

## **BILL ANALYSIS**

C.S.H.B. 3517  
By: Branch  
Higher Education  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

C.S.H.B. 3517 addresses how the state regulates the administration and business affairs of institutions of higher education, and how the state requires institutions to report, give notice, or keep records on those activities. C.S.H.B. 3517 is designed to provide institutions with regulatory flexibility to facilitate more efficient operations of institutions of higher education and university systems and to reduce operating costs by eliminating unfunded mandates, including an extensive list of reporting requirements.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the comptroller of public accounts in relation to the unclaimed money fund under Section 51.011, Education Code, as added by SECTION 1.02 of the bill, and Section 51.011, Education Code, as added by that SECTION 1.02 authorizes institutions of higher education to adopt procedures for owners to make and receive payments of claims. The bill expressly grants rulemaking authority to institutions of higher education in the acquisition of goods and services under Section 51.9335, Education Code, as added by SECTION 2.02 of this Act, and to institutions of higher education and university systems in the use of electronic and digital signatures under Section 51.9336, Education Code, as added by SECTION 2.03 of this Act. Section 51.9611, Education Code, as added by SECTION 3.01 expressly authorizes the governing board of institutions of higher education and university systems to adopt policies and procedures related to payroll deductions.

### **ANALYSIS**

#### **Article 1. Financial Management.**

C.S.H.B. 3517 clarifies that institutions must deposit funds within seven days of receiving those funds and authorizes institutions to maintain deposits in foreign banks that meet certain described qualifications. The bill requires institutions to prepare the annual financial report required of other state agencies instead of the specific financial report described in the Education Code. The bill provides that institutions need not expend resources on collection efforts for delinquent obligations that rules of the attorney general exclude from referral to the attorney general for collection and requires that suits brought by The University of Texas System to collect delinquent obligations be maintained in Travis County. The bill allows institutions to maintain an unclaimed money from certain abandoned small credit balances and allows institutions to make any payment through electronic funds transfer or by electronic pay card. The bill exempts from bond review board approval securities of or for institutions of higher education unless general revenue is pledged to the security's payment. Article 1 makes necessary conforming amendments and provides for transitional application.

#### **Article 2. Goods and Services**

C.S.H.B. 3517 modernizes and clarifies the law governing the type of business entities qualified to contract with institutions of higher education, and for certain described contracts in which a

member of the governing board has a substantial interest, requires the board member to disclose the interest and refrain from voting to approve the contract. In the exercise of best value purchasing, the bill would exempt institutions generally from Subtitle D, Title 10, Government Code, in the acquisition of goods and services, including required purchaser training, statutes from which certain medical and dental units are exempt under current law. In doing so, the bill clarifies that professional services must be procured under current law governing professional services. The bill also provides that a contract for acquisition of goods and services is considered to include any provision required by law. The bill expands the authority of institutions and university systems to enter interagency contracts for information resources technologies and to enter interlocal contracts with local governments to perform governmental functions and services. The bill exempts institutions from a requirement that auto liability insurance policies be on forms approved by the State Board of Insurance and be within policy limits approved by the attorney general. The bill increases to \$1 million the value of major information system contracts that must be reported to the Legislative Budget Board.

### **Article 3. Human Resources**

C.S.H.B. 3517 authorizes institutions and university systems to provide payroll deductions for purposes the governing board determines serve a public purpose and benefit employees. The bill provides for the insurance coverage of certain dependents at least 25 years of age by institutions governed by Chapter 1601, Insurance Code, and authorizes those university systems to establish incentives for participation in programs promoting disease prevention, wellness, and health. The bill authorizes such a system to contribute to the cost of insurance for certain faculty working less than full time under a phased retirement agreement.

