

## **BILL ANALYSIS**

H.B. 3591  
By: Howard, Donna  
Higher Education  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Recent legislation encourages employees of institutions of higher education to participate in investigations to ensure compliance by the officers and employees of such institutions with applicable laws, rules, regulations, and policies. The legislation permits institutions of higher education to provide a means by which employees can have private access to an institutional compliance office and establishes that the identities of individuals who report compliance issues, ask compliance questions, or participate in a compliance investigation are confidential. There are concerns among interested parties, however, that the legislation fails to protect information relating to an individual's identity provided to a systemwide compliance officer for the purpose of reviewing institutional compliance processes or permit the sharing of confidential information with governmental agencies that may be charged by law with investigating the same matter as that of a compliance report.

H.B. 3591 seeks to remedy these problems by expanding the confidentiality of information obtained by a compliance office of an institution of higher education and adding to the exceptions to such confidentiality.

### **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**

H.B. 3591 amends the Education Code to except from disclosure under state open records law information collected, in addition to information produced, in a compliance program investigation conducted by an institution of higher education if releasing such information would interfere with an ongoing compliance investigation, or information collected or produced by a systemwide compliance officer for the purpose of reviewing compliance processes at a component institution of higher education of a university system.

H.B. 3591 includes among the entities to whom certain compliance program information made confidential or excepted from public disclosure may be made available, on request in compliance with applicable law and procedure, a governmental agency responsible for investigating the matter that is the subject of a compliance report, including the Texas Workforce Commission civil rights division or the federal Equal Employment Opportunity Commission, or an officer or employee of an institution of higher education or a compliance officer or employee of a university system administration who is responsible under institutional or system policy for a compliance program investigation or for reviewing a compliance program investigation. The bill clarifies that such a disclosure, including a disclosure to a law enforcement agency or prosecutor, is not a voluntary disclosure for purposes of Government Code provisions relating to the voluntary disclosure of certain information when disclosure is not required. The bill makes nonsubstantive and conforming changes.

**EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.