

## **BILL ANALYSIS**

Senate Research Center  
88R8181 MM-D

S.B. 18  
By: Creighton et al.  
Subcommittee on Higher Education  
3/29/2023  
As Filed

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

#### Background:

- Academic tenure refers to an educator's employment status within a higher education institution. Tenure provides a lifetime contract between a professor and an institution.
- When a professor has gained tenure, he or she can only be terminated for a justifiable cause or under extreme circumstances, such as program discontinuation or severe financial restraints.
- Section 51.942 of the Texas Education Code instructs the governing boards of postsecondary institutions to adopt policies regarding periodic performance evaluation of all tenured faculty.
- Institutional tenure policies shall also include the following provisions:
  - Each tenured faculty member is subject to a comprehensive performance evaluation at least once every six years.
  - The performance evaluation must be based on professional responsibilities, research, and service. Evaluation must include a peer review of the faculty member.
  - List of due process rights concerning notice, scope of evaluation, opportunity to submit documentation, and an opportunity for a hearing of subject to disciplinary action.
  - Faculty members are subject to repeal of tenure if "incompetency, neglect of duty, or other good cause is determined to be present."
- Concerns have been raised that there are few incentives for professors to work hard once tenure is attained. Also, when tenured faculty do not retire because they have lifetime contracts, they potentially block younger faculty and staff from bringing in fresh ideas to keep pace with changing times.

#### Bill Proposal:

- S.B. 18 will not allow institutions of higher education to grant tenure or any type of permanent employment status starting on September 1, 2023.
  - This provision would not apply to employees who have tenure before September 1, 2023.

As proposed, S.B. 18 amends current law relating to tenure and employment status at public institutions of higher education in this state.

## **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

## **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter Z, Chapter 51, Education Code, by adding Section 51.9415, as follows:

Sec. 51.9415. TENURE AND FACULTY EMPLOYMENT STATUS. (a) Defines "institution of higher education."

(b) Prohibits an institution of higher education from granting an employee of the institution tenure or any type of permanent employment status.

(c) Provides that Subsection (b) does not apply to a faculty member or other employee of the institution of higher education who is employed by or under contract for employment with the institution on September 1, 2023, and who was awarded tenure or any type of permanent employment status by the institution before September 1, 2023, provided that the person remains continuously employed or continuously under a contract of employment beginning September 1, 2023.

(d) Provides that this section does not prohibit the board of regents of an institution of higher education from establishing an alternate system of tiered employment status for faculty members provided that the system clearly defines each position and requires each faculty member to undergo an annual performance evaluation.

SECTION 2. Amends Section 21.801(d), Education Code, as follows:

(d) Requires the public institution of higher education to:

(1)-(2) makes no changes to these subdivisions;

(3) provide institutional support of faculty who work with the teacher residency program by providing time to teach the courses, rather than by providing time to teach the courses and valuing the faculty's contributions with rewards in the university tenure process; and

(4) makes no change to this subdivision.

SECTION 3. Amends Section 51.943(c), Education Code, as follows:

(c) Provides that an institution of higher education, for the purposes of Section 51.943 (Renewal of Faculty Employment Contracts), is not required to provide an annual contract to tenured faculty, but is required to provide tenured faculty with written notification of any change in a term of employment according to the policies of the institution, but no later than the 30th day prior to the change.

Deletes existing text providing that for the purposes of this section, an institution of higher education is not required to provide an annual contract to tenure or tenure-track faculty, but is required to provide tenure and tenure-track faculty with any written notification required in the institution's tenure policy of a change in a term of employment according to the policies of the institution, but no later than the 30th day prior to the change.

SECTION 4. Amends Section 51.948(b), Education Code, as follows:

(b) Deletes existing text prohibiting a contract entered into by a governing board under Section 51.948 (Restrictions on Contracts with Administrators) from awarding tenure in any way that varies from the institution's general policy on the award of tenure. Makes nonsubstantive changes.

SECTION 5. Amends Section 51.9745(a), Education Code, as follows:

(a) Requires each general academic teaching institution, as defined by Section 61.003 (Definitions), to make available to the public on the institution's Internet website the following information for the institution:

(1) makes no changes to this subdivision;

(2) the percentage of all full-time equivalent faculty members with teaching responsibility who are tenured, rather than tenured or tenure track;

(3)-(4) makes conforming changes to these subdivisions;

(5)-(7) makes no changes to these subdivisions;

(8) makes conforming changes to these subdivisions; and

(9)-(11) makes no changes to these subdivisions.

SECTION 6. Amends Section 51A.053(c), Education Code, to make a conforming change.

SECTION 7. Amends Section 61.057, Education Code, as follows:

Sec. 61.057. PROMOTION OF TEACHING EXCELLENCE. Deletes existing text requiring the Texas Higher Education Coordinating Board (THECB), to achieve excellence in the teaching of students at institutions and agencies of higher education, to develop and recommend minimum standards for tenure.

SECTION 8. Amends Section 61.0902(b), Education Code, as follows:

(b) Deletes existing text requiring each general academic teaching institution, not later than the next November 1 following the completion of an academic year, to provide to THECB one or more reports containing data related to student performance and institution efficiency, including the percentage of lower-division semester credit hours taught by tenure-track faculty.

SECTION 9. Amends Section 142.001(3), Education Code, to redefine "faculty member."

SECTION 10. Amends Section 142.001(5), Education Code, to redefine "faculty member."

SECTION 11. Repealer: Section 51.942(f) (relating to prohibiting a governing board from awarding tenure to an administrator in any way that varies from the general policy), Education Code.

SECTION 12. Effective date: September 1, 2023.