

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 30, 2013

TO: Honorable Dan Branch, Chair, House Committee on Higher Education

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB215 by Birdwell (Relating to the continuation and functions of the Texas Higher Education Coordinating Board.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for SB215, As Engrossed: a negative impact of (\$780,134) through the biennium ending August 31, 2015.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2014	(\$434,267)
2015	(\$345,867)
2016	(\$394,267)
2017	(\$345,867)
2018	(\$394,267)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund
	1
2014	(\$434,267)
2015	(\$345,867)
2016	(\$394,267)
2017	(\$345,867)
2018	(\$394,267)

Fiscal Year	Change in Number of State Employees from FY 2013
2014	4.0
2015	4.0
2016	4.0
2017	4.0
2018	4.0

Fiscal Analysis

The Texas Higher Education Coordinating Board (Coordinating Board) is subject to the Sunset Act and will be abolished on September 1, 2013 unless continued by the Legislature. The bill contains the following provisions.

Requires the Coordinating Board to provide opportunities for public comment at each board meeting.

Requires the Coordinating Board to adopt rules for its use of advisory committees, ensuring the committees meet standard structure and operating criteria, and report recommendations directly to the board.

Requires the Coordinating Board to strengthen its internal controls for allocating financial aid funding and ensure stakeholder input by adopting allocation methodologies in rule.

Redefines the Coordinating Board's powers and duties in statute to reflect the major functions of a higher education coordinating entity, including repealing outdated subsections of the Education Code and moves other subsections to new sections of law.

Combines long-range planning requirements for higher education in statute.

Updates the Coordinating Board's statute to define its academic program approval authority in one section of law.

Eliminates 20 unfunded programs from statute.

Eliminates certain reporting requirements.

Requires the Coordinating Board to periodically re-evaluate the ongoing need for all existing data requests it imposes on higher education institutions through rule or policy.

Provides for the Coordinating Board to administer pilot projects to identify best practices only in circumstances where other entities cannot or will not administer the programs.

Removes all two-year institutions from participation in the B-On-Time loan program.

Requires the Coordinating Board, if required by statute to consult or cooperate with institutions of higher education in the development of a policy, procedure, or rule, the board must engage the institution in a negotiated rulemaking process, before the policy, procedure, or rule make take effect.

Requires the Coordinating Board to establish a risk-based, agency-wide compliance monitoring function. In developing the risk-based approach, the Coordinating Board would be required to prioritize seven factors relating to an institution of higher education. Two factors include the amount of student financial assistance or grant funds allocated to the institution and whether the data reported by the institution is used for determining funding allocations. Under provisions of the bill, if the Coordinating Board determines through its compliance monitoring that an institution of higher education has included errors in the institution's data reported for formula funding, the Board, for a public junior college, may adjust the appropriations made to the college for a fiscal year as necessary to account for the corrected data. If the error is for a general academic teaching institution, a medical and dental university, or a public technical institute, the Coordinating Board shall calculate a revised appropriation amount and report this information to the Legislative Budget Board and governor for consideration as the basis for budget execution or other appropriate action, and to the comptroller. The Coordinating Board would be required to train compliance monitoring staff to ensure the staff has the ability to monitor both funds compliance and data reporting accuracy.

Requires the Coordinating Board to establish and administer a pilot program at selected postsecondary educational institutions to improve student loan default rates and financial aid literacy among postsecondary students. The board would select at least one institution from several categories of postsecondary educational institutions to participate in the program. In selecting institutions, the board shall give priority to those that have a student loan default rate of more than 20 percent or a negative trend in the institution's three-year student loan default rate. The board shall adopt rules for the administration of the pilot program and may contract with one or more entities to administer the pilot program. Not later than January 1 of each year, beginning in 2016, the board shall submit a report to the governor, the lieutenant governor and the speaker of the house of representatives regarding the outcomes of the pilot program, as reflected in the federal student loan default rates reported for the participating institutions.

