECTION 1.07. Section 2254.102, Government Code, is amended
3-9 by adding Subsection (c) to read as follows:

3-10 (c) This subchapter does not apply to a contract for legal
3-11 services entered into by an institution of higher education under
3-12 Section 153.006, Education Code.

3-13 SECTION 1.08. Subsection (d), Section 404.097, Government
3-14 Code, is amended to read as follows:

3-15 (d) Legal fees and expenses may be paid from the recovered
3-16 funds under a contingent fee contract for legal services only:

3-17 (1) after the funds are deposited in accordance with
3-18 this section; and

3-19 (2) in accordance with Subchapter C, Chapter 2254, if
3-20 that subchapter applies to the contract.

3-21 SECTION 1.09. Section 21.042, Property Code, is amended by
3-22 adding Subsection (f) to read as follows:

3-23 (f) In awarding compensation or assessing damages for a
3-24 condemnation by an institution of higher education, as defined by
3-25 Section 61.003, Education Code, the special commissioners may not
3-26 include in the compensation or damages any amount that compensates
3-27 for, or is based on the present value of, an exemption from ad
3-28 valorem taxation applicable to the property before its
3-29 condemnation.

3-30 SECTION 1.10. Section 55.004, Property Code, is amended by
3-31 adding Subsection (f) to read as follows:

3-32 (f) If the physician is employed in that capacity by an
3-33 institution of higher education, as defined by Section 61.003,
3-34 Education Code, and the lien does not include the amount of the
3-35 physician's reasonable and necessary charges described by
3-36 Subsection (c), the physician has a lien on the cause of action in
3-37 the same manner as a hospital under this chapter. The lien is
3-38 subject to provisions of this chapter applicable to a hospital
3-39 lien, and the physician or the physician's employing institution
3-40 may secure and enforce the lien in the manner provided by this
3-41 chapter.

3-42 SECTION 1.11. Subchapter A, Chapter 56, Education Code, is
3-43 amended by adding Section 56.004 to read as follows:

3-44 Sec. 56.004. FILING FEES IN SUITS TO COLLECT DELINQUENT
3-45 STUDENT LOANS. Notwithstanding any other law, if an institution of
3-46 higher education brings suit to collect or enforce the repayment of
3-47 a delinquent student loan, the institution is required to pay in
3-48 advance one-half of the applicable filing fee and other costs
3-49 payable in advance to the clerk of the court. If the defaulting
3-50 borrower prevails in the suit, the institution shall pay the
3-51 remaining one-half of the filing fee and costs on the date of the
3-52 final disposition of the suit. If the institution prevails in the
3-53 suit:

3-54 (1) the judgment shall include a finding that the
3-55 defaulting borrower is liable to the institution for the full
3-56 amount of the filing fee and costs; and

3-57 (2) the institution shall pay the remaining one-half
3-58 of the filing fee and costs not later than the seventh day after the
3-59 date on which the defaulting borrower pays to the institution the
3-60 full amount, including the amount of the filing fee and costs, for
3-61 which the borrower is liable to the institution.

3-62 SECTION 1.12. Section 403.072, Government Code, is amended
3-63 by adding Subsection (d) to read as follows:

3-64 (d) In its rules adopted under this section, the comptroller
3-65 may not require an institution of higher education, as defined by
3-66 Section 61.003, Education Code, that processes its own payroll to
3-67 submit payroll information to the comptroller relating to
3-68 individual employees of the institution that is not required by the
3-69 comptroller to make any distribution of state money to the

4-1 institution to cover the institution's payroll.

4-2 SECTION 1.13. Section 56.004, Education Code, as added by
4-3 this article, applies only to a suit filed by an institution to
4-4 collect or enforce the repayment of a delinquent student loan on or
4-5 after the effective date of this Act. A suit filed before the
4-6 effective date is covered by the law in effect when the suit was
4-7 filed, and the former law is continued in effect for that purpose.

4-8 ARTICLE 2. HUMAN RESOURCES

4-9 SECTION 2.01. Section 609.001, Government Code, is amended
4-10 by adding Subdivision (2-a) and amending Subdivision (8) to read as
4-11 follows:

4-12 (2-a) "Institution of higher education" means an
4-13 institution of higher education as defined by Section 61.003,
4-14 Education Code, other than a public junior college.

4-15 (8) "State agency" means a board, commission, office,
4-16 department, or other agency in the executive, judicial, or
4-17 legislative branch of state government, including an institution of
4-18 higher education [as defined by Section 61.003, Education Code, but
4-19 does not include a public junior college].

4-20 SECTION 2.02. Section 609.002, Government Code, is amended
4-21 to read as follows:

4-22 Sec. 609.002. QUALIFICATIONS FOR QUALIFIED VENDOR. A
4-23 vendor may be a qualified vendor for a 457 plan or a 401(k) plan
4-24 created by a political subdivision, ~~[or]~~ group of political
4-25 subdivisions, an institution of higher education, or a group of
4-26 institutions of higher education only if the vendor satisfies the
4-27 requirements for participation in the deferred compensation plan
4-28 provided by:

- 4-29 (1) this chapter; and
4-30 (2) the plan administrator.

