

1-1 By: Flynn, et al. (Senate Sponsor - Zaffirini) H.B. No. 12
1-2 (In the Senate - Received from the House May 10, 2013;
1-3 May 10, 2013, read first time and referred to Committee on
1-4 Government Organization; May 20, 2013, reported adversely, with
1-5 favorable Committee Substitute by the following vote:
1-6 Yeas 5, Nays 0; May 20, 2013, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13			X	
1-14	X			
1-15			X	

1-16 COMMITTEE SUBSTITUTE FOR H.B. No. 12 By: Zaffirini

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to gifts and other consideration made to state agencies
1-20 for state employee salary supplement or other purposes, and to
1-21 publication by state agencies of staff compensation and related
1-22 information.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subchapter B, Chapter 659, Government Code, is
1-25 amended by adding Sections 659.0201, 659.0202, and 659.026 to read
1-26 as follows:

1-27 Sec. 659.0201. GIFTS, GRANTS, AND DONATIONS FOR SALARY
1-28 SUPPLEMENT; REPORTING. (a) In this section, "state agency"
1-29 means a board, commission, department, institute, office, or
1-30 other agency in the executive branch of state government that is
1-31 created by the constitution or a statute of this state, not
1-32 including an institution of higher education as defined by Section
1-33 61.003, Education Code.

1-34 (b) The state agency shall post on the agency's Internet
1-35 website in accordance with the schedule and in the manner required
1-36 by the state auditor:

1-37 (1) the amount of each gift, grant, donation, or other
1-38 consideration provided by any person to be used as a salary
1-39 supplement for an employee of the agency; and

1-40 (2) the methodology, including any employment market
1-41 analysis, the person described by Subsection (b) used to determine
1-42 the amount the person provided for the salary supplement.

1-43 (c) The state agency by rule shall adopt conflict of
1-44 interest provisions regarding the acceptance by the agency of a
1-45 gift, grant, donation, or other consideration to be used as a salary
1-46 supplement for an employee of the agency. The agency shall post the
1-47 conflict of interest provisions on the agency's Internet website.

1-48 (d) If the person making a gift, grant, or donation or
1-49 providing other consideration to the state agency is an entity
1-50 created solely to provide support for the state agency, the entity
1-51 shall report to the agency:

1-52 (1) the name of each person who makes gifts, grants, or
1-53 donations, or provides other consideration to the entity, in an
1-54 amount or having a value that exceeds \$10,000; and

1-55 (2) the amount or value of each specific gift, grant,
1-56 donation, or other consideration.

1-57 (e) The state auditor shall adopt a schedule and format for
1-58 reporting information required by this section.

1-59 (f) Each state agency receiving a gift, grant, donation, or
1-60 other consideration from a person to be used as a salary supplement

2-1 shall report the following information to the state auditor in the
2-2 form determined by the state auditor:
2-3 (1) whether the person making the gift, grant, or
2-4 donation or providing other consideration to the state agency is an
2-5 individual or an entity;
2-6 (2) if the person is an entity, the type of entity;
2-7 (3) if the entity is a nonprofit entity or
2-8 organization, whether the entity is classified as a supporting
2-9 organization by the Internal Revenue Service;
2-10 (4) if the entity is classified as a supporting
2-11 organization by the Internal Revenue Service, the type of
2-12 supporting organization, the name of the supported organization,
2-13 and any other information relating to that classification;
2-14 (5) any internal or external oversight procedures the
2-15 state agency has established to monitor the use of any gift, grant,
2-16 donation, or other consideration the agency receives; and
2-17 (6) how the state agency uses gifts, grants,
2-18 donations, and other consideration the agency receives, including
2-19 whether they are used to provide salary supplements for agency
2-20 employees.
2-21 (g) The state auditor shall compile the information
2-22 received under Subsection (f) into a report and submit the report to
2-23 the legislature.
2-24 Sec. 659.0202. GIFTS, GRANTS, AND DONATIONS TO INSTITUTIONS
2-25 OF HIGHER EDUCATION FOR SALARY SUPPLEMENT. (a) In this section:
2-26 (1) "Institution of higher education" has the meaning
2-27 assigned by Section 61.003, Education Code.
2-28 (2) "Gift" includes a gift, grant, donation, or other
2-29 consideration.
2-30 (b) An institution of higher education may not accept a
2-31 gift, including a gift for the support of a professorship, chair, or
2-32 similar position, if the terms of the gift require that it be used
2-33 to support the salary of a named individual.
2-34 (c) An employee of an institution of higher education may
2-35 not accept any payment made directly to the employee that is:
2-36 (A) compensation for the performance of the
2-37 employee's duties on behalf of institution; and
2-38 (B) not accounted for by the institution or
2-39 otherwise subject to oversight by the institution.
2-40 Sec. 659.026. INFORMATION REGARDING STAFF COMPENSATION.
2-41 (a) In this section:
2-42 (1) "Compensation" includes an emolument provided in
2-43 lieu of base salary or wages or a supplement to base salary or
2-44 wages.
2-45 (2) "Executive staff" means:
2-46 (A) the director, executive director,
2-47 commissioner, administrator, or other individual who is appointed
2-48 by the governing body of a state agency or by another state officer
2-49 to act as the chief executive or administrative head of the agency
2-50 and who is not an appointed officer; and
2-51 (B) other management or senior level staff
2-52 members of a state agency who directly report to the individual
2-53 listed in Subdivision (2)(A).
2-54 (3) "State agency" means a board, commission,
2-55 department, institute, office, or other agency in the executive
2-56 branch of state government that is created by the constitution or a
2-57 statute of this state, including an institution of higher education
2-58 as defined by Section 61.003, Education Code.
2-59 (b) A state agency shall make available to the public by
2-60 posting on the agency's Internet website:
2-61 (1) the number of full-time equivalent employees
2-62 employed by the agency;
2-63 (2) the amount of legislative appropriations to the
2-64 agency for each fiscal year of the current state fiscal biennium;
2-65 (3) the agency's methodology, including any employment
2-66 market analysis, for determining the compensation of executive
2-67 staff employed by the agency, along with the name of the person and
2-68 the person's position who selected the methodology;
2-69 (4) whether executive staff are eligible for a salary

3-1 supplement;
3-2 (5) the market average for compensation of similar
3-3 executive staff in the private and public sectors;
3-4 (6) the average compensation paid to employees
3-5 employed by the agency who are not executive staff; and
3-6 (7) the percentage increase in compensation of
3-7 executive staff for each fiscal year of the five preceding fiscal
3-8 years and the percentage increase in legislative appropriations to
3-9 the agency each fiscal year of the five preceding fiscal years.

3-10 SECTION 2. Section 659.0202, Government Code, as added by
3-11 this Act, applies only to gifts accepted on or after the effective
3-12 date of this Act.

3-13 SECTION 3. This Act takes effect immediately if it receives
3-14 a vote of two-thirds of all the members elected to each house, as
3-15 provided by Section 39, Article III, Texas Constitution. If this
3-16 Act does not receive the vote necessary for immediate effect, this
3-17 Act takes effect September 1, 2013.

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