

By: Zaffirini
(Branch)

S.B. No. 5

A BILL TO BE ENTITLED

AN ACT

relating to the administration and business affairs of public institutions of higher education.

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

ARTICLE 1. FINANCIAL MANAGEMENT

SECTION 1.01. Section 51.003, Education Code, is amended by amending Subsection (b) and adding Subsection (f) to read as follows:

(b) The funds shall either be deposited in the depository bank or banks or invested as authorized by Chapter 2256, Government Code (Public Funds Investment Act). Funds that are to be deposited in the depository bank or banks must be deposited within seven days from the date of receipt by the institution [~~collection~~].

(f) Notwithstanding any other provision of this section, the governing board of each institution may maintain unsecured deposits in a foreign bank as necessary to support the institution's operations in a foreign country. The foreign bank must:

- (1) be licensed and supervised by a central bank;
- (2) be audited annually by an accounting firm that follows international financial reporting standards; and
- (3) maintain a capital to total assets ratio that is not less than the greater of four percent or the minimum tier 1 capital to total assets ratio required for depository institutions

1 insured by the Federal Deposit Insurance Corporation.

2 SECTION 1.02. Subchapter A, Chapter 51, Education Code, is
3 amended by amending Section 51.005 and adding Sections 51.010,
4 51.011, and 51.012 to read as follows:

5 Sec. 51.005. REPORTS. Each institution of higher education
6 ~~[(a) True and full accounts shall be kept by the governing board~~
7 ~~and by the employees of the institution of all funds collected from~~
8 ~~all sources and of all sums paid out and the persons to whom and the~~
9 ~~purposes for which the sums are paid. The governing board]~~ shall
10 prepare [annually print] a complete annual financial report as
11 prescribed by Section 2101.011, Government Code [of all the sums
12 ~~collected, all expenditures, and all sums remaining on hand. The~~
13 ~~report shall show the true condition of all funds as of the August~~
14 ~~31 preceding as well as the collections and expenditures for the~~
15 ~~preceding year.~~

16 ~~[(b) Reports under this section must be in a form approved~~
17 ~~jointly by the coordinating board and the comptroller. The~~
18 ~~accounting and classification procedures of each institution must~~
19 ~~be consistent with uniform procedures prescribed for that purpose~~
20 ~~by the coordinating board and the comptroller. The requirements~~
21 ~~imposed by the coordinating board and the comptroller must be~~
22 ~~designed to reduce paperwork and duplicative reports.~~

23 ~~[(c) The governing board shall furnish one copy of the~~
24 ~~report each to the governor, comptroller of public accounts, state~~
25 ~~auditor, Texas Higher Education Coordinating Board, Legislative~~
26 ~~Budget Board, House Appropriations Committee, Senate Finance~~
27 ~~Committee, and Legislative Reference Library. A copy of the report~~

1 ~~shall be submitted to the comptroller by the deadline established~~
2 ~~by the comptroller or the General Appropriations Act as necessary~~
3 ~~to prepare an audited comprehensive financial report. The~~
4 ~~governing board shall retain five copies of the report for~~
5 ~~distribution to legislators or other state officials on request].~~

6 Sec. 51.010. COLLECTION OF DELINQUENT OBLIGATIONS. If
7 under the rules adopted by the attorney general under Chapter 2107,
8 Government Code, an institution of higher education is not required
9 to refer a delinquent obligation for collection to the attorney
10 general, the institution is not required to expend resources for
11 further collection efforts if, considering the amount, security,
12 likelihood of collection, expense, and available resources, the
13 institution determines that further collection should not be
14 actively pursued.

15 Sec. 51.011. DISPOSITION OF SMALL CREDIT BALANCES.
16 (a) This section applies to a credit balance of less than \$25 held
17 by an institution of higher education that is presumed abandoned
18 under Chapter 72, Property Code.

19 (b) An institution of higher education may maintain an
20 unclaimed money fund and transfer to that fund a credit balance to
21 which this section applies. A deposit to the unclaimed money fund
22 does not affect the ownership of the amount deposited. The
23 institution shall:

24 (1) adopt procedures for owners to make and receive
25 payments of claims against the fund; and

26 (2) maintain a database that permits members of the
27 public to search for ownership of unclaimed funds.

1 (c) The institution of higher education shall use the fund
2 to pay the claims of persons establishing ownership of amounts
3 transferred to the fund and shall hold and account for the unclaimed
4 money fund as educational and general funds of the institution. If
5 the fund balance is insufficient to pay a valid claim, the
6 institution shall pay the claim from the institution's other
7 educational and general funds.

8 (d) Each fiscal year, after deducting funds sufficient to
9 pay anticipated expenses of and claims against the unclaimed money
10 fund, the institution shall use the balance of the fund as other
11 educational and general funds of the institution.

12 (e) In consultation with institutions of higher education,
13 the comptroller by rule may establish minimum requirements for
14 notice to owners of unclaimed money deposited in the unclaimed
15 money fund and for charges for that notice. The rules may not
16 provide stricter requirements than the comptroller applies for
17 amounts of less than \$25 in the custody of the comptroller under
18 Chapter 74, Property Code.

19 (f) If an institution of higher education maintains an
20 unclaimed money fund under this section, Chapter 74, Property Code,
21 does not apply to a credit balance to which this section applies.

22 Sec. 51.012. PAYMENTS BY ELECTRONIC FUNDS TRANSFER OR
23 ELECTRONIC PAY CARD. An institution of higher education may make
24 any payment, including a payment of salary or wages, through
25 electronic funds transfer or by electronic pay card.