4-31 SECTION 2.03. Subsection (b), Section 609.003, Government
4-32 Code, is amended to read as follows:

4-33 (b) The approval of an investment product for a 401(k) plan
4-34 of a political subdivision, ~~[or]~~ group of political subdivisions,
4-35 an institution of higher education, or a group of institutions of
4-36 higher education, or for a 457 plan of an institution of higher
4-37 education or group of institutions of higher education, must be in
4-38 accordance with a contract between the plan administrator and a
4-39 qualified vendor.

4-40 SECTION 2.04. Section 609.007, Government Code, is amended
4-41 by adding Subsection (e) to read as follows:

4-42 (e) An institution of higher education may contract with an
4-43 employee of the institution of higher education for the deferment
4-44 of any part of the employee's compensation.

4-45 SECTION 2.05. Chapter 609, Government Code, is amended by
4-46 adding Subchapter D to read as follows:

4-47 SUBCHAPTER D. DEFERRED COMPENSATION PLANS FOR EMPLOYEES OF
4-48 INSTITUTIONS OF HIGHER EDUCATION

4-49 Sec. 609.701. DEFINITIONS. In this subchapter:

4-50 (1) "Deferred compensation plan" means a plan
4-51 established under this subchapter.

4-52 (2) "Deferred compensation trust fund" means the fund
4-53 in which deferred amounts and investment income of participating
4-54 employees are temporarily held.

4-55 (3) "Investment product" includes a fixed or variable
4-56 rate annuity, mutual fund, certificate of deposit, money market
4-57 account, passbook savings account, stock, bond, obligation, and any
4-58 other investment product not prohibited under Section 457, Internal
4-59 Revenue Code of 1986, as amended.

4-60 Sec. 609.702. CREATION OF PLAN. (a) An institution of
4-61 higher education may create and administer for its employees a 457
4-62 plan under this subchapter.

4-63 (b) An institution of higher education may contract with
4-64 other institutions of higher education to create a single deferred
4-65 compensation plan for their employees under Subsection (a).

4-66 Sec. 609.703. DESIGNATION OF PLAN ADMINISTRATOR. (a) An
4-67 institution of higher education that creates a deferred
4-68 compensation plan shall designate a plan administrator for the
4-69 plan.

5-1 (b) Institutions of higher education that create a single
5-2 plan shall designate jointly a plan administrator for the plan.

5-3 (c) A plan administrator may be an employee, a nonprofit
5-4 corporation, an individual, a trustee, a private entity, another
5-5 institution of higher education, or an association of institutions
5-6 of higher education.

5-7 Sec. 609.704. REMOVAL OF PLAN ADMINISTRATOR. An
5-8 institution of higher education or group of institutions of higher
5-9 education that designates a plan administrator may remove the plan
5-10 administrator at any time unless specifically provided otherwise by
5-11 contract.

5-12 Sec. 609.705. OVERSIGHT COMMITTEE. (a) An institution of
5-13 higher education or group of institutions of higher education that
5-14 creates a deferred compensation plan may direct and supervise the
5-15 activities of the plan administrator through an oversight
5-16 committee.

5-17 (b) The institution of higher education or group shall
5-18 determine the authority, activities, and composition of an
5-19 oversight committee created under this section.

5-20 Sec. 609.706. AUTHORITY OF PLAN ADMINISTRATOR. (a) A plan
5-21 administrator shall execute necessary contracts for the
5-22 administration of the deferred compensation plan, subject to any
5-23 prior approval required by the institution of higher education or
5-24 group of institutions of higher education that created the plan.

5-25 (b) A plan administrator shall develop and implement
5-26 criteria and procedures for any matter not covered by this
5-27 subchapter that the plan administrator considers appropriate for
5-28 the operation of the deferred compensation plan.

5-29 Sec. 609.707. INVESTMENT AND TRANSFER OF DEFERRED AMOUNTS
5-30 AND INCOME. The plan administrator shall:

5-31 (1) invest the deferred amounts and investment income
5-32 of a participating employee in the qualified investment products
5-33 designated by the employee; and

5-34 (2) transfer the deferred amounts and investment
5-35 income of a participating employee from one qualified investment
5-36 product to another on the employee's request.

5-37 Sec. 609.708. PARTICIPATION OF INDEPENDENT CONTRACTORS.
5-38 (a) The plan administrator shall determine whether a person who
5-39 provides services as an independent contractor to an institution of
5-40 higher education that created the plan may participate in the
5-41 deferred compensation plan.

