

By: Eiland

H.B. No. 2715

A BILL TO BE ENTITLED

1 AN ACT
2 relating to institutional funds held by public institutions of
3 higher education in this state.

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

5 SECTION 1. Section 51.002, Education Code, is amended by
6 amending Subsection (a) and adding Subsections (a-1), (a-2), and
7 (a-3) to read as follows:

8 (a) Except as provided by Subsection (a-1) and subject to
9 Section 51.008, the [The] governing board of each institution
10 listed in Section 51.001 of this code may retain control of the
11 following sums of money collected at the institution[~~, subject to~~
12 ~~Section 51.008 of this code~~]:

- 13 (1) student fees of all kinds;
14 (2) charges for use of rooms and dormitories;
15 (3) receipts from meals, cafes, and cafeterias;
16 (4) fees on deposit refundable to students under
17 certain conditions;
18 (5) receipts from school athletic activities;
19 (6) income from student publications and other student
20 activities;
21 (7) receipts from the sale of publication products and
22 miscellaneous supplies and equipment;
23 (8) students' voluntary deposits of money for
24 safekeeping;

1 (9) all other fees and local or institutional funds
2 arising out of and by virtue of the educational activities,
3 research, or demonstrations carried on by the institution; and

4 (10) donations and gifts to the institution.

5 (a-1) The governing board of an institution that retains
6 control of money under Subsection (a) may not claim sovereign
7 immunity in any lawsuit for a claim arising under a contract paid
8 wholly or partly with that money, and the institution is liable for
9 damages under that claim, to the extent that money described by
10 Subsection (a) available to the institution is unencumbered by
11 preexisting legal obligations.

12 (a-2) Notwithstanding any other law, Subsection (a-1) does
13 not apply during a state fiscal biennium if, not later than December
14 31 of the state fiscal year preceding the biennium, the governing
15 board:

16 (1) certifies to the comptroller and the Legislative
17 Budget Board that the governing board will treat in the same manner
18 as the institution's educational and general funds all money under
19 Subsection (a) that will be collected by the institution during
20 that biennium; and

21 (2) enters into an agreement with the comptroller to
22 deposit that money in an account in the state treasury subject to
23 legislative appropriation.

24 (a-3) Notwithstanding Subsection (a-2), during the state
25 fiscal biennium beginning September 1, 2013, Subsection (a-1) does
26 not apply to an institution after the date the governing board of
27 the institution certifies to the comptroller and the Legislative

1 Budget Board that the governing board will treat in the same manner
2 as the institution's educational and general funds all money under
3 Subsection (a) that will be collected by the institution during the
4 state fiscal biennium beginning September 1, 2015, and enters into
5 an agreement described by Subsection (a-2)(2) with respect to that
6 state fiscal biennium. A governing board that makes the
7 certification and enters into the agreement permitted by this
8 subsection is not required to make a separate certification and
9 agreement under Subsection (a-2) to preserve its ability to claim
10 sovereign immunity for the state fiscal biennium beginning
11 September 1, 2015. This subsection expires January 1, 2016.

12 SECTION 2. The change in law made by this Act applies only
13 to a civil cause of action that accrues on or after the effective
14 date of this Act. An action that accrued before the effective date
15 of this Act is governed by the law in effect at the time the action
16 accrued, and that law is continued in effect for that purpose.

17 SECTION 3. This Act takes effect September 1, 2013.