

## **BILL ANALYSIS**

Senate Research Center

C.S.H.B. 12  
By: Flynn et al. (Zaffirini)  
Government Organization  
5/17/2013  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Under current law, state agencies disclose revenue from both federal funds and state appropriations. However, interested parties contend that donations made to state agencies for the purpose of salary supplements for agency employees should be treated in the same manner as state salaries, which are considered public information. C.S.H.B. 12 requires state agencies to disclose and post online certain information regarding salary supplements to state agency employees from outside private donations.

C.S.H.B. 12 amends current law relating to gifts and other consideration made to state agencies for state employee salary supplement or other purposes, and to publication by state agencies of staff compensation and related information.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to a state agency in SECTION 1 (Section 659.0201, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter B, Chapter 659, Government Code, by adding Sections 659.0201, 659.0202, and 659.026, as follows:

Sec. 659.0201. GIFTS, GRANTS, AND DONATIONS FOR SALARY SUPPLEMENT; REPORTING. (a) Defines "state agency" in this section.

(b) Requires a board, commission, department, institute, office, or other agency in the executive branch of state government that is created by the constitution or a statute of this state, not including an institution of higher education as defined by Section 61.003 (Definitions), Education Code (state agency) to post on the state agency's Internet website in accordance with the schedule and in the manner required by the state auditor the amount of each gift, grant, donation, or other consideration provided by any person to be used as a salary supplement for an employee of the agency, and the methodology, including any employment market analysis, the person described by Subsection (b) used to determine the amount the person provided for the salary supplement.

(c) Requires the state agency by rule to adopt conflict of interest provisions regarding the acceptance by the agency of a gift, grant, donation, or other consideration to be used as a salary supplement for an employee of the agency. Requires the agency to post the conflict of interest provisions on the agency's Internet website.

(d) Requires the entity, if the person making a gift, grant, or donation or providing other consideration to the state agency is an entity created solely to provide support for the state agency, to report to the agency the name of each person who makes gifts, grants, or donations, or provides other consideration to the entity, in an amount or having a value that exceeds \$10,000; and the amount or value of each specific gift, grant, donation, or other consideration.

(e) Requires the state auditor to adopt a schedule and format for reporting information required by this section.

(f) Requires each state agency receiving a gift, grant, donation, or other consideration from a person to be used as a salary supplement to report the following information to the state auditor in the form determined by the state auditor:

(1) whether the person making the gift, grant, or donation or providing other consideration to the state agency is an individual or an entity;

(2) if the person is an entity, the type of entity;

(3) if the entity is a nonprofit entity or organization, whether the entity is classified as a supporting organization by the Internal Revenue Service;

(4) if the entity is classified as a supporting organization by the Internal Revenue Service, the type of supporting organization, the name of the supported organization, and any other information relating to that classification;

(5) any internal or external oversight procedures the state agency has established to monitor the use of any gift, grant, donation, or other consideration the agency receives; and

(6) how the state agency uses gifts, grants, donations, and other consideration the agency receives, including whether they are used to provide salary supplements for agency employees.

(g) Requires the state auditor to compile the information received under Subsection (f) into a report and submit the report to the legislature.

Sec. 659.0202. GIFTS, GRANTS, AND DONATIONS TO INSTITUTIONS OF HIGHER EDUCATION FOR SALARY SUPPLEMENT. (a) Defines "institution of higher education" and "gift" in this section.

(b) Prohibits an institution of higher education from accepting a gift, including a gift for the support of a professorship, chair, or similar position, if the terms of the gift require that it be used to support the salary of a named individual.

(c) Prohibits an employee of an institution of higher education from accepting any payment made directly to the employee that is:

(A) compensation for the performance of the employee's duties on behalf of institution; and

(B) not accounted for by the institution or otherwise subject to oversight by the institution.

Sec. 659.026. INFORMATION REGARDING STAFF COMPENSATION. (a) Defines "compensation," "executive staff," and "state agency" in this section.

(b) Requires a state agency to make available to the public by posting on the agency's Internet website:

(1) the number of full-time equivalent employees employed by the agency;

- (2) the amount of legislative appropriations to the agency for each fiscal year of the current state fiscal biennium;
- (3) the agency's methodology, including any employment market analysis, for determining the compensation of executive staff employed by the agency, along with the name of the person and the person's position who selected the methodology;
- (4) whether executive staff are eligible for a salary supplement;
- (5) the market average for compensation of similar executive staff in the private and public sectors;
- (6) the average compensation paid to employees employed by the agency who are not executive staff; and
- (7) the percentage increase in compensation of executive staff for each fiscal year of the five preceding fiscal years and the percentage increase in legislative appropriations to the agency each fiscal year of the five preceding fiscal years.

SECTION 2. Provides that Section 659.0202, Government Code, applies only to gifts accepted on or after the effective date of this Act.

SECTION 3. Effective date: upon passage or September 1, 2013.