Requires the Board to establish and publish the allocation methodologies and develop procedures to verify the accuracy of the application of those allocation methodologies by board staff for any funds trusted to the board for allocation to institutions of higher education, including financial aid program funds.

Continues the Texas Higher Education Coordinating Board for 12 years.

Methodology

Although the bill modifies eligibility requirements for the B-On-Time Program in regards to two year institutions participating in the program, based on information included in the Sunset Commission Report, B-On-Time amounts disbursed to students attending two year institutions was not significant compared to state appropriations for the program. Therefore any impact on general revenue funds tied to this provision is not considered significant to the state. The remaining provisions under the bill would be implemented within existing resources except for the new compliance function and the negotiated rulemaking process.

The Sunset Commission has estimated that the new compliance monitoring function would require the hiring of four additional FTEs. These FTEs include the hiring of one Auditor V at a cost for salaries and wages of \$69,552, one Auditor IV at a cost of \$60,750, one Auditor III at a cost of \$53,061 and one Auditor II at a cost of \$45,454 per year. Employee benefits associated with these four FTEs is estimated to be \$68,050. The Sunset Commission also estimated travel costs associated with conducting audits at institutions would be \$16,000 per year which would cover 10 audit trips per year, at a cost of \$400 per trip, or \$4,000 per auditor. The total cost of of \$312,867

per year is reflected in the tables above.

The Coordinating Board indicates that there will be costs related to hiring a third-party facilitator for the negotiated rulemakings. Under Government Code, Chapter 2008, a facilitator of a negotiated rulemaking session is required to have 40 hours of training. The Coordinating Board does not have an employee who meets these qualifications. The Coordinating Board indicates that there are at least 56 statutes that indicate that the Coordinating Board should consult with or cooperate with institutions of higher education in developing policies, rules, or procedures. Based on the current statutes and allowing for legislation in the current session, the Coordinating Board anticipates that 17 negotiated rulemakings (including three negotiated rulemakings involving formula funding for general academic institutions, health related institutions, and community colleges) would be required during fiscal year 2014. It is anticipated that only four negotiated rulemakings would be required during fiscal year 2015 as most of the rulemaking is done after the legislative session.

For purposes of this fiscal note, the standard rate used by the State Office of Administrative Hearings of \$100 per hour or \$800 per day will be used. For non-formula funding negotiated rulemaking, the Coordinating Board estimates that preparation by the facilitator would take 1.5 days and negotiation with the facilitator would take 3 days, resulting in a cost of \$3,600 per negotiated rulemaking. Based on these estimates the total costs for the 14 non-formula negotiated rule makings would be \$50,400 for fiscal year 2014. The four negotiated rulemakings in fiscal year 2015 would be \$14,400. Although it is unknown how many negotiated rulemakings would be needed in future years, for purposes of this fiscal note, it is assumed similar costs will occur in fiscal year 2016 through 2018.

For the three formula funding negotiated rulemakings, the Coordinating Board estimates the facilitator would require two and one-half days of initial preparation for each formula funding sector or 7.5 days of initial preparation. The facilitator would require 38 days of negotiation with the parties which would include 20 meetings of general academic institutions for a total of 20 days, 8 meetings of health related institutions for a total of nine days, and 8 meetings of community colleges for a total of nine days. The facilitator will require one-half day of preparation before each meeting after the initial meeting or 16.5 days. Total costs based on 62 days is \$49,600. Formula funding negotiations traditionally commence in August of odd-numbered years and conclude in March of even-numbered years. Generally, five-eighths of the meetings occur in odd-numbered years and three-eighths of the meetings occur in even-numbered years. As a result, the \$49,600 in biennial costs would break out to \$31,000 for the first year of the biennium and \$18,600 for the second year of the biennium.

Technology

It is assumed that there will be a one time technology cost of \$10,000 per FTE in fiscal year 2014 only.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 360 State Office of Administrative Hearings, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration, 758 Texas State University System, 768 Texas Tech University System

Administration, 769 University of North Texas System Administration, 781
Higher Education Coordinating Board, 783 University of Houston System
Administration

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