5-42 (b) For the purposes of Subchapter A and this subchapter, an
5-43 independent contractor that is authorized to participate in a
5-44 deferred compensation plan is treated as an employee of the
5-45 institution of higher education creating the plan.

5-46 Sec. 609.709. CHANGING AMOUNT DEFERRED. An employee may
5-47 change the amount to be deferred by notifying the plan
5-48 administrator of the change in accordance with the requirements of
5-49 the administrator.

5-50 Sec. 609.710. DISTRIBUTION. A plan administrator shall
5-51 develop and implement procedures for:

5-52 (1) the designation by a participating employee of a
5-53 beneficiary to receive the employee's deferred amounts and
5-54 investment income after the employee's death; and

5-55 (2) the distribution of a participating employee's
5-56 deferred amounts and investment income to the employee or the
5-57 employee's beneficiary, as appropriate, because of the employee's
5-58 death or termination of employment, a financial hardship, or
5-59 another reason permissible under federal law.

5-60 Sec. 609.711. FEE. (a) An institution of higher education
5-61 or group of institutions of higher education that creates a
5-62 deferred compensation plan may assess a fee for the administration
5-63 of the plan against each participating employee.

5-64 (b) The institution of higher education or group of
5-65 institutions of higher education shall determine the method for
5-66 computing and assessing the fee.

5-67 Sec. 609.712. EVALUATION AND APPROVAL OF QUALIFIED VENDOR.
5-68 (a) A plan administrator shall develop and implement criteria and
5-69 procedures for evaluating a vendor's application to become a

6-1 qualified vendor.

6-2 (b) A plan administrator may not approve a vendor's
 6-3 application if the vendor is:

6-4 (1) a state or national bank or savings and loan
 6-5 association, the deposits of which are not insured by the Federal
 6-6 Deposit Insurance Corporation;

6-7 (2) a credit union, the deposits of which are not
 6-8 insured by the National Credit Union Administration Board; or

6-9 (3) an insurance company that:

6-10 (A) is not a member of the Texas Life, Accident,
 6-11 Health, and Hospital Service Insurance Guaranty Association; or

6-12 (B) is an impaired or insolvent insurer under
 6-13 Article 21.28-D, Insurance Code.

6-14 (c) On written request, the Texas Department of Insurance
 6-15 shall certify in writing to a plan administrator whether an
 6-16 insurance company is prohibited from being approved as a qualified
 6-17 vendor under Subsection (b)(3). The plan administrator may rely on
 6-18 the certification.

6-19 Sec. 609.713. NUMBER OF VENDORS UNDER 457 PLAN. The plan
 6-20 administrator of a 457 plan shall determine the minimum and maximum
 6-21 number of vendors that may be qualified vendors for the plan at any
 6-22 given time.

6-23 Sec. 609.714. CONTRACT WITH QUALIFIED VENDOR. (a) After a
 6-24 plan administrator approves an application of a vendor to become a
 6-25 qualified vendor, the plan administrator shall execute a written
 6-26 contract with the vendor to participate in the deferred
 6-27 compensation plan.

6-28 (b) A plan administrator shall develop and implement
 6-29 criteria and procedures for evaluating a qualified vendor's
 6-30 investment products to determine whether those products are
 6-31 acceptable as qualified investment products.

6-32 (c) A qualified vendor may offer to employees participating
 6-33 in a 457 plan only qualified investment products.

6-34 Sec. 609.715. REGULATION OF QUALIFIED VENDORS. A plan
 6-35 administrator shall develop and implement requirements for
 6-36 qualified vendors and their employees concerning disclosure,
 6-37 reporting, standards of conduct, solicitation, advertising,
 6-38 relationships with participating employees, the nature and quality
 6-39 of services provided to those employees, and other matters.

6-40 Sec. 609.716. TRANSFER ON VENDOR'S FAILURE. An institution
 6-41 of higher education or group of institutions of higher education
 6-42 that creates a deferred compensation plan may authorize or require
 6-43 as a part of the plan that the plan administrator immediately
 6-44 transfer to the deferred compensation trust fund all deferred
 6-45 amounts and investment income from a vendor who fails to satisfy the
 6-46 requirements of this subchapter or the plan administrator.

6-47 SECTION 2.06. Subsection (a), Section 51.964, Education
 6-48 Code, is amended to read as follows:

6-49 (a) An institution of higher education as defined by Section
 6-50 61.003 may employ a person who has retired under the Teacher
 6-51 Retirement System (Subtitle C, Title 8, Government Code) or the
 6-52 optional retirement program (Chapter 830, Government Code) if:

6-53 (1) the governing board of the institution determines
 6-54 that the employment is in the best interests of the institution; and

6-55 (2) the person has been retired for at least 30 days
 6-56 ~~[one calendar year]~~ before the effective date of the employment,
 6-57 except that a person retired under the optional retirement program
 6-58 may be rehired after retirement without a break in service.