26 SECTION 1.03. Section 65.42, Education Code, is amended to
27 read as follows:

1 Sec. 65.42. DELINQUENT ACCOUNTS; VENUE. A suit by The
2 University of Texas System on its own behalf or on behalf of a
3 component institution of The University of Texas System to recover
4 a delinquent loan, account, or debt owed to The University of Texas
5 System or a component institution of The University of Texas System
6 must ~~may~~ be brought in Travis County.

7 SECTION 1.04. Section 1231.001, Government Code, is amended
8 by amending Subdivision (2) and adding Subdivision (3) to read as
9 follows:

- 10 (2) "State security" means:
- 11 (A) an obligation, including a bond, issued by:
- 12 (i) a state agency;
- 13 (ii) an entity that is expressly created by
14 statute and has statewide jurisdiction; or
- 15 (iii) an entity issuing the obligation on
16 behalf of this state or on behalf of an entity described by
17 Subparagraph (i) or (ii);
- 18 (B) an installment sale or lease-purchase
19 obligation that is issued by or on behalf of an entity described by
20 Paragraph (A) and that has:
- 21 (i) a stated term of more than five years;
- 22 or
- 23 (ii) an initial principal amount of more
24 than \$250,000; or
- 25 (C) an obligation, including a bond, that is
26 issued under Chapter 53, Education Code, at the request of or for
27 the benefit of an institution of higher education ~~[as defined by~~

1 ~~Section 61.003, Education Code,~~] other than a public junior
2 college.

3 (3) "Institution of higher education" has the meaning
4 assigned by Section 61.003, Education Code.

5 SECTION 1.05. Section 1231.041, Government Code, is amended
6 to read as follows:

7 Sec. 1231.041. APPROVAL OF STATE SECURITY. (a) Except as
8 otherwise provided by this section, an [An] entity, including a
9 state agency, may not issue a state security unless:

10 (1) the board approves the issuance; or

11 (2) the security is exempted under law, including a
12 board rule adopted under Section 1231.022(2).

13 (b) A state security issued by an institution of higher
14 education, or issued at the request of or for the benefit of an
15 institution of higher education, is not subject to board approval
16 unless the general revenue of the state is pledged to the payment of
17 the security.

18 SECTION 1.06. Section 74.001, Property Code, is amended by
19 adding Subsection (c) to read as follows:

20 (c) This chapter does not apply to small credit balances
21 held by an institution of higher education in an unclaimed money
22 fund under Section 51.011, Education Code.

23 SECTION 1.07. Section 51.011, Education Code, as added by
24 this Act, applies to credit balances held by a public institution of
25 higher education on or after the effective date of this Act.

26 ARTICLE 2. GOODS AND SERVICES

27 SECTION 2.01. Section 51.923, Education Code, is amended to

1 read as follows:

2 Sec. 51.923. QUALIFICATIONS OF CERTAIN BUSINESS ENTITIES TO
3 ENTER INTO CONTRACTS WITH AN INSTITUTION OF HIGHER EDUCATION.

4 (a) In this section:

5 (1) "Business entity" [~~"Corporation"~~] means any
6 entity recognized by law through which business is conducted,
7 including a sole proprietorship, partnership, firm, corporation,
8 limited liability company, holding company, joint stock company,
9 receivership, or trust [~~a corporation for profit organized under~~
10 ~~the laws of this state or under laws other than the laws of this~~
11 ~~state~~].

12 (2) "Governing board" has the meaning assigned by
13 Section 61.003 [~~of this code~~].

14 (3) "Institution of higher education" has the meaning
15 assigned by Section 61.003 [~~of this code~~].

16 (4) "Nonprofit corporation" means any organization
17 exempt from federal income tax under Section 501 of the Internal
18 Revenue Code of 1986 that does not distribute any part of its income
19 to any member, director, or officer.

20 (b) A nonprofit corporation is not disqualified from
21 entering into a contract or other transaction with an institution
22 of higher education even though one or more members of the governing
23 board of the institution of higher education also serves as a
24 member, [~~or~~] director, officer, or employee of the nonprofit
25 corporation.

26 (c) A business entity [~~corporation~~] is not disqualified
27 from entering into a contract or other transaction with an

1 institution of higher education even though one or more members of
2 the governing board of the institution of higher education have an
3 interest in the business entity, subject to Subsection (d) [~~also~~
4 ~~serves as a stockholder or director of the corporation provided~~
5 ~~that no member of the governing board owns or has a beneficial~~
6 ~~interest in more than five percent of the corporation's outstanding~~
7 ~~capital stock and further provided that the contract or transaction~~
8 ~~is:~~

9 [~~(1) an affiliation, licensing, or sponsored research~~
10 ~~agreement; or~~

11 [~~(2) awarded by competitive bidding or competitive~~
12 ~~sealed proposals]~~.

13 (d) An institution of higher education is not prohibited
14 from entering into a contract or other transaction with a business
15 entity in which a member of the governing board of the institution
16 of higher education has an interest if the interest is not a
17 substantial interest or, if the interest is a substantial interest,
18 the [~~described in this section if any~~] board member [~~having an~~
19 ~~interest described in this section in the contract or transaction~~]
20 discloses that interest in a meeting held in compliance with
21 Chapter 551, Government Code, and refrains from voting on the
22 contract or transaction requiring board approval. Any such
23 contract or transaction requiring board approval must be approved
24 by an affirmative majority of the board members voting on the
25 contract or transaction.

