H.B. No. 12

AN ACT
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.

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

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

Sec. 659.0201. GIFTS, GRANTS, AND DONATIONS FOR SALARY
SUPPLEMENT; REPORTING. (a) In this section, "state agency"
means 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, including an
institution of higher education as defined by Section 61.003,
Education Code.

(b) A state agency that accepts a gift, grant, donation, or
other consideration from a person that the person designates to be
used as a salary supplement for an employee of the agency shall post
on the agency's Internet website, in addition to the information
required by Section 659.026, the amount of each gift, grant,
donation, or other consideration provided by the person that is
designated to be used as a salary supplement for an employee of the
agency. The agency may not post the name of the person.

(c) A state agency described by Subsection (b) by rule shall
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. The
governing board of an institution of higher education shall adopt
the conflict of interest provisions required by this subsection in
the same manner as the board adopts other policies applicable to the
institution. The agency shall post the conflict of interest
provisions on the agency's Internet website.

(d) If the person making a gift, grant, or donation or
providing other consideration to the state agency for the purpose
of a salary supplement is an entity created solely to provide
support for the state agency, the entity shall report to the agency:

(1) 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, unless the person has
made a request to the entity to remain anonymous; and

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

(e) A state agency that receives a gift, grant, donation, or
other consideration described by Subsection (d) shall compile the
information the agency receives under Subsection (d) into a report
and submit the report to the state auditor and the legislature.

(f) Information provided to an institution of higher
education under Subsection (d) is confidential and is not subject
to disclosure under Chapter 552.

(g) The state auditor may review the report submitted under
Subsection (e) to identify any conflicts of interest or any other
areas of risk. The state auditor shall report the results of an audit performed under this section to the legislature.

(h) The state auditor shall adopt a schedule and format for reporting information required by this section that does not require the release of information that identifies an anonymous donor.

(i) Each state agency receiving a gift, grant, donation, or other consideration from a person that is designated to be used as a salary supplement for a named person, position, or endowment shall 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
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whether they are used to provide salary supplements for agency employees.

(j) The state auditor shall compile the information received under Subsection (i) into a report and submit the report to the legislature.

Sec. 659.026. INFORMATION REGARDING STAFF COMPENSATION.

(a) In this section:

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

(2) "Executive staff" means:

(A) the director, executive director, commissioner, administrator, or other individual who is appointed by the governing body of a state agency or by another state officer to act as the chief executive officer or administrative head of the agency and who is not an appointed officer; and

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

(3) "State agency" means 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, including an institution of higher education as defined by Section 61.003, Education Code.

(b) A state agency shall 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 and position of
the person 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. This Act takes effect immediately if it receives
a vote of two-thirds of all the members elected to each house, as
provided by Section 39, Article III, Texas Constitution. If this
Act does not receive the vote necessary for immediate effect, this
Act takes effect September 1, 2013.
I certify that H.B. No. 12 was passed by the House on May 10, 2013, by the following vote: Yeas 140, Nays 0, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 12 on May 23, 2013, and requested the appointment of a conference committee to consider the differences between the two houses; that the House adopted the conference committee report on H.B. No. 12 on May 26, 2013, by the following vote: Yeas 143, Nays 0, 2 present, not voting; and that the House adopted H.C.R. No. 218 authorizing certain corrections in H.B. No. 12 on May 27, 2013, by the following vote: Yeas 144, Nays 0, 2 present, not voting.
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I certify that H.B. No. 12 was passed by the Senate, with amendments, on May 21, 2013, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; that the Senate adopted the conference committee report on H.B. No. 12 on May 26, 2013, by the following vote: Yeas 31, Nays 0; and that the Senate adopted H.C.R. No. 218 authorizing certain corrections in H.B. No. 12 on May 27, 2013, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: _____________________

Date

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Governor