

SENATE AMENDMENTS

2nd Printing

By: Flynn, Alvarado, Perry, Martinez Fischer,
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;

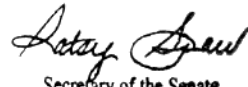
1 (6) the average compensation paid to employees
2 employed by the agency who are not executive staff; and

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.

ADOPTED

MAY 21 2013


Secretary of the Senate

By: Flynn/Zaffirini

H.B. No. 12

SUBSTITUTE THE FOLLOWING FOR H.B. No. 12:

By: Zaffirini

C.S.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, 659.0202, and 659.026 to
9 read as follows:

10 Sec. 659.0201. GIFTS, GRANTS, AND DONATIONS FOR SALARY
11 SUPPLEMENT; REPORTING. (a) In this section, "state agency"
12 means a board, commission, department, institute, office, or
13 other agency in the executive branch of state government that is
14 created by the constitution or a statute of this state, not
15 including an institution of higher education as defined by
16 Section 61.003, Education Code.

17 (b) The state agency shall post on the agency's Internet
18 website in accordance with the schedule and in the manner
19 required by the state auditor:

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

23 (2) the methodology, including any employment market
24 analysis, the person described by Subsection (b) used to

1 determine the amount the person provided for the salary
2 supplement.

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

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

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

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

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

20 (f) Each state agency receiving a gift, grant, donation,
21 or other consideration from a person to be used as a salary
22 supplement shall report the following information to the state
23 auditor in the form determined by the state auditor:

24 (1) whether the person making the gift, grant, or
25 donation or providing other consideration to the state agency is
26 an individual or an entity;

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

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

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

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

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

15 (g) The state auditor shall compile the information
16 received under Subsection (f) into a report and submit the
17 report to the legislature.

18 Sec. 659.0202. GIFTS, GRANTS, AND DONATIONS TO
19 INSTITUTIONS OF HIGHER EDUCATION FOR SALARY SUPPLEMENT. (a) In
20 this section:

21 (1) "Institution of higher education" has the meaning
22 assigned by Section 61.003, Education Code.

23 (2) "Gift" includes a gift, grant, donation, or other
24 consideration.

25 (b) An institution of higher education may not accept a
26 gift, including a gift for the support of a professorship,
27 chair, or similar position, if the terms of the gift require

1 that it be used to support the salary of a named individual.

2 (c) An employee of an institution of higher education may
3 not accept any payment made directly to the employee that is:

4 (A) compensation for the performance of the
5 employee's duties on behalf of institution; and

6 (B) not accounted for by the institution or otherwise
7 subject to oversight by the institution.

8 Sec. 659.026. INFORMATION REGARDING STAFF COMPENSATION.

9 (a) In this section:

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

13 (2) "Executive staff" means:

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

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

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

27 (b) A state agency shall make available to the public by

1 posting on the agency's Internet website:

2 (1) the number of full-time equivalent employees
3 employed by the agency;

4 (2) the amount of legislative appropriations to the
5 agency for each fiscal year of the current state fiscal
6 biennium;

7 (3) the agency's methodology, including any
8 employment market analysis, for determining the compensation of
9 executive staff employed by the agency, along with the name of
10 the person and the person's position who selected the
11 methodology;

12 (4) whether executive staff are eligible for a salary
13 supplement;

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

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

18 (7) the percentage increase in compensation of
19 executive staff for each fiscal year of the five preceding
20 fiscal years and the percentage increase in legislative
21 appropriations to the agency each fiscal year of the five
22 preceding fiscal years.

23 SECTION 2. Section 659.0202, Government Code, as added by
24 this Act, applies only to gifts accepted on or after the
25 effective date of this Act.

26 SECTION 3. This Act takes effect immediately if it
27 receives a vote of two-thirds of all the members elected to each

1 house, as provided by Section 39, Article III, Texas
2 Constitution. If this Act does not receive the vote necessary
3 for immediate effect, this Act takes effect September 1, 2013.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 22, 2013

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB12 by Flynn (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.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code, Chapter 659 to require a state agency to post information on online regarding the amount of supplement donated and the methodology, including market analysis, to determine amount of supplement donated. The bill would require agencies to adopt rules relating to conflict of interest provisions on accepting gifts for salary supplements and post those rules on agency websites.