26 (e) For purposes of this section, a member of a governing
27 board has a substantial interest in a business entity if:

1 (1) the member owns 10 percent or more of the voting
2 stock or shares of the business entity or owns either 10 percent or
3 more or \$15,000 or more of the fair market value of the business
4 entity;

5 (2) funds received by the member from the business
6 entity exceed 10 percent of the member's gross income for the
7 previous year;

8 (3) the member is an officer of the business entity or
9 a member of the governing board of the business entity; or

10 (4) an individual related to the member in the first
11 degree by consanguinity or affinity, as determined under Chapter
12 573, Government Code, has an interest in the business entity as
13 described by Subdivision (1), (2), or (3).

14 (f) A violation of this section does not render an action of
15 the governing board voidable unless the contract or transaction
16 that was the subject of the action would not have been approved by
17 the governing board without the vote of the member who violated this
18 section.

19 SECTION 2.02. Section 51.9335, Education Code, is amended
20 by amending Subsections (d) and (f) and adding Subsections (g) and
21 (h) to read as follows:

22 (d) Subtitle D, Title 10, Government Code, and Subchapter B,
23 Chapter 2254, Government Code, do not apply to the acquisition of
24 goods and services under this section, except that an institution
25 of higher education must comply with any provision of those laws, or
26 a rule adopted under a provision of those laws, [~~To the extent of~~
27 ~~any conflict, this section prevails over any other law, including~~

1 ~~Chapters 2155, 2156, 2157, 2158, 2167, and 2170, Government Code,~~
2 ~~except a law or rule]~~ relating to contracting with historically
3 underutilized businesses or relating to the procurement of goods
4 and services from persons with disabilities. An institution of
5 higher education may, but is not required to, acquire goods or
6 services as provided by Subtitle D, Title 10 [~~Chapters 2155, 2156,~~
7 ~~2157, 2158, 2167, and 2170~~], Government Code.

8 (f) This section does not apply to professional services as
9 defined by Section 2254.002, Government Code. Professional
10 services shall be procured in accordance with Subchapter A, Chapter
11 2254, Government Code.

12 (g) An institution of higher education may adopt rules and
13 procedures for the acquisition of goods or services.

14 (h) In any contract for the acquisition of goods and
15 services to which an institution of higher education is a party, a
16 provision required by applicable law to be included in the contract
17 is considered to be a part of the executed contract without regard
18 to:

19 (1) whether the provision appears on the face of the
20 contract; or

21 (2) whether the contract includes any provision to the
22 contrary.

23 SECTION 2.03. Subchapter Z, Chapter 51, Education Code, is
24 amended by adding Sections 51.9336 and 51.9337 to read as follows:

25 Sec. 51.9336. ELECTRONIC AND DIGITAL SIGNATURES. (a) An
26 institution of higher education or university system, as those
27 terms are defined by Section 61.003, shall determine whether, and

1 the extent to which, the institution or system will send and accept
2 electronic or digital signatures to and from other persons and
3 otherwise create, generate, communicate, store, process, use, and
4 rely on electronic or digital signatures. The institution or
5 system may adopt rules and procedures governing the use of
6 electronic or digital signatures.

7 (b) To the extent of any conflict, this section prevails
8 over Chapter 322, Business & Commerce Code, and rules and
9 guidelines adopted under that chapter.

10 Sec. 51.9337. INTERAGENCY CONTRACTS FOR INFORMATION
11 RESOURCE TECHNOLOGIES. (a) In this section, "institution of
12 higher education" and "university system" have the meanings
13 assigned by Section 61.003.

14 (b) Section 2054.119, Government Code, does not apply to an
15 interagency contract for information resources technologies
16 between two or more institutions of higher education or between an
17 institution of higher education or university system and one or
18 more state agencies, institutions of higher education, or
19 university systems.

20 SECTION 2.04. Section 51.966, Education Code, is amended by
21 amending Subsection (c) and adding Subsection (d) to read as
22 follows:

23 (c) Section 612.002(b), Government Code, does not apply to
24 an institution of higher education or university system purchasing
25 insurance under this section.

26 (d) In [As used in] this section, "governing board," [and]
27 "institution of higher education," and "university system" have the

1 meanings assigned by Section 61.003.

2 SECTION 2.05. Subchapter C, Chapter 791, Government Code,
3 is amended by adding Section 791.035 to read as follows:

4 Sec. 791.035. CONTRACTS WITH INSTITUTIONS OF HIGHER
5 EDUCATION OR UNIVERSITY SYSTEMS. (a) A local government and an
6 institution of higher education or university system may contract
7 with one another to perform any governmental functions and
8 services. If the terms of the contract provide for payment based on
9 cost recovery, any law otherwise requiring competitive procurement
10 does not apply to the functions and services covered by the
11 contract.

12 (b) In this section, "institution of higher education" and
13 "university system" have the meanings assigned by Section 61.003,
14 Education Code.

15 SECTION 2.06. Section 2054.008, Government Code, is amended
16 by adding Subsection (c) to read as follows:

17 (c) A university system or institution of higher education
18 must provide written notice to the Legislative Budget Board under
19 Subsection (b) only if the cost of the major information system
20 exceeds \$1 million. In this subsection, "university system" has
21 the meaning assigned by Section 61.003, Education Code.

