

By: Coleman

H.B. No. 4130

A BILL TO BE ENTITLED

AN ACT

relating to the governance of certain state agencies.

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

ARTICLE 1. INTERIM ADMINISTRATION OF CERTAIN INSTITUTIONS OF
HIGHER EDUCATION ON FINDING OF FINANCIAL OR ADMINISTRATIVE EXIGENCY

SECTION 1.01. Subchapter G, Chapter 51, Education Code, is
amended by adding Section 51.358 to read as follows:

Sec. 51.358. INTERIM ADMINISTRATION OF CERTAIN
INSTITUTIONS ON FINDING OF FINANCIAL OR ADMINISTRATIVE EXIGENCY.

(a) In this section, "university" means a general academic
teaching institution as defined by Section 61.003.

(b) This section applies only to a university or university
system.

(c) The governor may abolish the governing body of a
university or university system on a finding by the legislative
audit committee or on an independent finding by the Governor that a
condition of financial or administrative exigency exists within the
university or system that:

(1) creates continuing and pervasive instability in
the operation and management of the university or system; or

(2) results in the university or system consistently
failing to properly perform all or part of the primary functions or
duties of the university or system.

(d) If the governing body is abolished under this section,

1 an interim governing board for the university or university system
2 is reconstituted composed of five members appointed by the governor
3 with the advice and consent of the senate. Each member appointed
4 under this subsection holds office for a term expiring on the first
5 anniversary of the date of the first appointment of a member of the
6 interim governing board. In consultation with the governor, the
7 interim governing board may appoint an interim president or
8 chancellor to the university or system with the duties determined
9 by the interim governing board to serve during the term of the
10 interim governing board.

11 (e) Following the expiration of the terms of the interim
12 governing board members under Subsection (d), the governing body of
13 the university or university system is reconstituted under the law
14 providing for the governance of the university or system. The
15 initial members of the reconstituted governing body shall be
16 appointed for terms that expire on the dates necessary to conform to
17 the permanent law establishing those terms.

18 (f) During the period in which an interim governing board is
19 in effect, the law establishing the governing body of the
20 university or university system and the terms of office of the
21 members of the governing body are suspended.

22 (g) If a finding of a condition of financial or
23 administrative exigency is made under Subsection (c), the interim
24 governing board with the assistance of the interim president or
25 chancellor, shall develop and implement a comprehensive
26 administration improvement plan for the university or university
27 system and submit the plan to the governor and to each of the joint

1 chairs of the legislative audit committee. The plan must address:

2 (1) finance and accounting;

3 (2) human resources;

4 (3) management information systems;

5 (4) planning and communications;

6 (5) student financial aid;

7 (6) contract and grant management; and

8 (7) other elements determined appropriate by the

9 governor with the approval of the legislative audit committee.

10 (h) The administration improvement plan must:

11 (1) include timelines, benchmarks, and projected
12 outcomes for improvements in the areas described by Subsection (g);
13 and

14 (2) be prepared in a format specified by the governor
15 with the approval of the legislative audit committee.

16 (i) The interim governing board may consult with
17 appropriate experts as the interim governing board considers
18 necessary in developing and implementing the administration
19 improvement plan.

20 (j) The interim governing board shall report to the
21 governor, the legislative audit committee, and the legislative
22 oversight committee appointed under Subsection (n) on the progress
23 of the administration improvement plan and on the progress of the
24 outcomes for each area described by Subsection (g), including
25 specific information regarding that progress:

26 (1) not later than the 60th day after the date the
27 interim governing board is appointed;

1 (2) at least once each quarter; and

2 (3) at other times as directed by the governor with the
3 approval of the legislative audit committee.

4 (k) An interim governing board appointed for a university or
5 university system under Subsection (d) and an interim president or
6 chancellor appointed by that governing board shall consult with the
7 accreditation agencies by which the university or system is
8 accredited and take appropriate action to the extent necessary to
9 ensure that the university or system maintains accreditation during
10 the period in which the interim governing board is in effect.

11 (l) A person appointed to act as the interim president or
12 chancellor of a university or university system under this section
13 is entitled to receive a salary for performing those duties that is
14 equal to the salary of the chief administrative officer of the
15 university or system under interim administration. The university
16 or system under interim administration shall pay the salary of the
17 interim president or chancellor from money appropriated or
18 otherwise available to the university or system, except to the
19 extent that money to pay the salary is specifically appropriated or
20 made available through the budget execution process for that
21 purpose.

22 (m) A member of an interim governing board or an interim
23 president or chancellor is entitled to reimbursement for the
24 reasonable and necessary expenses incurred by the person in the
25 course of performing the person's duties under this chapter.
26 Reimbursement shall be paid from funds appropriated or otherwise
27 available to the university or university system under interim

1 administration, except to the extent that money to pay those
2 expenses is specifically appropriated or made available through the
3 budget execution process for that purpose.

4 (n) As soon as practicable after appointing an interim
5 governing board under Subsection (d), the governor, in consultation
6 with the lieutenant governor and the speaker of the house, shall
7 appoint a legislative oversight committee composed of five members
8 of the legislature to review the activities of the interim
9 governing board and the reconstituted governing body that succeeds
10 the interim governing board. A legislative oversight committee
11 appointed under this subsection serves for a term concurrent with
12 the term of the interim governing board.

