

## **BILL ANALYSIS**

H.B. 3291  
By: Otto  
Higher Education  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The boards of regents for our public institutions of higher learning provide a valuable resource to those institutions. Currently, these regents receive training from the State when they accept an appointment to their respective board. During this training they are made aware that the Higher Education Coordinating Board must approve the need for significant capital expenditures such as the construction of new buildings. However, in the financial markets today, there exists the opportunity to build a new structure by entering into a leasing contract which essentially commits to pay a third party a series of lease payments (with possible escalations) that results in the construction of, or acquisition of, a capital improvement for the institution. Such contracts can result in the State potentially being held liable for these contracts.

H.B. 3291 prohibits by statute such financing contracts (referred to as off balance-sheet financing) from being entered into without the approval of the Texas Higher Education Coordinating Board or authorized by law.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

SECTION 1: Subchapter T, Chapter 51 of the Education Code is amended by adding language. States that the board of regents (board) of an institution may not enter into a contract with a person relating to a permanent improvement project at the institution under which the institution makes contractual payments to the person that are not reflected on the institution's financial statement unless the board is specifically authorized to enter into the contract by law, or receives prior approval by the Texas Higher Education Coordinating Board.

SECTION 2: States that this newly added section applies only to a contract entered into on or after the effective date of this Act.

SECTION 3: Effective date.

### **EFFECTIVE DATE**

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.