The bill would require state agencies to report to the State Auditor information on whether a donor is an individual or entity; what type of entity, including nonprofit status and classification by the Internal Revenue Service. The bill would require the State Auditor's Office to develop a schedule and form for the required information posting and to compile a report to the Legislature on gift and donor information submitted by agencies.

The bill would prohibit institutions of higher education from accepting a gift to support a professorship or similar position if the terms require it to be used for a named individual. An institution employee would be prohibited from accepting payment directly if it is for compensation related to the employee's duties at the institution and it is not accounted for or subject to oversight by the institution.

The bill would require agencies to post on agency websites information relating to staffing and salaries, including the number of employees employed by the agency, appropriations, compensation methodology for executive staff, and the average compensation of non-executive staff.

The changes made to requirements for institutions of higher education only apply to gifts accepted on or after the effective date of the bill. The bill 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 the bill does not receive the vote necessary for immediate effect, it takes effect September 1, 2013.

Multiple agencies including the Office of the Attorney General, the Office of the Governor, the Cancer Prevention and Research Institute, the Comptroller of Public Accounts, the Health and Human Services Commission, the Railroad Commission, the Department of Agriculture, the Texas

Department of Insurance, the Texas Workforce Commission, and the State Auditor's Office anticipate any additional work resulting from the passage of the bill could be reasonably absorbed within current resources. For institutions of higher education, the Texas A&M University System and the University of Texas System anticipate any additional work resulting from the passage of the bill could be reasonably absorbed within current resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 301 Office of the Governor, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 308 State Auditor's Office, 320 Texas Workforce Commission, 455 Railroad Commission, 529 Health and Human Services Commission, 542 Cancer Prevention and Research Institute of Texas, 551 Department of Agriculture, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration

LBB Staff: UP, SD, KJo, JI, JJO, JP, CK, NV, MW, EMo, ES

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 18, 2013

TO: Honorable Judith Zaffirini, Chair, Senate Committee on Government Organization

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB12 by Flynn (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.), **Committee Report 2nd House, Substituted**

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would amend the Government Code, Chapter 659 to require a state agency to post information on online regarding the amount of supplement donated and the methodology, including market analysis, to determine amount of supplement donated. The bill would require agencies to adopt rules relating to conflict of interest provisions on accepting gifts for salary supplements and post those rules on agency websites.

The bill would require state agencies to report to the State Auditor information on whether a donor is an individual or entity; what type of entity, including nonprofit status and classification by the Internal Revenue Service. The bill would require the State Auditor's Office to develop a schedule and form for the required information posting and to compile a report to the Legislature on gift and donor information submitted by agencies.

The bill would prohibit institutions of higher education from accepting a gift to support a professorship or similar position if the terms require it to be used for a named individual. An institution employee would be prohibited from accepting payment directly if it is for compensation related to the employee's duties at the institution and it is not accounted for or subject to oversight by the institution.

The bill would require agencies to post on agency websites information relating to staffing and salaries, including the number of employees employed by the agency, appropriations, compensation methodology for executive staff, and the average compensation of non-executive staff.

The changes made to requirements for institutions of higher education only apply to gifts accepted on or after the effective date of the bill. The bill 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 the bill does not receive the vote necessary for immediate effect, it takes effect September 1, 2013.

Multiple agencies including the Office of the Attorney General, the Office of the Governor, the Cancer Prevention and Research Institute, the Comptroller of Public Accounts, the Health and Human Services Commission, the Railroad Commission, the Department of Agriculture, the Texas

Department of Insurance, the Texas Workforce Commission, and the State Auditor's Office anticipate any additional work resulting from the passage of the bill could be reasonably absorbed within current resources. For institutions of higher education, the Texas A&M University System and the University of Texas System anticipate any additional work resulting from the passage of the bill could be reasonably absorbed within current resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 301 Office of the Governor, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 308 State Auditor's Office, 320 Texas Workforce Commission, 455 Railroad Commission, 529 Health and Human Services Commission, 542 Cancer Prevention and Research Institute of Texas, 551 Department of Agriculture, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration

LBB Staff: UP, KJo, JI, JJO, JP, CK, NV, MW, EMo, ES

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 16, 2013

TO: Honorable Judith Zaffirini, Chair, Senate Committee on Government Organization

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB12 by Flynn (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.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB12, As Engrossed: a negative impact of (\$288,000) 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	(\$198,000)
2015	(\$90,000)
2016	(\$90,000)
2017	(\$90,000)
2018	(\$90,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2013
2014	(\$198,000)	1.4
2015	(\$90,000)	0.6
2016	(\$90,000)	0.6
2017	(\$90,000)	0.6
2018	(\$90,000)	0.6

Fiscal Analysis

The bill would amend the Government Code to prohibit a state agency from accepting a gift to supplement an employee's salary unless certain criteria are met. The bill would require a state

agency to post information on online regarding the amount of supplement donated and the methodology, including market analysis, to determine amount of supplement donated. The bill would require agencies to adopt rules relating to conflict of interest provisions on accepting gifts for salary supplements and post those rules on agency websites.

