

**House Bill 12**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

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 may not accept a gift, grant, donation, or other consideration from a person, including a foundation or other entity, to be used as a salary supplement for an employee of the agency unless the person provides the agency with the methodology, including any employment market analysis, the person used to determine the amount provided for the salary supplement.

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

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

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

(c-1) The state agency 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 agency shall post the conflict of interest provisions on the agency's Internet

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SECTION 1. Subchapter B, Chapter 659, Government Code, is amended by adding Sections 659.0201, 659.0202, 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, **not** including an institution of higher education as defined by Section 61.003, Education Code.

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

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

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

(c) The state agency 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 agency shall post the conflict of interest provisions on the agency's Internet

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website.

(d) If the person making a gift, grant, or donation or providing other consideration to the state agency 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; and

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

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

(f) Each state agency receiving a gift, grant, donation, or other consideration from a person 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 whether

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website.

(d) If the person making a gift, grant, or donation or providing other consideration to the state agency 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; and

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

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

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

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they are used to provide salary supplements for agency employees.

(g) The state auditor shall compile the information received under Subsection (f) 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

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they are used to provide salary supplements for agency employees.

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

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

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

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

(b) An institution of higher education may not accept a gift, including a gift for the support of a professorship, chair, or similar position, if the terms of the gift require that it be used to support the salary of a named individual.

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

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

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

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

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governing body of a state agency or by another state officer to act as the chief executive 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 Subdivision (2)(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) At the time and in the manner provided by the state auditor, 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 of the person and the person's position 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

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governing body of a state agency or by another state officer to act as the chief executive 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 Subdivision (2)(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 of the person and the person's position 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

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each fiscal year of the five preceding fiscal years.

No equivalent provision.

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.

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each fiscal year of the five preceding fiscal years.

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

SECTION 3. Same as House version.

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