13 (o) After the termination of an interim administration
14 under this chapter, the university or university system placed
15 under the interim administration must continue to report to the
16 governor and the legislative audit committee at least once each
17 quarter. The report must include the information required by
18 Subsection (g).

19 ARTICLE 2. INTERIM ADMINISTRATION OF CERTAIN STATE AGENCIES ON

20 FINDING OF FINANCIAL OR ADMINISTRATIVE EXIGENCY

21 SECTION 2.01. Subtitle C, Title 10, Government Code, is
22 amended by adding Chapter 2116 to read as follows:

23 CHAPTER 2116. INTERIM ADMINISTRATION OF CERTAIN STATE AGENCIES ON

24 FINDING OF FINANCIAL OR ADMINISTRATIVE EXIGENCY

25 SUBCHAPTER A. GENERAL PROVISIONS

26 Sec. 2116.001. DEFINITION. In this chapter, "state agency"
27 means a department, commission, board, office, or other agency

1 that:

2 (1) is in the executive branch of state government;

3 (2) is created by statute; and

4 (3) does not have statutory geographical boundaries
5 limited to a part of the state.

6 Sec. 2116.002. APPLICABILITY OF CHAPTER. This chapter does
7 not apply to:

8 (1) an agency that is under the direction of an elected
9 officer, board, or commission; or

10 (2) a university system or institution of higher
11 education.

12 [Sections 2116.003-2116.010 reserved for expansion]

13 SUBCHAPTER B. INTERIM ADMINISTRATOR

14 Sec. 2116.011. APPOINTMENT; TERM. (a) The governor with
15 the advice and consent of the senate may appoint an interim
16 administrator to oversee the interim administration of a state
17 agency if the required finding is made under Section 2116.021. An
18 appointment under this subsection must be made in consultation with
19 the legislative audit committee.

20 (b) To be eligible for appointment under this section, a
21 person must be qualified, by experience or education, to administer
22 under the prevailing circumstances the state agency for which the
23 person is appointed.

24 (c) The term of an interim administrator expires on the date
25 the interim administration terminates as determined under Section
26 2116.025. An interim administrator may be reappointed to continue
27 the interim administration if the interim administration is

1 extended under Section 2116.025.

2 Sec. 2116.012. TITLE. The governor shall provide that the
3 interim administrator has the title of interim administrator or
4 interim commissioner, as appropriate to the state agency to which
5 the interim administrator is appointed.

6 Sec. 2116.013. COMPENSATION. (a) A person appointed to act
7 as the interim administrator of a state agency under this chapter is
8 entitled to receive a salary for performing those duties that is
9 equal to the salary of the chief administrative officer of the state
10 agency under interim administration.

11 (b) The state agency under interim administration shall pay
12 the salary of the interim administrator from money appropriated or
13 otherwise available to the state agency, except to the extent that
14 money to pay the salary is specifically appropriated or made
15 available through the budget execution process for that purpose.

16 Sec. 2116.014. REIMBURSEMENT OF EXPENSES. (a) An interim
17 administrator is entitled to reimbursement for the reasonable and
18 necessary expenses incurred by the interim administrator in the
19 course of performing duties under this chapter. Reimbursement shall
20 be paid from funds appropriated or otherwise available to the
21 agency under interim administration, except to the extent that
22 money to pay those expenses is specifically appropriated or made
23 available through the budget execution process for that purpose.

24 (b) A limit prescribed by general law or the General
25 Appropriations Act on the amount of reimbursement for expenses that
26 state officers or members of state boards and commissions may
27 generally receive does not apply to reimbursement of the reasonable

1 and necessary expenses incurred by an interim administrator in the
2 course of performing duties under this chapter.

3 [Sections 2116.015-2116.020 reserved for expansion]

4 SUBCHAPTER C. INTERIM ADMINISTRATION

5 Sec. 2116.021. FINDING OF FINANCIAL OR ADMINISTRATIVE
6 EXIGENCY. An interim administrator may be appointed as provided by
7 this chapter only on a finding by the legislative audit committee or
8 on an independent finding by the governor that a condition of
9 financial or administrative exigency exists within the agency that:

10 (1) creates continuing and pervasive instability in
11 the operation and management of the agency; or

12 (2) results in the agency consistently failing to
13 properly perform all or part of the agency's primary functions or
14 duties.

15 Sec. 2116.022. GOVERNING POWERS; SUSPENSION; TRANSFER. (a)
16 Unless the governor abolishes the position of governing officer or
17 the governing body under Section 2116.041, the governor may suspend
18 the powers and duties of the governing officer or governing body, as
19 applicable, of a state agency placed under interim administration
20 under Section 2116.021. The suspension terminates when the interim
21 administration terminates.

22 (b) Except as provided by Subsection (c), the powers and
23 duties of the governing officer or governing body suspended by the
24 governor under Subsection (a) are transferred to the interim
25 administrator appointed by the governor under this chapter.

