

BILL ANALYSIS

C.S.H.B. 360
By: Krause
Higher Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

According to interested parties, Vanderbilt University recently enacted a controversial policy for religious student organizations that prevents the organizations from excluding certain parties on the basis of religious belief, which leaves the organizations susceptible to students of opposing beliefs joining the organizations and seeking leadership positions in an attempt to undermine the religious organizations' ability to assemble for their stated purposes. The parties contend that, while no public or private universities in Texas have enacted a similar policy, Texas needs to preemptively protect its students' First Amendment rights by discouraging the enactment of any such policy. C.S.H.B. 360 seeks to provide that protection.

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

C.S.H.B. 360 amends the Education Code to subject an institution of higher education to a penalty as established by the bill if the institution requires a student organization, including a religious student organization, to accept for membership in the organization a student who demonstrates opposition to the organization's stated beliefs and purposes or whose membership in the organization would affect in a significant way the organization's ability to advocate public or private viewpoints or is designed for the subversive intent of undermining the organization's ability to assemble for its stated purposes. The bill requires the comptroller of public accounts, if the comptroller determines that an institution of higher education has incurred a penalty, to assess the penalty in an amount equal to the total amount of student activity fees collected by the institution in the academic year in which the violation occurred. The bill requires the comptroller to collect the penalty by withholding the amount of the penalty from the undedicated general revenue appropriated by the legislature to the institution in the fiscal year in which the penalty is assessed or, if necessary, in the next fiscal year. The bill defines "religious student organization" to mean a student organization whose charter, bylaws, mission statement, policies, or practices indicate that the organization is guided or motivated by religion.

C.S.H.B. 360 establishes that an institution of higher education with a policy requiring a religious student organization to allow any student enrolled at the institution to participate in the organization, regardless of the student's beliefs, violates the organization's members' First Amendment rights guaranteed by the United States Constitution, including the rights of free exercise of religion and of freedom of association.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 360 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.9362 to read as follows:

Sec. 51.9362. WITHHOLDING STATE FUNDING FROM INSTITUTIONS REGULATING STUDENT ORGANIZATION MEMBERSHIP.

(a) In this section:

(1) "Institution of higher education" and "private or independent institution of higher education" have the meanings assigned by Section 61.003.

(2) "Religious student organization" means a student organization whose charter, bylaws, mission statement, policies, or practices indicate that the organization is guided or motivated by religion.

(3) "Student organization" includes any organization that is composed mostly of students enrolled at an institution of higher education or a private or independent institution of higher education and that:

(A) is registered with the institution;

(B) receives student organization resource fee revenues or other funding from the institution; or

(C) is otherwise recognized as a student organization by the institution.

(b) An institution of higher education or private or independent institution of higher education may not receive any state funding for a fiscal year following a year in which the institution requires a student

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.9362 to read as follows:

Sec. 51.9362. CERTAIN REQUIREMENTS OF PUBLIC INSTITUTIONS REGARDING STUDENT ORGANIZATION MEMBERSHIP.

(a) It is the policy of this state to promote diversity of thought and the marketplace of ideas on the campuses of public institutions of higher education in this state, including by:

(1) protecting the rights of freedom of speech and freedom of association guaranteed by the constitutions of the United States and of this state so that all students of those institutions may assemble peaceably for a specific stated purpose and goal; and

(2) ensuring that those rights are not unnecessarily restricted or impeded by rules or policies adopted by those institutions.

(b) In this section:

(1) "Institution of higher education" has the meaning assigned by Section 61.003.

(2) "Religious student organization" means a student organization whose charter, bylaws, mission statement, policies, or practices indicate that the organization is guided or motivated by religion.

(3) "Student organization" includes any organization that is composed mostly of students enrolled at an institution of higher education and that:

(A) is registered with the institution;

(B) receives student organization resource fee revenues or other funding from the institution; or

(C) is otherwise recognized as a student organization by the institution.

(c) An institution of higher education is subject to a penalty under Subsection (e) if the institution requires a student organization, including a religious student organization, to accept for membership in

organization, including a religious student organization, to allow any student enrolled at the institution to participate in the organization, regardless of the student's beliefs or status, including race, gender, and sexual orientation.

(c) An institution of higher education or private or independent institution of higher education with a policy requiring a religious student organization to allow any student enrolled at the institution to participate in the organization, regardless of the student's status or beliefs, violates the organization's members' First Amendment rights guaranteed by the United States Constitution, including the rights of free exercise of religion and of freedom of association.

SECTION 2. This Act takes effect September 1, 2013.

the organization a student:

(1) who demonstrates opposition to the organization's stated beliefs and purposes; or
(2) whose membership in the organization:
(A) would affect in a significant way the organization's ability to advocate public or private viewpoints; or
(B) is designed for the subversive intent of undermining the organization's ability to assemble for its stated purposes.

(d) An institution of higher education with a policy requiring a religious student organization to allow any student enrolled at the institution to participate in the organization, regardless of the student's beliefs, violates the organization's members' First Amendment rights guaranteed by the United States Constitution, including the rights of free exercise of religion and of freedom of association.

(e) If the comptroller determines that an institution of higher education has incurred a penalty for a violation of Subsection (c), the comptroller shall assess the penalty in an amount equal to the total amount of student activity fees collected by the institution in the academic year in which the violation occurred. The comptroller shall collect the penalty by withholding the amount of the penalty from the undedicated general revenue appropriated by the legislature to the institution in the fiscal year in which the penalty is assessed or, if necessary, in the next fiscal year.

SECTION 2. Same as introduced version.