22 SECTION 2.07. Subsection (n), Section 2155.078, Government
23 Code, is amended to read as follows:

24 (n) This section does not apply to an institution [~~a medical~~
25 ~~and dental unit~~] to which Section 51.9335, Education Code, applies
26 or to an institution to which Section 73.115, Education Code,
27 applies.

ARTICLE 3. HUMAN RESOURCES

SECTION 3.01. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.9611 to read as follows:

Sec. 51.9611. PAYROLL DEDUCTIONS FOR EMPLOYEES OF UNIVERSITY SYSTEM OR INSTITUTION OF HIGHER EDUCATION. (a) In this section, "institution of higher education" and "university system" have the meanings assigned by Section 61.003.

(b) The governing board of a university system, or of an institution of higher education that is not a component institution of a university system, may authorize employees of the system or institution, as applicable, to elect a payroll deduction for any purpose that the governing board determines serves a public purpose and benefits employees. The board may adopt policies and procedures governing payroll deductions under this section. A payroll deduction under this section is in addition to payroll deductions authorized by other law.

(c) A payroll deduction under this section must be at the written request of the employee, and the request must state the amount to be deducted and the entity to which the deducted amount is to be transferred. A payroll deduction is in effect until revoked in writing by the employee, but the policies and procedures of the university system or institution of higher education, as applicable, may provide for enrollment periods.

(d) A university system or institution of higher education may collect an administrative fee to cover the costs of making a deduction.

SECTION 3.02. Subsection (a), Section 1601.004, Insurance

1 Code, is amended to read as follows:

2 (a) In this chapter, "dependent," with respect to an
3 individual eligible to participate in the uniform program under
4 Section 1601.101 or 1601.102, means the individual's:

5 (1) spouse;

6 (2) unmarried child younger than 25 years of age; and

7 (3) child of any age who the system determines lives
8 with or has the child's care provided by the individual on a regular
9 basis if the child is mentally retarded or physically incapacitated
10 to the extent that the child is dependent on the individual for care
11 or support, as determined by the system, and:

12 (A) if the child is at least 25 years of age, the
13 child's coverage under this chapter has not lapsed, and the child
14 was enrolled as a participant in the health benefits coverage under
15 the uniform program on the date of the child's 25th birthday; or

16 (B) if the child is a child of an individual
17 eligible to participate as an employee under Section 1601.101, at
18 the time of the individual's initial enrollment in health benefits
19 coverage under the uniform program the child is at least 25 years of
20 age and is enrolled in comparable coverage, as determined by the
21 system, under the individual's previous health benefits coverage.

22 SECTION 3.03. Subchapter C, Chapter 1601, Insurance Code,
23 is amended by adding Section 1601.111 to read as follows:

24 Sec. 1601.111. PROGRAMS PROMOTING DISEASE PREVENTION,
25 WELLNESS, AND HEALTH. A system may establish premium discounts,
26 surcharges, rebates, or a revision in otherwise applicable
27 copayments, coinsurance, or deductibles, or any combination of

1 those incentives, for an individual who participates in
2 system-approved programs promoting disease prevention, wellness,
3 and health.

4 SECTION 3.04. Subsection (d), Section 1601.201, Insurance
5 Code, is amended to read as follows:

6 (d) Subsection (c) does not prohibit a system from
7 contributing, from money not appropriated from the general revenue
8 fund, amounts in excess of the amount specified by that subsection
9 for:

10 (1) an individual employed by the system in a position
11 that as a condition of employment requires the individual to be
12 enrolled as a student in the system in graduate level courses; or

13 (2) an individual who is a tenured faculty member with
14 whom the system has entered into a phased retirement agreement
15 under which the individual will work less than 40 hours a week for a
16 specified period of time at the end of which the individual will
17 retire.

18 ARTICLE 4. REAL ESTATE AND CONSTRUCTION

19 SECTION 4.01. Subchapter C, Chapter 61, Education Code, is
20 amended by adding Section 61.0573 to read as follows:

21 Sec. 61.0573. PROJECTS EXEMPT FROM BOARD APPROVAL. (a) In
22 this section, "project" means the acquisition of improved or
23 unimproved real property or the construction, repair, or
24 rehabilitation of a building or other facility.

25 (b) Board approval of a project at an institution of higher
26 education is not required under Section 61.0572 or 61.058 if the
27 institution notifies the board of the project and certifies to the

1 board that:

2 (1) the institution meets the current published board
3 standards applicable to the institution for space need, usage
4 efficiency, deferred maintenance, and critical deferred
5 maintenance or the board has approved the institution's plan to
6 correct any deficiencies in the institution's compliance with those
7 applicable standards;

8 (2) the project meets current published board
9 standards applicable to the project for cost, efficiency, and space
10 use;

11 (3) the project is identified on the institution's
12 campus master plan, as submitted to the board; and

13 (4) the institution has no deficiencies according to
14 the board's most recent facilities audit or the board has approved
15 the institution's plan to correct any such deficiencies.

16 (c) The board's staff shall promptly review a certification
17 submitted under Subsection (b) and notify the institution whether
18 the certification is sufficient and whether the information
19 certified is consistent with the records of the board. If the staff
20 review determines that the certification is sufficient and that the
21 information certified is consistent with the records of the board,
22 the project is considered approved by the board.

23 (d) This section does not apply to a project that is a new
24 branch campus or a new higher education center.

