

## **BILL ANALYSIS**

Senate Research Center  
85R3959 KEL-D

S.B. 1781  
By: West  
Higher Education  
4/10/2017  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Texas Higher Education Coordinating Board is charged with the oversight of certain career colleges. These institutions will play an important role in meeting the goals of 60x30TX. While most of these institutions are stable and reputable, students at some of these schools fall victim to sudden closures due to mismanagement, financial weakness or other difficulties.

S.B. 1781:

Makes the agency's authority explicit, requiring compliance with accrediting bodies, federal financial rules, and state statutes and rules.

Clarifies the agency's ability to revoke certificates of authorization for cause.

Establishes the agency as the repository for student records of closed career colleges.

Provides resources necessary to maintain the repository.

Between 2008 and 2014, the number of students attending career colleges in Texas increased by 230 percent. Since 2012, 57 career colleges operating in Texas have closed.

As proposed, S.B. 1781 amends current law relating to the regulation of certain degree-granting postsecondary educational institutions by the Texas Higher Education Coordinating Board, and provides administrative penalties.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Higher Education Coordinating Board in SECTION 2 (Section 61.303, Education Code) and SECTION 3 (Section 61.3075, Education Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter G, Chapter 61, Education Code, by adding Section 61.3025, as follows:

Sec. 61.3025. DEFINITION: ACADEMIC RECORDS. (a) Defines "academic records."

(b) Provides that the term "academic records" includes a student's educational history but does not include medical records, alumni records other than educational history, human resources records, or criminal history record information or other law enforcement records.

SECTION 2. Amends Section 61.303, Education Code, as follows:

Sec. 61.303. EXEMPTIONS. (a) Provides that unless specifically provided otherwise, the provisions of this subchapter (Regulation of Private Postsecondary Educational Institutions) do not apply to an institution that is fully accredited by and in good standing with a recognized accrediting agency, or an institution or degree program that has

received approval by a state agency authorizing the institution's graduates to take certain licensing examinations administered by that agency. Makes nonsubstantive changes.

(b) Makes no changes to this subsection.

(c) Authorizes the Texas Higher Education Coordinating Board (THECB) to issue to an exempt institution or person a certificate of authorization to grant degrees. Authorizes THECB to adopt rules regarding a process to allow an exempt institution or person to apply for and receive a certificate of authorization under this section.

(d) Authorizes THECB, by rule, to require an exempt institution or person to ensure that the financial resources and financial stability of the institution or person are adequate to provide education of a good quality and to fulfill the institution's or person's commitments to its enrolled students and authorizes THECB to require the institution or person to provide to THECB documentation of the institution's or person's compliance with those requirements. Requires rules adopted under this subsection to:

(1) require the institution or person to maintain reserves, lines of credit, or surety instruments that, when combined with tuition and fee receipts, are sufficient to allow the institution or person to fulfill its educational obligations to its enrolled students if the institution or person is unable to admit new students in an academic year for any reason; and

(2) require that the financial resources maintained under Subdivision (1) be conditioned to allow only THECB to withdraw funds for the benefit of the institution's or person's enrolled students under the circumstance described by Subdivision (1).

(e) Authorizes THECB, by rule, to enable THECB to verify the conditions under which a certificate of authorization issued under this section is held, to require an exempt institution or person to report to THECB on a continuing basis other appropriate information in addition to the documentation required under Subsection (d).

(f) Provides that an exempt institution or person continues, rather than would continue, in that status only if the institution or person maintains, rather than so long as it is maintained, accreditation by, and remains in good standing with, a recognized accrediting agency or otherwise meets the provisions of Subsection (a). Makes a conforming change.

(g) Requires THECB, by rule, to provide for due process and to provide procedures for revoking or placing conditions on the exemption status of an institution or person or for revoking or placing conditions on a previously issued certificate of authorization.

(h) Authorizes THECB, under the rules described by Subsection (g), to revoke or place conditions on an institution's or person's exemption status or certificate of authorization only if THECB has reasonable cause to believe that the institution or person has violated this subchapter or any rule adopted under this subchapter.

(i) Requires THECB, before revoking or placing conditions on an institution's or person's exemption status or certificate of authorization under Subsection (h), to provide to the institution or person written notice of THECB's impending action and include the grounds for that action.

(j) Authorizes THECB, if THECB places conditions on an institution's or person's exemption status or certificate of authorization under Subsection (h), until THECB removes the conditions, to reexamine the applicable institution or person

at least twice annually following the date the board provided notice under Subsection (i)

(k) Redesignates existing Subsection (f) as Subsection (k) and makes no further changes to this subsection.

SECTION 3. Amends Subchapter G, Chapter 61, Education Code, by adding Section 61.3075, as follows:

Sec. 61.3075. **REQUIRED FINANCIAL RESOURCES.** Authorizes THECB by rule to require an institution operating under a certificate of authority, or seeking to operate under a certificate of authority, to ensure that the financial resources and financial stability of the institution are adequate to provide education of a good quality and to fulfill the institution's commitments to its enrolled students and to require the institution to provide THECB documentation of the institution's compliance with those requirements. Requires rules adopted under this subsection to:

(1) require the institution to maintain reserves, lines of credit, or surety instruments that, when combined with tuition and fee receipts, are sufficient to allow the institution to fulfill its educational obligations to its enrolled students if the institution is unable to admit new students in an academic year for any reason; and

(2) require that the financial resources maintained under Subdivision (1) be conditioned to allow only THECB to withdraw funds for the benefit of the institution's enrolled students under the circumstance described by Subdivision (1).

SECTION 4. Amends Section 61.315, Education Code, as follows:

Sec. 61.315. New heading: **AGENTS AND RECORDS; ACADEMIC RECORDS REPOSITORY.** (a) Creates this subsection from existing text. Authorizes the authorized or certified institutions to be required to provide a list of their agents to THECB, and to maintain in a manner specified by THECB the academic records of enrolled or former students, rather than students enrolled, including records of credits and degrees awarded, rather than of credits awarded, and provide those records to THECB on request. Makes nonsubstantive changes.

(b) Authorizes THECB to maintain a repository for academic records from closed institutions that were exempt or were authorized to operate under a certificate of authorization or certificate of authority. Authorizes THECB to discontinue its maintenance of the repository if adequate funding is not provided for that maintenance. Provides that the academic records repository is considered to be a repository of last resort. Requires a system or corporation, if a closed institution is part of a larger educational system or corporation, to maintain the academic records. Requires the institution responsible for accepting the transferring students, if students of the closed institution transfer to another institution through an agreement between the institutions to continue the students' degree programs, to maintain those academic records.

SECTION 5. Amends Section 61.316, Education Code, by adding Subsection (e-1), as follows:

(e-1) Requires any authorized or certified institution that fails to maintain in a manner specified by THECB the academic records of enrolled or former students, including records of credits and degrees awarded, or that fails to protect the personally identifiable information of enrolled or former students to be assessed an administrative penalty of not less than \$100 or more than \$500 for each student whose academic record was not maintained or whose personally identifiable information was not protected.

SECTION 6. Requires THECB to adopt the rules required by Subchapter G, Chapter 61, Education Code, as amended by this Act, as soon as practicable after the effective date of this Act.

SECTION 7. Effective date: September 1, 2017.