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et al.

H.B. No. 12

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to gifts and other consideration made to state agencies  
3 for state employee salary supplement or other purposes, and to  
4 publication by state agencies of staff compensation and related  
5 information.

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

7 SECTION 1. Subchapter B, Chapter 659, Government Code, is  
8 amended by adding Sections 659.0201 and 659.026 to read as follows:

9 Sec. 659.0201. GIFTS, GRANTS, AND DONATIONS FOR SALARY  
10 SUPPLEMENT; REPORTING. (a) In this section, "state agency"  
11 means a board, commission, department, institute, office, or  
12 other agency in the executive branch of state government that is  
13 created by the constitution or a statute of this state, including an  
14 institution of higher education as defined by Section 61.003,  
15 Education Code.

16 (b) A state agency may not accept a gift, grant, donation,  
17 or other consideration from a person, including a foundation or  
18 other entity, to be used as a salary supplement for an employee of  
19 the agency unless the person provides the agency with the  
20 methodology, including any employment market analysis, the person  
21 used to determine the amount provided for the salary supplement.

22 (c) The state agency shall post on the agency's Internet  
23 website in accordance with the schedule and in the manner required  
24 by the state auditor:

1           (1) the amount of each gift, grant, donation, or other  
2 consideration provided by any person to be used as a salary  
3 supplement for an employee of the agency; and

4           (2) the methodology, including any employment market  
5 analysis, the person described by Subsection (b) used to determine  
6 the amount the person provided for the salary supplement.

7           (c-1) The state agency by rule shall adopt conflict of  
8 interest provisions regarding the acceptance by the agency of a  
9 gift, grant, donation, or other consideration to be used as a salary  
10 supplement for an employee of the agency. The agency shall post the  
11 conflict of interest provisions on the agency's Internet website.

12           (d) If the person making a gift, grant, or donation or  
13 providing other consideration to the state agency is an entity  
14 created solely to provide support for the state agency, the entity  
15 shall report to the agency:

16           (1) the name of each person who makes gifts, grants, or  
17 donations, or provides other consideration to the entity, in an  
18 amount or having a value that exceeds \$10,000; and

19           (2) the amount or value of each specific gift, grant,  
20 donation, or other consideration.

21           (e) The state auditor shall adopt a schedule and format for  
22 reporting information required by this section.

23           (f) Each state agency receiving a gift, grant, donation, or  
24 other consideration from a person shall report the following  
25 information to the state auditor in the form determined by the state  
26 auditor:

27           (1) whether the person making the gift, grant, or

1 donation or providing other consideration to the state agency is an  
2 individual or an entity;

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

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

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

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

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

18 (g) The state auditor shall compile the information  
19 received under Subsection (f) into a report and submit the report to  
20 the legislature.

21 Sec. 659.026. INFORMATION REGARDING STAFF COMPENSATION.

22 (a) In this section:

23 (1) "Compensation" includes an emolument provided in  
24 lieu of base salary or wages or a supplement to base salary or  
25 wages.

26 (2) "Executive staff" means:

27 (A) the director, executive director,

1 commissioner, administrator, or other individual who is appointed  
2 by the governing body of a state agency or by another state officer  
3 to act as the chief executive or administrative head of the agency  
4 and who is not an appointed officer; and

5 (B) other management or senior level staff  
6 members of a state agency who directly report to the individual  
7 listed in Subdivision (2)(A).

8 (3) "State agency" means a board, commission,  
9 department, institute, office, or other agency in the executive  
10 branch of state government that is created by the constitution or a  
11 statute of this state, including an institution of higher education  
12 as defined by Section 61.003, Education Code.

13 (b) At the time and in the manner provided by the state  
14 auditor, a state agency shall make available to the public by  
15 posting on the agency's Internet website:

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

18 (2) the amount of legislative appropriations to the  
19 agency for each fiscal year of the current state fiscal biennium;

20 (3) the agency's methodology, including any employment  
21 market analysis, for determining the compensation of executive  
22 staff employed by the agency, along with the name of the person and  
23 the person's position who selected the methodology;

24 (4) whether executive staff are eligible for a salary  
25 supplement;

26 (5) the market average for compensation of similar  
27 executive staff in the private and public sectors;

1           (6) the average compensation paid to employees  
2 employed by the agency who are not executive staff; and

3           (7) the percentage increase in compensation of  
4 executive staff for each fiscal year of the five preceding fiscal  
5 years and the percentage increase in legislative appropriations to  
6 the agency each fiscal year of the five preceding fiscal years.

7           SECTION 2. This Act takes effect immediately if it receives  
8 a vote of two-thirds of all the members elected to each house, as  
9 provided by Section 39, Article III, Texas Constitution. If this  
10 Act does not receive the vote necessary for immediate effect, this  
11 Act takes effect September 1, 2013.