25 SECTION 4.02. Subsection (c), Section 2166.302, Government
26 Code, is amended to read as follows:

27 (c) Subsection (a) does not apply to a project constructed

1 by and for the Texas Department of Transportation or an institution
2 of higher education or university system. In this subsection,
3 "institution of higher education" and "university system" have the
4 meanings assigned by Section 61.003, Education Code.

5 SECTION 4.03. Subsection (c-1), Section 2166.403,
6 Government Code, is amended to read as follows:

7 (c-1) For a project constructed by and for a state
8 institution of higher education, the [~~governing body of the~~]
9 institution shall, during the planning phase of the proposed
10 construction for the project, verify [~~in an open meeting~~] the
11 economic feasibility of incorporating into the building's design
12 and proposed energy system alternative energy devices for space
13 heating and cooling functions, water heating functions, electrical
14 load functions, and interior lighting functions. The [~~governing~~
15 ~~body of the~~] institution shall determine the economic feasibility
16 of each function listed in this subsection by comparing the
17 estimated cost of providing energy for the function, based on the
18 use of conventional design practices and energy systems, with the
19 estimated cost of providing energy for the function, based on the
20 use of alternative energy devices, during the economic life of the
21 building.

22 SECTION 4.04. Subsection (b), Section 2167.001, Government
23 Code, is amended to read as follows:

24 (b) This chapter does not apply to:
25 (1) radio antenna space;
26 (2) residential space for a Texas Department of Mental
27 Health and Mental Retardation program;

1 (3) residential space for a Texas Youth Commission
2 program;

3 (4) space to be used for less than one month for
4 meetings, conferences, conventions, seminars, displays,
5 examinations, auctions, or similar purposes;

6 (5) district office space for members of the
7 legislature;

8 (6) space used by the Texas Workforce Commission;

9 (7) residential property acquired by the Texas
10 Department of Housing and Community Affairs or the Texas State
11 Affordable Housing Corporation that is offered for sale or rental
12 to individuals and families of low or very low income or families of
13 moderate income;

14 (8) except as provided by Section 2167.007, [~~classroom~~
15 ~~and instructional~~] space for a university system or [an]
16 institution of higher education; or

17 (9) space leased by the Texas Veterans Commission to
18 administer the veterans employment services program.

19 SECTION 4.05. Section 33.06, Tax Code, is amended by adding
20 Subsection (g) to read as follows:

21 (g) If the ownership interest of an individual entitled to a
22 deferral under this section is a life estate, a lien for the
23 deferred tax attaches to the estate of the life tenant, and not to
24 the remainder interest, if the owner of the remainder is an
25 institution of higher education that has not consented to the
26 deferral. In this subsection, "institution of higher education"
27 has the meaning assigned by Section 61.003, Education Code. This

1 subsection does not apply to a deferral for which the individual
2 entitled to the deferral filed the affidavit required by Subsection
3 (b) before September 1, 2011.

4 ARTICLE 5. BOARD APPOINTMENTS

5 SECTION 5.01. Section 552.123, Government Code, is amended
6 to read as follows:

7 Sec. 552.123. EXCEPTION: NAME OF APPLICANT FOR CHIEF
8 EXECUTIVE OFFICER OF INSTITUTION OF HIGHER EDUCATION. The name of
9 an applicant for the position of chief executive officer of an
10 institution of higher education, and other information that would
11 tend to identify the applicant, is excepted from the requirements
12 of Section 552.021, except that the governing body of the
13 institution must give public notice of the name or names of the
14 finalists being considered for the position at least 21 days before
15 the date of the meeting at which final action or vote is to be taken
16 on the employment of the person.

17 SECTION 5.02. Subsection (b), Section 95.006, Health and
18 Safety Code, is amended to read as follows:

19 (b) The advisory committee is composed of:

20 (1) the following representatives appointed by the
21 executive director of the office:

22 (A) one representative of the office;

23 (B) one representative of the Texas Education
24 Agency;

25 (C) one representative of the Texas Pediatric
26 Society;

27 (D) one representative of the American Diabetes

1 Association;

2 (E) [~~one representative who is a member of the~~
3 ~~board of regents of The University of Texas--Pan American,~~

4 [~~(F)~~] one school nurse representative from an
5 urban school located within the boundaries of a regional education
6 service center;

7 (F) [~~(G)~~] one parent or guardian of a child who
8 resides within the boundaries of a regional education service
9 center; and

10 (G) [~~(H)~~] one person with knowledge and
11 experience in health care in school settings; and

12 (2) the following representatives appointed by the
13 chairman of the council:

14 (A) one representative of the council;

15 (B) one representative of the Texas Medical
16 Association;

17 (C) one school district administrator
18 representative from a school district located within the boundaries
19 of a regional education service center;

20 (D) one school principal representative from a
21 school district located within the boundaries of a regional
22 education service center; and

23 (E) one school nurse representative from a rural
24 school located within the boundaries of a regional education
25 service center.