6-59 SECTION 2.07. Section 659.018, Government Code, is amended
 6-60 to read as follows:

6-61 Sec. 659.018. COMPENSATORY TIME: PLACE WHERE WORK
 6-62 PERFORMED. (a) Except under circumstances specified in the
 6-63 General Appropriations Act, an employee of a state agency as
 6-64 defined by Section 658.001 may not, for hours worked during any
 6-65 calendar week, accumulate compensatory time off under Section
 6-66 659.015(f) or 659.016 to the extent that the hours are attributable
 6-67 to work performed at a location other than the employee's regular or
 6-68 temporarily assigned place of employment.

6-69 (b) For purposes of Subsection (a), the ~~[The]~~ employee's

7-1 personal residence may not be considered the employee's regular or
7-2 temporarily assigned place of employment unless the employee is
7-3 employed by an institution of higher education as defined by
7-4 Section 61.003, Education Code, and is participating in a
7-5 telecommuting program approved by the employee's supervisor.

7-6 SECTION 2.08. Subchapter A, Chapter 51, Education Code, is
7-7 amended by adding Section 51.0065 to read as follows:

7-8 Sec. 51.0065. APPLICABILITY OF ACROSS-THE-BOARD SALARY
7-9 INCREASE. An institution of higher education that has adopted a
7-10 pay-for-performance program that is in effect when an
7-11 across-the-board salary increase for state employees made by an
7-12 appropriation act of the legislature takes effect is entitled to
7-13 receive any appropriation made for purposes of the across-the-board
7-14 salary increase, and may use the amount appropriated for an
7-15 across-the-board salary increase or for increases in compensation
7-16 under the institution's pay-for-performance program.

7-17 SECTION 2.09. Section 1601.102, Insurance Code, is amended
7-18 by amending Subsection (b) and adding Subsections (f) and (g) to
7-19 read as follows:

7-20 (b) An individual is eligible to participate in the uniform
7-21 program as provided by Subsection (a) if:

7-22 (1) the individual has at least 10 [~~three~~] years of
7-23 service with a system for which the individual was eligible to
7-24 participate in the uniform program under Section 1601.101;

7-25 (2) the individual's last state employment before
7-26 retirement was with that system; and

7-27 (3) the individual retires under the jurisdiction of:
7-28 (A) the Teacher [~~Teachers~~] Retirement System of
7-29 Texas under Subtitle C, Title 8, Government Code;

7-30 (B) the Employees Retirement System of Texas; or
7-31 (C) subject to Subsection (c):

7-32 (i) the optional retirement program
7-33 established by Chapter 830, Government Code; or

7-34 (ii) any other federal or state statutory
7-35 retirement program to which the system has made employer
7-36 contributions.

7-37 (f) Notwithstanding Subsection (b), an individual to whom
7-38 this subsection applies is eligible to participate in the uniform
7-39 program as provided by Subsection (a) if:

7-40 (1) the individual has at least three years of service
7-41 with a system for which the individual was eligible to participate
7-42 in the uniform program under Section 1601.101;

7-43 (2) the individual's last state employment before
7-44 retirement was with that system; and

7-45 (3) the individual retires under the jurisdiction of:
7-46 (A) the Teacher Retirement System of Texas under
7-47 Subtitle C, Title 8, Government Code;

7-48 (B) the Employees Retirement System of Texas; or
7-49 (C) subject to Subsection (c):

7-50 (i) the optional retirement program
7-51 established by Chapter 830, Government Code; or

7-52 (ii) any other federal or state statutory
7-53 retirement program to which the system has made employer
7-54 contributions.

7-55 (g) Subsection (f) applies only to a person who, on August
7-56 31, 2003:

7-57 (1) was eligible to participate in the uniform program
7-58 as an employee under Section 1601.101; or

7-59 (2) was eligible to participate in the uniform program
7-60 as a retired employee under this section as this section existed on
7-61 January 1, 2003.

7-62 SECTION 2.10. Section 659.043, Government Code, is amended
7-63 by adding Subsection (c) to read as follows:

7-64 (c) A commissioned peace officer of a state institution of
7-65 higher education may receive longevity pay under this subchapter in
7-66 addition to hazardous duty pay under Subchapter L.

7-67 SECTION 2.11. Subsection (f), Section 659.046, Government
7-68 Code, is amended to read as follows:

7-69 (f) The amount of an employee's lifetime service credit does

8-1 not include the period served in a hazardous duty position if the
8-2 employee is:

8-3 (1) entitled to receive hazardous duty pay under
8-4 Section 659.302, unless the employee is a commissioned peace
8-5 officer of a state institution of higher education; or

8-6 (2) receiving the maximum amount of hazardous duty pay
8-7 that the Texas Youth Commission may pay to the employee under
8-8 Section 659.303.