The bill would require state agencies to report to the State Auditor information on whether a donor is an individual or entity; what type of entity, including nonprofit status and classification by the Internal Revenue Service. The bill would require the State Auditor's Office to develop a schedule and form for the required information posting and to compile a report to the Legislature on gift and donor information submitted by agencies. The bill would require agencies to post on agency websites information relating to staffing and salaries, including the number of employees employed by the agency, appropriations, compensation methodology for executive staff, and the average compensation of non-executive staff. The bill takes effect immediately if it receives a vote of two-thirds of all the members elected to each house. Otherwise, it takes effect September 1, 2013.

Methodology

The State Auditor's Office (SAO) estimated the total cost to comply with the provisions of the bill would be \$198,000 in General Revenue in fiscal year 2014 and \$90,000 in General Revenue in subsequent fiscal years. The SAO indicates that receiving and reporting information relating to agency salary supplement gifts and related donor information would require the development of a new automated system. The agency indicates that the system would need to have the capability to be queried and to send reminder emails to entities who have not submitted the required information and to produce reports. SAO estimates that initial development of reporting guidelines and the development of the new system would require 1,200 hours to complete. Based on the agency's current billing rate of \$90 per hour, this would total \$108,000 for fiscal year 2014. Additionally, SAO estimates it would take 1,000 hours per year, beginning in fiscal year 2014, to assist agencies in reporting the required information, to maintain the automated reporting system, and to compile and produce a report on an annual basis, with an estimated cost of \$90,000 per year, beginning in fiscal year 2014. These costs include the addition of 1.4 auditor positions and salary costs of \$127,600 in fiscal year 2014 and \$58,000 and 0.6 FTEs in subsequent fiscal years.

A sample of agencies including the Office of the Attorney General, the Cancer Prevention and Research Institute, the Comptroller of Public Accounts, the Health and Human Services Commission, the Railroad Commission, the Department of Agriculture, the Texas Department of Insurance, and the Texas Workforce Commission anticipate any additional work resulting from the passage of the bill could be reasonably absorbed within current resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 308 State Auditor's Office, 320 Texas Workforce Commission, 455 Railroad Commission, 529 Health and Human Services Commission, 542 Cancer Prevention and Research Institute of Texas, 551 Department of Agriculture

LBB Staff: UP, KJo, JI, JJO, JP, CK, NV, MW, EMo, ES

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 30, 2013

TO: Honorable Carol Alvarado, Chair, House Committee on Transparency in State Agency Operations, Select

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB12 by Flynn (Relating to gifts made to a state agency for a state employee salary supplement.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code, Chapter 659 to prohibit a state agency from accepting a gift to supplement an employee's salary unless certain criteria are met. The bill would also require both the state agency and the donor to post information on online regarding the amount of supplement donated and the methodology, including market analysis, to determine amount of supplement donated. The bill would require the State Auditor's Office to develop a schedule and form for the required information posting.

The bill 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 the bill does not receive the vote necessary for immediate effect, it takes effect September 1, 2013.

Multiple agencies including the Office of the Attorney General, the Office of the Governor, the Cancer Prevention and Research Institute, the Comptroller of Public Accounts, the Health and Human Services Commission, the Railroad Commission, the Department of Agriculture, the Texas Department of Insurance, the Texas Workforce Commission, and the State Auditor's Office anticipate any additional work resulting from the passage of the bill could be reasonably absorbed within current resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 301 Office of the Governor, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 308 State Auditor's Office, 320 Texas Workforce Commission, 455 Railroad Commission, 529 Health and Human Services Commission, 542 Cancer Prevention and Research Institute of Texas, 551 Department of Agriculture

LBB Staff: UP, KJo, JI, JJO, JP, CK, NV, MW, EMo, ES