26 SECTION 5.03. Subsections (a) and (c), Section 2.03,
27 Chapter 670, Acts of the 72nd Legislature, Regular Session, 1991

1 (Article 4477-7j, Vernon's Texas Civil Statutes), are amended to
2 read as follows:

3 (a) On or after the effective date of this Act, the
4 Commissioners Court of Gaines County shall appoint three persons,
5 the governing body of the city of Seminole shall appoint two
6 persons, and the governing body of the city of Seagraves shall
7 appoint two persons to serve as initial directors of the district.
8 The four persons appointed by the governing bodies of the cities of
9 Seminole and Seagraves shall represent the municipalities within
10 the county, and the three persons appointed by the Commissioners
11 Court of Gaines County shall represent the unincorporated areas of
12 the county. [~~In addition, the board of regents of The University of
13 Texas System shall appoint one person to serve as an ex-officio,
14 nonvoting director of the district.~~]

15 (c) The Commissioners Court of Gaines County and the
16 governing bodies of the cities of Seminole and Seagraves shall each
17 appoint one initial director to serve a term expiring on May 1 of
18 the first year after the year in which the original appointment is
19 made. In addition, the Commissioners Court of Gaines County shall
20 appoint two initial directors and the governing bodies of the
21 cities of Seminole and Seagraves shall each appoint one initial
22 director to serve terms expiring on May 1 of the second year after
23 the year in which the original appointment is made. [~~The initial
24 ex-officio member serves a term expiring on May 1 of the second year
25 after the year in which the original appointment is made.~~]
26 Successor directors serve two-year terms.

27 SECTION 5.04. Subsection (a), Section 3.01, Chapter 670,

1 Acts of the 72nd Legislature, Regular Session, 1991 (Article
2 4477-7j, Vernon's Texas Civil Statutes), is amended to read as
3 follows:

4 (a) The district is governed by a board of directors
5 composed of seven voting members [~~and one ex-officio nonvoting~~
6 ~~member~~] who are appointed as provided by this Act. However, the
7 district shall change to a system of electing the voting directors
8 if:

9 (1) the Commissioners Court of Gaines County and the
10 governing bodies of the cities of Seminole and Seagraves each pass a
11 resolution calling for the election of the directors; or

12 (2) the board receives a petition signed by at least
13 150 registered voters of Gaines County calling for the election of
14 the directors.

15 ARTICLE 6. REPORTS; RECORDS; AUDITS; NOTICES

16 SECTION 6.01. Subsection (d), Section 51.403, Education
17 Code, is amended to read as follows:

18 (d) For purposes of this subsection, "small classes" [~~Each~~
19 ~~institution shall file with its governing board and the~~
20 ~~coordinating board a small class report, excluding individual~~
21 ~~instruction courses, indicating department, course number, title~~
22 ~~of course, and the name of the instructor. "Small classes," for the~~
23 ~~purpose of this report,~~] are undergraduate-level courses with less
24 than 10 registrations, and graduate-level courses with less than 5
25 registrations. No small classes shall be offered in any
26 institution except as authorized by the appropriate governing
27 board, within the guidelines established by the Coordinating Board.

1 SECTION 6.02. Subchapter H, Chapter 51, Education Code, is
2 amended by adding Section 51.406 to read as follows:

3 Sec. 51.406. EXPIRATION OF CERTAIN REPORTING REQUIREMENTS
4 APPLICABLE TO INSTITUTIONS OF HIGHER EDUCATION AND UNIVERSITY
5 SYSTEMS. (a) In this section, "university system" has the meaning
6 assigned by Section 61.003.

7 (b) To the extent that any of the following laws require
8 reporting by a university system or an institution of higher
9 education, a university system or institution of higher education
10 is not required to make the report on or after September 1, 2013,
11 unless legislation enacted by the 83rd Legislature that becomes law
12 expressly requires the institution or system to make the report:

13 (1) Section 7.109;

14 (2) Section 33.083;

15 (3) Section 51.0051;

16 (4) Section 59.07;

17 (5) Section 130.086;

18 (6) Section 325.007, Government Code;

19 (7) Section 669.003, Government Code;

20 (8) Section 2005.007, Government Code;

21 (9) Section 2052.103, Government Code;

22 (10) Section 2054.097, Government Code;

23 (11) Section 2101.011, Government Code;

24 (12) Section 2102.009, Government Code;

25 (13) Chapter 2114, Government Code; and

26 (14) Section 2205.041, Government Code.

27 (c) A rule or policy of a state agency, including the Texas

1 Higher Education Coordinating Board, in effect on June 1, 2011,
2 that requires reporting by a university system or an institution of
3 higher education has no effect on or after September 1, 2013, unless
4 the rule or policy is affirmatively and formally readopted before
5 that date by formal administrative rule published in the Texas
6 Register and adopted in compliance with Chapter 2001, Government
7 Code. This subsection does not apply to:

8 (1) a rule or policy for which the authorizing statute
9 is listed in Subsection (b);

10 (2) a rule or policy for which the authorizing statute
11 is repealed on or before September 1, 2013, by legislation enacted
12 by the legislature that becomes law; or

13 (3) a report required under any of the following laws:

14 (A) Section 51.005;

15 (B) Section 51.3062;

16 (C) Section 51.402;

17 (D) Section 56.039;

18 (E) Section 61.051(k);

19 (F) Section 61.059; or

20 (G) Section 62.095(b).