8-9 SECTION 2.12. The heading to Section 51.961, Education
8-10 Code, as added by Chapter 118, Acts of the 77th Legislature, Regular
8-11 Session, 2001, is amended to read as follows:

8-12 Sec. 51.961. LEAVE PROVISIONS FOR ~~[CERTAIN]~~ EMPLOYEES OF
8-13 UNIVERSITY SYSTEM OR COMPONENT INSTITUTION OF SYSTEM.

8-14 SECTION 2.13. Subsections (a) and (b), Section 51.961,
8-15 Education Code, as added by Chapter 118, Acts of the 77th
8-16 Legislature, Regular Session, 2001, are amended to read as follows:

8-17 (a) In this section:

8-18 (1) "Governing board[~~,~~]" [~~"medical and dental unit,"~~]
8-19 and "university system" have the meanings assigned by Section
8-20 61.003.

8-21 (2) "Leave" includes vacation leave, sick leave, and
8-22 holidays.

8-23 (b) The governing board of a university system may adopt a
8-24 comprehensive leave policy that applies to employees [~~working in a~~
8-25 ~~hospital or clinic of a medical and dental unit~~] of the university
8-26 system or any component institution of the system.

8-27 SECTION 2.14. Section 1601.101, Insurance Code, as
8-28 effective June 1, 2003, is amended by adding Subsection (d) to read
8-29 as follows:

8-30 (d) An individual is eligible to participate in the uniform
8-31 program as provided by Subsection (a) if the individual is serving a
8-32 postdoctoral fellowship with an institution in a system.

8-33 SECTION 2.15. The changes in law made by this article to
8-34 Sections 609.001, 609.002, 609.003, and 609.007, Government Code,
8-35 and Subchapter D, Chapter 609, Government Code, as added by this
8-36 article, take effect January 1, 2004.

8-37 SECTION 2.16. Subsection (d), Section 1601.101, Insurance
8-38 Code, as added by this article, takes effect September 1, 2003.

8-39 SECTION 2.17. The change in law made by this article to
8-40 Section 659.046, Government Code, applies only to a determination
8-41 of the amount of an employee's lifetime service credit that is made
8-42 on or after the effective date of this Act. A determination of the
8-43 amount of an employee's lifetime service credit made before the
8-44 effective date of this Act is governed by the law in effect on the
8-45 date the determination is made, and the former law is continued in
8-46 effect for that purpose.

8-47 ARTICLE 3. INFORMATION TECHNOLOGY

8-48 SECTION 3.01. Subdivision (12), Section 2054.003,
8-49 Government Code, is amended to read as follows:

8-50 (12) "State agency" means a department, commission,
8-51 board, office, council, authority, or other agency in the executive
8-52 or judicial branch of state government that is created by the
8-53 constitution or a statute of this state, but does not
8-54 include [~~including~~] a university system or institution of higher
8-55 education as those terms are defined by Section 61.003, Education
8-56 Code.

8-57 SECTION 3.02. Section 2054.077, Government Code, is amended
8-58 by adding Subsection (a-1) to read as follows:

8-59 (a-1) In this section, "state agency" includes a university
8-60 system or institution of higher education as those terms are
8-61 defined by Section 61.003, Education Code.

8-62 SECTION 3.03. Section 2054.2011, Government Code, is
8-63 amended by adding Subdivision (3) to read as follows:

8-64 (3) "State agency" includes a university system or
8-65 institution of higher education as those terms are defined by
8-66 Section 61.003, Education Code.

8-67 ARTICLE 4. REGULATORY AND ADMINISTRATIVE MATTERS

8-68 SECTION 4.01. Section 2166.302, Government Code, is amended
8-69 to read as follows:

9-1 Sec. 2166.302. ADOPTION OF CONDITIONS. (a) The commission
9-2 shall adopt uniform general conditions to be incorporated into all
9-3 building construction contracts made by the state, including a
9-4 contract for a project excluded from this chapter by Section
9-5 2166.003 other than a project constructed by and for an institution
9-6 of higher education, but not including a contract for a project
9-7 excluded from this chapter by Section 2166.004.

9-8 (b) In this section, "institution of higher education" has
9-9 the meaning assigned by Section 61.003, Education Code, but does
9-10 not include a public junior college.

9-11 SECTION 4.02. Subsection (i), Section 51.782, Education
9-12 Code, is amended to read as follows:

9-13 (i) A construction manager-at-risk shall publicly
9-14 advertise, in the manner prescribed by the institution, and receive
9-15 bids or proposals from trade contractors or subcontractors for the
9-16 performance of all major elements of the work other than [~~the minor~~
9-17 ~~work that may be included in the~~] general conditions work. A
9-18 construction manager-at-risk may seek to perform major elements
9-19 [~~portions~~] of the work itself if the construction manager-at-risk
9-20 submits its bid or proposal for that [~~those portions of the~~] work in
9-21 the same manner as all other trade contractors or subcontractors
9-22 and if the board determines that the construction manager-at-risk's
9-23 bid or proposal provides the best value for the institution. If no
9-24 satisfactory bid or proposal for a major element of the work is
9-25 received in the time allowed, the board may negotiate directly with
9-26 the construction manager-at-risk for performance of that work. The
9-27 board may negotiate directly with the manager-at-risk for the
9-28 performance of minor elements of the work that are not included in
9-29 major work packages.

