

By: Ellis, West

S.B. No. 2039

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

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

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

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

## ARTICLE 2. INTERIM ADMINISTRATION OF CERTAIN STATE AGENCIES ON

### FINDING OF FINANCIAL OR ADMINISTRATIVE EXIGENCY

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

## CHAPTER 2116. INTERIM ADMINISTRATION OF CERTAIN STATE AGENCIES ON

### FINDING OF FINANCIAL OR ADMINISTRATIVE EXIGENCY

#### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2116.001. DEFINITION. In this chapter, "state agency" 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  
7 act as the interim administrator of a state agency under this  
8 chapter is entitled to receive a salary for performing those duties  
9 that is equal to the salary of the chief administrative officer of  
10 the state 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  
20 shall 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.

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

9           (a) The governor with the advice of the legislative audit  
10 committee shall determine the duration of an interim  
11 administration, except that the duration of an interim  
12 administration may not exceed 18 months.

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

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

1       Sec. 2116.026. REPORT FOLLOWING TERMINATION OF INTERIM  
2 ADMINISTRATION. After the termination of an interim administration  
3 under this chapter, the state agency placed under the interim  
4 administration must continue to report to the governor and the  
5 legislative audit committee at least once each quarter. The report  
6 must include the information required by Section 2116.024.

7       [Sections 2116.027-2116.040 reserved for expansion]

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

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

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

1 be made in consultation with the legislative audit committee.

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

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

15 ARTICLE 3. EFFECTIVE DATE

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