21 SECTION 6.03. Section 51.914, Education Code, is amended to
22 read as follows:

23 Sec. 51.914. PROTECTION OF CERTAIN INFORMATION. (a) In
24 order to protect the actual or potential value, the following
25 information is ~~shall be~~ confidential and is ~~shall~~ not ~~be~~
26 subject to disclosure under Chapter 552, Government Code, or
27 otherwise:

1 (1) all information relating to a product, device, or
2 process, the application or use of such a product, device, or
3 process, and all technological and scientific information
4 (including computer programs) developed in whole or in part at a
5 state institution of higher education, regardless of whether
6 patentable or capable of being registered under copyright or
7 trademark laws, that have a potential for being sold, traded, or
8 licensed for a fee;

9 (2) any information relating to a product, device, or
10 process, the application or use of such product, device, or
11 process, and any technological and scientific information
12 (including computer programs) that is the proprietary information
13 of a person, partnership, corporation, or federal agency that has
14 been disclosed to an institution of higher education solely for the
15 purposes of a written research contract or grant that contains a
16 provision prohibiting the institution of higher education from
17 disclosing such proprietary information to third persons or
18 parties; or

19 (3) the plans, specifications, blueprints, and
20 designs, including related proprietary information, of a
21 scientific research and development facility that is jointly
22 financed by the federal government and a local government or state
23 agency, including an institution of higher education, if the
24 facility is designed and built for the purposes of promoting
25 scientific research and development and increasing the economic
26 development and diversification of this state.

27 (b) Information maintained by or for an institution of

1 higher education that would reveal the institution's plans or
2 negotiations for commercialization or research, or that consists of
3 unpublished research results or data, is not subject to Chapter
4 552, Government Code, unless the information has been published, is
5 patented, or is otherwise subject to an executed license, sponsored
6 research agreement, or research contract or grant. In this
7 subsection, "institution of higher education" has the meaning
8 assigned by Section 61.003.

9 SECTION 6.04. Subsection (h), Section 61.051, Education
10 Code, is amended to read as follows:

11 (h) The board shall make continuing studies of the needs of
12 the state for research and designate the institutions of higher
13 education to perform research as needed. The board shall also
14 maintain an inventory of all institutional and programmatic
15 research activities being conducted by the various institutions,
16 whether state-financed or not. Once a year, on dates prescribed by
17 the board, each institution of higher education shall report to the
18 board all research conducted at that institution during the last
19 preceding year. The submission by an institution of the
20 institution's response to the National Science Foundation's annual
21 Higher Education Research and Development Survey satisfies the
22 requirements of this section. All reports required by this
23 subsection shall be made subject to the limitations imposed by
24 security regulations governing defense contracts for research.

25 SECTION 6.05. Section 61.0582, Education Code, is amended
26 by adding Subsection (f) to read as follows:

27 (f) This section does not apply to a university system that

1 maintains an ongoing system-wide capital improvement program
2 approved by the system's board of regents.

3 SECTION 6.06. Section 130.152, Education Code, is amended
4 to read as follows:

5 Sec. 130.152. CRITERIA FOR PROGRAMS FOR THE DISADVANTAGED.
6 A junior college may develop programs to serve persons from
7 backgrounds of economic or educational deprivation by submission of
8 a plan based on the following criteria to the Texas Higher Education
9 Coordinating Board~~[, Texas College and University System]~~:

10 (1) an instructional program that accommodates the
11 different learning rates of students and compensates for prior
12 economic and educational deprivation;

13 (2) an unrestricted admissions policy allowing the
14 enrollment of any person 18 years of age or older with a high school
15 diploma or its equivalent who can reasonably be expected to benefit
16 from instruction;

17 (3) the assurance that all students, regardless of
18 their differing programs of study, will be considered, known, and
19 recognized as full members of the student body, provided that the
20 administrative officers of a junior college may deny admission to a
21 prospective student or attendance of an enrolled student if, in
22 their judgment, the person ~~[he]~~ would not be competent to benefit
23 from a program of the college, or would by the person's ~~[his]~~
24 presence or conduct create a disruptive atmosphere within the
25 college not consistent with the statutory purposes of the college;

26 (4) ~~[the submission of a plan for a financial aid~~
27 ~~program which removes to the maximum extent possible the financial~~

1 ~~barriers to the educational aspirations of the citizens of this~~
2 ~~state,~~

3 ~~[(5) an annual evaluation report based on scientific~~
4 ~~methods and utilizing control groups wherever possible to be~~
5 ~~submitted to the coordinating board at the end of each school year,~~
6 ~~covering each remedial compensatory course or program offered at~~
7 ~~the college,~~

8 ~~[(6)] any other criteria consistent with the~~
9 provisions of this subchapter specified by the coordinating board;
10 and

11 (5) [(7)] a junior college must obtain approval of the
12 coordinating board [~~Coordinating Board, Texas College and~~
13 ~~University System,~~] before offering any courses under the
14 provisions of this Act.

15 SECTION 6.07. Section 401.042, Government Code, is amended
16 by adding Subsection (c) to read as follows:

17 (c) In consultation with public institutions of higher
18 education, the offices of the governor and the Legislative Budget
19 Board shall review the forms for higher education legislative
20 appropriations requests to identify opportunities to improve
21 efficiency, provide better transparency of funding sources,
22 eliminate unnecessary or duplicative requirements, and otherwise
23 reduce the cost or difficulty of providing information related to
24 appropriations requests.

25 SECTION 6.08. Subchapter L, Chapter 403, Government Code,
26 is amended by adding Section 403.2715 to read as follows:

27 Sec. 403.2715. UNIVERSITY SYSTEMS AND INSTITUTIONS OF

1 HIGHER EDUCATION. (a) In this section, "institution of higher
2 education" and "university system" have the meanings assigned by
3 Section 61.003, Education Code.

4 (b) Except as provided by this section, this subchapter does
5 not apply to a university system or institution of higher
6 education.

7 (c) A university system or institution of higher education
8 shall account for all personal property as defined by the
9 comptroller under Section 403.272. At all times, the property
10 records of a university system or institution of higher education
11 must accurately reflect the personal property possessed by the
12 system or institution.