26 (c) To the extent necessary to maintain accreditation
27 status with an appropriate accrediting agency, an interim

1 administrator shall consult the governing officer or governing
2 body, as applicable, of the state agency to which the interim
3 administrator is appointed.

4 Sec. 2116.023. ADMINISTRATION IMPROVEMENT PLAN. (a) The
5 interim administrator appointed under this chapter shall develop
6 and implement a comprehensive administration improvement plan for
7 the agency approved by the governor and by each of the joint chairs
8 of the legislative audit committee. The plan must address:

- 9 (1) finance and accounting;
10 (2) human resources;
11 (3) management information systems;
12 (4) planning and communications;
13 (5) contract and grant management; and
14 (6) other elements determined appropriate by the
15 governor with the approval of the legislative audit committee.

- 16 (b) The administration improvement plan must:
17 (1) include timelines, benchmarks, and projected
18 outcomes for improvements in the areas described in Subsection (a);
19 and
20 (2) be prepared in a format specified by the governor
21 with the approval of the legislative audit committee.

22 (c) The interim administrator may consult with appropriate
23 experts as the interim administrator considers necessary in
24 developing and implementing the administration improvement plan.

25 Sec. 2116.024. REPORT. (a) The interim administrator
26 shall report to the governor and the legislative audit committee on
27 the progress of the administration improvement plan:

1 (1) at least once each quarter;
2 (2) on completion of the interim administration; and
3 (3) at other times as directed by the governor with the
4 approval of the legislative audit committee.

5 (b) The report must include specific information on the
6 progress of the outcomes for each area described by Section
7 2116.023(a).

8 Sec. 2116.025. DURATION OF INTERIM ADMINISTRATION. (a) The
9 governor with the advice of the legislative audit committee shall
10 determine the duration of an interim administration, except that
11 the duration of an interim administration may not exceed 18 months.

12 (b) If the initial duration of an interim administration is
13 less than 18 months, the governor with the advice of the legislative
14 audit committee may extend the duration of the interim
15 administration on a determination by the governor that an extension
16 is necessary to accomplish the purposes of this chapter, provided
17 the initial duration and the extended duration together may not
18 exceed 18 months.

19 (c) If the duration of an interim administration is longer
20 than six months, the governor shall review the progress of the
21 interim administration after each six-month period and consider
22 whether to continue the interim administration after that period.
23 The interim administration terminates on the 30th day after the end
24 of that period unless the governor with the advice of the
25 legislative audit committee elects to continue the interim
26 administration.

27 Sec. 2116.026. REPORT FOLLOWING TERMINATION OF INTERIM

1 ADMINISTRATION. After the termination of an interim administration
2 under this chapter, the state agency placed under the interim
3 administration must continue to report to the governor and the
4 legislative audit committee at least once each quarter. The report
5 must include the information required by Section 2116.024.

6 [Sections 2116.027-2116.040 reserved for expansion]

7 SUBCHAPTER D. OPTION FOR INTERIM GOVERNING BOARD AND RECONSTITUTED
8 GOVERNING OFFICER OR BODY

9 Sec. 2116.041. ABOLITION OF GOVERNING OFFICER OR BODY. As
10 an alternative to the appointment of an interim administrator and
11 suspension of the powers and duties of a governing officer or
12 governing body of a state agency under Subchapters B and C, the
13 governor on a finding by the legislative audit committee that a
14 condition of financial or administrative exigency exists within the
15 agency as described by Section 2116.021 may, at the recommendation
16 of the legislative audit committee, abolish the position of
17 governing officer or the governing body, as applicable, of the
18 agency.

19 Sec. 2116.042. INTERIM GOVERNING BOARD. If the position of
20 governing officer or the governing body is abolished under this
21 subchapter, an interim governing board for the agency is
22 reconstituted composed of five members appointed by the governor
23 with the advice and consent of the senate. Each member appointed
24 under this section holds office for a term expiring on the first
25 anniversary of the date of the first appointment of a member of the
26 interim governing board. An appointment under this subsection must
27 be made in consultation with the legislative audit committee.

1 Sec. 2116.043. RECONSTITUTION OF PERMANENT GOVERNING
2 OFFICER OR BODY. (a) Following the expiration of the terms of the
3 interim governing board members under Section 2116.042, the
4 position of governing officer or the governing body, as applicable,
5 is reconstituted under the law providing for the governance of the
6 state agency. The initial reconstituted governing officer or
7 initial members of the reconstituted governing body shall be
8 appointed for a term or terms that expire on the date or dates
9 necessary to conform to the permanent law establishing those terms.

10 (b) During the period in which an interim governing board is
11 in effect, the law establishing the governing officer or governing
12 body of the state agency and the term or terms of office of the
13 governing officer or governing body are suspended.

14 ARTICLE 3. EFFECTIVE DATE

15 SECTION 3.01. This Act takes effect immediately if it
16 receives a vote of two-thirds of all the members elected to each
17 house, as provided by Section 39, Article III, Texas Constitution.
18 If this Act does not receive the vote necessary for immediate
19 effect, this Act takes effect September 1, 2007.