9-30 SECTION 4.03. Subchapter B, Chapter 502, Labor Code, is
9-31 amended by adding Section 502.025 to read as follows:

9-32 Sec. 502.025. COVERAGE FOR OUT-OF-STATE EMPLOYEES. (a) An
9-33 employee who performs services outside this state is entitled to
9-34 benefits under this chapter even if the person:

- 9-35 (1) is hired or not hired in this state;
- 9-36 (2) does not work in this state;
- 9-37 (3) works both in this state and out of state;
- 9-38 (4) is injured outside this state; or
- 9-39 (5) has been outside this state for more than one year.

9-40 (b) An employee who elects to pursue remedies provided by
9-41 this state where the injury occurred is not entitled to benefits
9-42 under this chapter.

9-43 SECTION 4.04. Subchapter B, Chapter 503, Labor Code, is
9-44 amended by adding Section 503.025 to read as follows:

9-45 Sec. 503.025. COVERAGE FOR OUT-OF-STATE EMPLOYEES. (a) An
9-46 employee who performs services outside this state is entitled to
9-47 benefits under this chapter even if the person:

- 9-48 (1) is hired or not hired in this state;
- 9-49 (2) does not work in this state;
- 9-50 (3) works both in this state and out of state;
- 9-51 (4) is injured outside this state; or
- 9-52 (5) has been outside this state for more than one year.

9-53 (b) An employee who elects to pursue remedies provided by
9-54 this state where the injury occurred is not entitled to benefits
9-55 under this chapter.

9-56 SECTION 4.05. Subdivision (1), Section 2007.002,
9-57 Government Code, is amended to read as follows:

9-58 (1) "Governmental entity" means:

9-59 (A) a board, commission, council, department, or
9-60 other agency in the executive branch of state government that is
9-61 created by constitution or statute, other than [~~including~~] an
9-62 institution of higher education as defined by Section 61.003,
9-63 Education Code; or

9-64 (B) a political subdivision of this state.

9-65 SECTION 4.06. Section 65.45, Education Code, is amended to
9-66 read as follows:

9-67 Sec. 65.45. SCIENCE AND [CENTER FOR] TECHNOLOGY
9-68 DEVELOPMENT, MANAGEMENT, AND TRANSFER. (a) The legislature finds
9-69 that it is essential to the economic growth of the state that the

10-1 potential for the development and growth of high technology
 10-2 industry be promoted and expanded. As a means of accomplishing this
 10-3 purpose, the board ~~[is authorized to establish, maintain, and~~
 10-4 ~~support a Center for Technology Development and Transfer at The~~
 10-5 ~~University of Texas at Austin and may accept and administer, upon~~
 10-6 ~~terms and conditions acceptable to the board, gifts, grants, and~~
 10-7 ~~donations to aid in the establishment, maintenance, and operation~~
 10-8 ~~of the center.~~

10-9 ~~[(b) Subject to the rules and regulations of the board, the~~
 10-10 ~~center] may enter into [solicit and submit for approval of the~~
 10-11 ~~board] agreements with individuals, corporations, partnerships,~~
 10-12 ~~associations, and local, state, or federal agencies for funding the~~
 10-13 ~~discovery, development, and commercialization of new products,~~
 10-14 ~~technology, and scientific information, including an agreement to~~
 10-15 ~~manage a national laboratory engaged in any of those endeavors. At~~
 10-16 ~~the discretion of the board, research facilities, funding, and~~
 10-17 ~~personnel at the various component institutions of The University~~
 10-18 ~~of Texas System may be utilized to achieve the purposes of this~~
 10-19 ~~section.~~

10-20 (b) ~~[(c)]~~ As a means of carrying out the purposes of ~~[the~~
 10-21 ~~center under] this section, the board may, [either through the~~
 10-22 ~~center or] through one or more corporations incorporated by the~~
 10-23 ~~board or under any other cooperative arrangement:~~

10-24 (1) own and license rights to products, technology,
 10-25 and scientific information;

10-26 (2) own shares in corporations engaged in the
 10-27 discovery, development, manufacture, management, or marketing of
 10-28 products, technology, or scientific information in this state or
 10-29 outside this state [under a license from the board, the center, or a
 10-30 corporation owned or controlled by the board];

10-31 (3) participate ~~[as the general partner or as a~~
 10-32 ~~limited partner], either directly or through a subsidiary~~
 10-33 ~~corporation or other legal entity formed for that purpose, [in~~
 10-34 ~~limited partnerships, general partnerships, or joint ventures~~
 10-35 ~~engaged] in the discovery, development, manufacture, management,~~
 10-36 or marketing of products, technology, or scientific information on
 10-37 behalf of the United States or a state or local governmental entity
 10-38 [under a license from the board, the center, or a corporation owned
 10-39 or controlled by the board]; and

10-40 (4) carry on and support such other activities as the
 10-41 board may deem appropriate for achieving the purposes of this
 10-42 section.