13 (d) The chief executive officer of each university system or
14 institution of higher education shall designate one or more
15 property managers. The property manager shall maintain the records
16 required and be the custodian of all personal property possessed by
17 the system or institution.

18 (e) Sections 403.273(h), 403.275, and 403.278 apply to a
19 university system or institution of higher education.

20 SECTION 6.09. Subsection (d), Section 2101.0115,
21 Government Code, is amended by adding Subdivision (4) to read as
22 follows:

23 (4) "Institution of higher education" and "university
24 system" have the meanings assigned by Section 61.003, Education
25 Code.

26 SECTION 6.10. Section 2101.0115, Government Code, is
27 amended by adding Subsection (e) to read as follows:

1 (e) This section does not apply to an institution of higher
2 education or university system.

3 SECTION 6.11. Subsection (c), Section 2254.028, Government
4 Code, is amended to read as follows:

5 (c) Subsection (a) [~~(a)(3)~~] does not apply to a major
6 consulting services contract to be entered into by an institution
7 of higher education other than a public junior college if the
8 institution includes in the invitation published under Section
9 2254.029 a finding by the chief executive officer of the
10 institution that the consulting services are necessary and an
11 explanation of that finding.

12 SECTION 6.12. Section 2254.0301, Government Code, is
13 amended to read as follows:

14 Sec. 2254.0301. CONTRACT NOTIFICATION. (a) A state agency
15 shall provide written notice to the Legislative Budget Board of a
16 contract for consulting services if the amount of the contract,
17 including an amendment, modification, renewal, or extension of the
18 contract, exceeds \$14,000. The notice must be on a form prescribed
19 by the Legislative Budget Board and filed not later than the 10th
20 day after the date the entity enters into the contract.

21 (b) This section does not apply to a university system or
22 institution of higher education. In this subsection, "institution
23 of higher education" and "university system" have the meanings
24 assigned by Section 61.003, Education Code.

25 SECTION 6.13. Subsection (f), Section 388.005, Health and
26 Safety Code, is amended to read as follows:

27 (f) This section does not apply to a state agency or an

1 institution of higher education that the State Energy Conservation
2 Office determines [~~that~~], before September 1, 2007, adopted a plan
3 for conserving energy under which the agency or institution
4 established a percentage goal for reducing the consumption of
5 electricity. The exemption provided by this section applies only
6 while the agency or institution has an energy conservation plan in
7 effect and only if the agency or institution submits reports on the
8 conservation plan each year [~~calendar quarter~~] to the governor, the
9 Legislative Budget Board, and the State Energy Conservation Office.

10 SECTION 6.14. Section 412.053, Labor Code, is amended by
11 adding Subsection (c) to read as follows:

12 (c) This section does not apply to an institution of higher
13 education or university system. In this subsection, "institution
14 of higher education" and "university system" have the meanings
15 assigned by Section 61.003, Education Code.

16 SECTION 6.15. Subsection (d), Section 31.153, Natural
17 Resources Code, is amended to read as follows:

18 (d) Each state agency, other than an institution of higher
19 education, annually at the time set by the division, shall furnish
20 the Texas Historical Commission with a photograph and information
21 that specifies and identifies the age of each building:

22 (1) that was acquired by the agency after the date of
23 the preceding annual submission and that is at least 45 years old on
24 the date of the current submission; or

25 (2) that is possessed by the agency and has become 45
26 years old since the date the information was previously submitted.

ARTICLE 7. REPEALER

SECTION 7.01. (a) The following laws are repealed effective September 1, 2011:

- (1) Section 51.216, Education Code;
- (2) Subsections (b) and (c), Section 51.403, Education Code;
- (3) Section 51.4033, Education Code;
- (4) Section 61.0815, Education Code;
- (5) Section 61.086, Education Code;
- (6) Subsection (c), Section 61.087, Education Code;
- (7) Section 62.098, Education Code;
- (8) Section 1434.054, Government Code;
- (9) Section 2107.005, Government Code;
- (10) Subsection (c), Section 412.042, Labor Code; and
- (11) Subsection (c), Section 3.01, Chapter 670, Acts of the 72nd Legislature, Regular Session, 1991 (Article 4477-7j, Vernon's Texas Civil Statutes).

(b) The following provisions of the Education Code are repealed effective September 1, 2013:

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

- 1 (9) Section 63.004;
- 2 (10) Section 63.103;
- 3 (11) Subsection (m), Section 86.52;
- 4 (12) Section 88.210;
- 5 (13) Section 106.54;
- 6 (14) Section 142.005;
- 7 (15) Section 143.006;
- 8 (16) Section 147.005;
- 9 (17) Section 148.005; and
- 10 (18) Section 153.008.

11 SECTION 7.02. (a) This section governs a conflict between
12 this Act and any other Act of the 82nd Legislature, Regular Session,
13 2011, without regard to the relative dates of enactment.

14 (b) If this Act and any other Act repeal the same statute,
15 the earlier effective date of repeal controls.

16 (c) If this Act amends a statute that any other Act repeals,
17 the repeal controls.

18 ARTICLE 8. EFFECTIVE DATE

19 SECTION 8.01. This Act takes effect immediately if it
20 receives a vote of two-thirds of all the members elected to each
21 house, as provided by Section 39, Article III, Texas Constitution.
22 If this Act does not receive the vote necessary for immediate
23 effect, this Act takes effect September 1, 2011.