### **Article 4. Real Estate and Construction**

C.S.H.B. 3517 provides for the protection from public disclosure of information relating to the development of real estate of an institution of higher education until deeds have been executed and contracts have been performed. The bill exempts from coordinating board approval projects for construction or acquisition that meet specified criteria, following review by coordinating board staff. The bill excepts higher education from required use of the uniform general conditions applicable to state construction contracts generally. The bill deletes a requirement that a governing board in open meeting verify the economic feasibility of alternative energy systems in construction projects, but retains the requirement that the institution make that verification. The bill excepts institutions and university systems from the requirement that the Texas Facilities Commission lease certain space for the institution or system or delegate that leasing authority. The bill provides that a lien for deferred property taxes extends only to a life tenant's interest under described circumstances if the owner of the remainder is an institution of higher education.

### **Article 5. Board Appointments**

C.S.H.B. 3517 excepts from required public disclosure information that would tend to identify an applicant for chief executive officer of an institution of higher education. The bill eliminates a mandatory position on an advisory council for Type 2 Diabetes risk assessment for a member of the board of regents of The University of Texas System, as well as mandatory appointment by that board of an ex officio, non-voting member of a waste management district in Gaines County.

### **Article 6. Reports; Records; Audits; Notices**

C.S.H.B. 3517 excepts medical and dental units from a report required of institutions generally on the effectiveness of its success initiative. The bill amends a variety of statutes to eliminate

specific reports required by law of institutions of higher education or university systems, including a small class report, a report on deferred maintenance, a report on certain junior college plans programs relating to the disadvantaged, a state agency annual report, and an annual report to the state office of risk management.

C.S.H.B. 3517 adds a provision to the Education Code providing that, to the extent that specifically identified statutes require reporting by institutions of higher education and university systems, the institutions and systems are not required to make those reports after September 1, 2013 unless legislation is enacted by the 83<sup>rd</sup> Legislature expressly requiring the report. Similarly, the provision provides that a rule or policy of a state agency in effect on June 1, 2011, requiring a report by a university system or institution of higher education has no effect on and after September 1, 2013, unless affirmatively and formally readopted, with specifically described exceptions.

C.S.H.B. 3517 excepts from the application of the public information law information maintained by or for an institution of higher education that would reveal plans or negotiations for commercialization or research, or that consists of unpublished research or data. The bill requires the Legislative Budget Board, the governor's office, and institutions to review the requirements for institutional legislative appropriations requests. The bill exempts institutions from the state system for reporting personal property inventory and requires institutions to account for that property. The bill exempts institutions from certain reports, findings of fact, and notices in regard to consulting contracts. The bill allows for annual reporting of energy conservation plans and exempts institutions certain reports to the Texas Historical Commission. Article 6 makes necessary conforming amendments.

#### **Article 7. Repealer**

C.S.H.B. 3517 expressly repeals the following statutes effective September 1, 2011:

- (1) Section 51.216, Education Code;
- (2) Sections 51.403(b) and (c), Education Code;
- (3) Section 51.4033, Education Code;
- (4) Section 61.0815, Education Code;
- (5) Section 61.086, Education Code;
- (6) Section 61.087(c), Education Code;
- (7) Section 61.9685, Education Code;
- (8) Section 1434.054, Government Code;
- (9) Section 2056.011, Government Code;
- (10) Section 2107.005, Government Code;
- (11) Section 412.042(c), Labor Code; and
- (12) Section 3.01(c), Chapter 670, Acts of the 72<sup>nd</sup> Legislature, Regular Session, 1991 (Article 4477-7j, Vernon 's Texas Civil Statutes).

C.S.H.B. 3517 expressly repeals the following statutes effective September 1, 2013:

- (1) Section 51.859;
- (2) Section 51.917(e);
- (3) Section 51.968(d);
- (4) Section 54.203(h);
- (5) Section 56.034(c);
- (6) Section 56.079(j);
- (7) Section 61.066(c);
- (8) Section 63.003(d);
- (9) Section 63.004;

- (10) Section 63.103;
- (11) Section 86.52(m);
- (12) Section 88.210;
- (13) Section 106.54;
- (14) Section 142.005;
- (15) Section 143.006;
- (16) Section 147.005;
- (17) Section 148.005; and
- (18) Section 153.008.