10-43 (c) ~~[(d) The Center for Technology Development and~~
 10-44 ~~Transfer established by this section shall not receive general~~
 10-45 ~~revenue funds through special item appropriation in the biennial~~
 10-46 ~~General Appropriations Act.~~

10-47 ~~[(e)] The board may [Center for Technology Development and~~
 10-48 ~~Transfer established by this section shall] cooperate in any manner~~
 10-49 ~~the board considers appropriate [fully] with similar programs~~
 10-50 ~~operated by other state-supported institutions of higher education~~
 10-51 ~~in this state or in other states.~~

10-52 SECTION 4.07. The heading to Section 551.121, Government
 10-53 Code, is amended to read as follows:

10-54 Sec. 551.121. GOVERNING BOARD OF INSTITUTION OF HIGHER
 10-55 EDUCATION; BOARD FOR LEASE OF UNIVERSITY LANDS.

10-56 SECTION 4.08. Subsections (b), (c), and (e), Section
 10-57 551.121, Government Code, are amended to read as follows:

10-58 (b) This chapter does not prohibit the governing board of an
 10-59 institution of higher education or the Board for Lease of
 10-60 University Lands from holding an open or closed meeting by
 10-61 telephone conference call.

10-62 (c) A meeting held by telephone conference call may be held
 10-63 only if:

10-64 (1) the meeting is a special called meeting and
 10-65 immediate action is required; and

10-66 (2) the convening at one location of a quorum of the
 10-67 governing board or Board for Lease of University Lands is difficult
 10-68 or impossible.

10-69 (e) The notice of a the telephone conference call meeting

11-1 of a governing board must specify as the location of the meeting the
 11-2 location where meetings of the governing board are usually held.
 11-3 For a meeting of the governing board of a university system, the
 11-4 notice must specify as the location of the meeting the board's
 11-5 conference room at the university system office. For a meeting of
 11-6 the Board for Lease of University Lands, the notice must specify as
 11-7 the location of the meeting a suitable conference or meeting room at
 11-8 The University of Texas System office.

11-9 SECTION 4.09. Subchapter C, Chapter 552, Government Code,
 11-10 is amended by adding Section 552.1235 to read as follows:

11-11 Sec. 552.1235. EXCEPTION: IDENTITY OF PRIVATE DONOR TO
 11-12 INSTITUTION OF HIGHER EDUCATION. (a) The name or other
 11-13 information that would tend to disclose the identity of a person,
 11-14 other than a governmental body, who makes a gift, grant, or donation
 11-15 of money or property to an institution of higher education or to
 11-16 another person with the intent that the money or property be
 11-17 transferred to an institution of higher education is excepted from
 11-18 the requirements of Section 552.021.

11-19 (b) Subsection (a) does not except from required disclosure
 11-20 other information relating to gifts, grants, and donations
 11-21 described by Subsection (a), including the amount or value of an
 11-22 individual gift, grant, or donation.

11-23 (c) In this section, "institution of higher education" has
 11-24 the meaning assigned by Section 61.003, Education Code.

11-25 SECTION 4.10. Subsection (a), Section 2161.123, Government
 11-26 Code, is amended to read as follows:

11-27 (a) Each state agency, including the commission, that is
 11-28 required to have a [shall prepare as part of its] strategic plan
 11-29 under Chapter 2056 shall include in its strategic plan a written
 11-30 plan for increasing the agency's use of historically underutilized
 11-31 businesses in purchasing and public works contracting. The
 11-32 governing board of each university system or institution of higher
 11-33 education not included in a university system, other than a public
 11-34 junior college, shall prepare a written plan for increasing the use
 11-35 of historically underutilized businesses in purchasing and public
 11-36 works contracting by the system or institution.

11-37 SECTION 4.11. Sections 502.025 and 503.025, Labor Code, as
 11-38 added by this article, apply only to a claim for workers'
 11-39 compensation benefits based on a compensable injury that occurs on
 11-40 or after the effective date of this Act. A claim based on a
 11-41 compensable injury that occurs before the effective date of this
 11-42 Act is governed by the law in effect on the date the injury
 11-43 occurred, and the former law is continued in effect for that
 11-44 purpose.

11-45 SECTION 4.12. Section 552.1235, Government Code, as added
 11-46 by this article, applies to a request for information made before,
 11-47 on, or after the effective date of this Act.