Article 7 of C.S.H.B. 3517 also includes a provision that governs conflicts between the Act and other acts of the 82<sup>nd</sup> Legislature.

### **EFFECTIVE DATE**

The bill takes effect immediately if it receives the required record vote; otherwise, CSHB 3517 takes effect September 1, 2011. Some sections of the repealer are effective September 1, 2013.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The SECTIONS of Article 1 of C.S.H.B. 3517 are reordered from the introduced version. The committee substitute in SECTION 1.01 adds a provision not included in the original, Section 51.003(f), Education Code, authorizing institutions of higher education to maintain foreign bank accounts. C.S.H.B. 3517 also adds, in SECTION 1.02, a provision amending Section 51.005, Education Code, relating to annual financial reports. SECTION 1.02 of the committee substitute revises the provision relating to disposition of small credit balances, eliminating from that provision a definition of referencing Sec. 61.003, Education Code, while retaining the substance of the introduced provision. The committee substitute also renumbers Sections 51.010, 51.011, and 51.012, Education Code, as added in Article 1, as Sections 51.012, 51.010, and 51.011, respectively. The committee substitute makes necessary conforming changes.

C.S.H.B. 3517 reorders the SECTIONS of Article 2 from the introduced version. The committee substitute revises the amendment to Section 51.9335, Education Code, in SECTION 1.02, by eliminating references to specific chapters of the Government Code, restoring a requirement that institutions comply with laws and rules relating to procurement of goods and services from persons with disabilities, eliminating an amendment of Section 51.9335(e), restoring and clarifying the application of the professional services procurement law, and revising the form of the provision relating to contract provisions required by state law. C.S.H.B. 3517 omits SECTION 2.05 of the introduced bill relating to access to electronic and information resources by individuals with disabilities. Article 2 of C.S.H.B. 3517 omits SECTIONS 2.08, 2.09, 2.10, 2.11, and 2.12 of the introduced bill relating to legal services. The committee substitute omits from Article 2 the repeal of Section 74.008(f), Education Code.

C.S.H.B. 3517 reorders the SECTIONS of Article 3 from the introduced version. The committee substitute omits SECTIONS 3.04 and 3.05 of the introduced version, relating to mandatory furloughs or work reductions programs and to salary reductions. The committee substitute revises the amendment of Section 1601.201, Education Code, relating to system contributions to insurance costs for faculty members working under a phased retirement agreement, amending Subsection (d) of that section rather than adding Subsection (e).

C.S.H.B. 3517 reorders the SECTIONS of Article 4 from the introduced version. The committee substitute omits SECTION 4.01 of the introduced version, amending Section 61.0572, Education Code, and SECTION 4.02, amending Section 61.058, Education Code, relating to coordinating board approval of construction and real property projects. C.S.H.B. 3517 adds a new SECTION

4.02 adding Section 61.0573, Education Code, exempting certain qualifying construction and real property projects from coordinating board approval. C.S.H.B. 3517 revises the amendment of Section 2166.302(c), Government Code, to define “institution of higher education” and “university system.” C.S.H.B. 3517 revises the amendment of Section 33.06, Tax Code, to define “institution of higher education” and to exclude application of the amended law to deferrals for which an affidavit is filed before September 1, 2011. The committee substitute omits Section 4.08 of the introduced bill, repealing Section 1434.054, Government Code, which C.S.H.B. 3517 repeals in Section 7.01.

C.S.H.B. 3517 reorders the SECTIONS of Article 5 from the introduced version. The committee substitute omits SECTION 5.03, repealing Section 3.01(c) of Article 4477-7j, V.T.C.S., which C.S.H.B. 3517 repeals in Section 7.01.

C.S.H.B. 3517 adds Article 6, described above, which relates to reports, records, audits, and notices, provisions not included in the introduced bill.

C.S.H.B. 3517 adds Article 7, described above, repealing specific provisions and providing for conflicting acts of the same legislative session, provisions not include in the introduced bill.