11-48 ARTICLE 5. REPORTING

11-49 SECTION 5.01. Subsections (b) and (c), Section 51.680,
 11-50 Education Code, are amended to read as follows:

11-51 (b) No later than January 31, 1988, the commissioner of
 11-52 higher education shall inform institutions of higher education
 11-53 whether their intellectual property policies meet the minimum
 11-54 standards set out in Subsection (a) [of this section]. Thereafter,
 11-55 an institution [institutions] of higher education may file or post
 11-56 on the institution's website on the Internet in a manner available
 11-57 to the public policies amended to overcome any failure to meet the
 11-58 [said] standards. The commissioner shall within a reasonable time
 11-59 after receiving an amended policy inform the submitting institution
 11-60 whether it meets the [said] standards.

11-61 (c) It is a policy of the state that each institution of
 11-62 higher education shall at all times after August 31, 1988, have [on
 11-63 file with the Coordinating Board, Texas College and University
 11-64 System,] a current copy of its intellectual property policies
 11-65 that[, which policies shall at all times] meet the minimum
 11-66 standards set out in Subsection (a) on file with the Texas Higher
 11-67 Education Coordinating Board or posted on the institution's website
 11-68 on the Internet in a manner available to the public [of this
 11-69 section]. The commissioner of higher education shall establish

12-1 procedures for the monitoring of this policy of the state.

12-2 SECTION 5.02. Subsection (a), Section 403.021, Government
12-3 Code, is amended to read as follows:

12-4 (a) In this section, "state agency" has the meaning assigned
12-5 by Section 403.013, except that the term does not include a
12-6 university system or an institution of higher education as those
12-7 terms are defined by Section 61.003, Education Code.

12-8 SECTION 5.03. Subchapter B, Chapter 572, Government Code,
12-9 is amended by adding Section 572.0211 to read as follows:

12-10 Sec. 572.0211. EXEMPTION FOR CERTAIN APPOINTED STATE
12-11 OFFICERS NOT REAPPOINTED. (a) Except as provided by Subsection
12-12 (b), a state officer who is a member of the governing board of an
12-13 institution of higher education is exempt from the filing
12-14 requirement of Section 572.021 in the year in which the member's
12-15 term expires if:

12-16 (1) the member's term expires on or before April 1 of
12-17 that year; and

12-18 (2) on or before April 30 of that year another
12-19 individual has been nominated or appointed to fill the succeeding
12-20 term in the member's position on the governing board.

12-21 (b) If notwithstanding the expiration of the term of office
12-22 the individual is serving as a member of the same governing board on
12-23 July 1 of that year, whether the individual continues in office
12-24 because a successor has not qualified for the next term of office or
12-25 because the individual has been reappointed to the same governing
12-26 board, the individual shall file a financial statement as required
12-27 by Section 572.021 for the preceding calendar year not later than
12-28 August 1.

12-29 SECTION 5.04. Section 2152.064, Government Code, is
12-30 amended by adding Subsection (f) to read as follows:

12-31 (f) This section does not apply to a university system or an
12-32 institution of higher education as those terms are defined by
12-33 Section 61.003, Education Code.

12-34 SECTION 5.05. Section 2155.448, Government Code, is amended
12-35 by adding Subsection (d) to read as follows:

12-36 (d) This section does not apply to a university system or an
12-37 institution of higher education as those terms are defined by
12-38 Section 61.003, Education Code.

12-39 SECTION 5.06. Subsection (a), Section 2166.101, Government
12-40 Code, is amended to read as follows:

12-41 (a) This section applies to a state-owned building,
12-42 including a building otherwise exempt from this chapter under
12-43 Section 2166.003, except that this section does not apply to a
12-44 building owned by an institution of higher education as defined by
12-45 Section 61.003, Education Code.

12-46 SECTION 5.07. Section 2254.006, Government Code, is amended
12-47 to read as follows:

12-48 Sec. 2254.006. CONTRACT NOTIFICATION. A state agency,
12-49 other than ~~including~~ an institution of higher education as
12-50 defined by Section 61.003, Education Code, shall provide written
12-51 notice to the Legislative Budget Board of a contract for
12-52 professional services, other than a contract for physician or
12-53 optometric services, if the amount of the contract, including an
12-54 amendment, modification, renewal, or extension of the contract,
12-55 exceeds \$14,000. The notice must be on a form prescribed by the
12-56 Legislative Budget Board and filed not later than the 10th day after
12-57 the date the agency enters into the contract.

12-58 SECTION 5.08. Subsection (f), Section 2166.101, Government
12-59 Code, is repealed.

12-60 ARTICLE 6. EFFECTIVE DATE

12-61 SECTION 6.01. Except as otherwise provided by this Act,
12-62 this Act takes effect immediately if it receives a vote of
12-63 two-thirds of all the members elected to each house, as provided by
12-64 Section 39, Article III, Texas Constitution. If this Act does not
12-65 receive the vote necessary for immediate effect, this Act takes
12-66 effect September 1, 2003.

12-67 * * * * *