

BILL ANALYSIS

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S.B. 2335
By: Middleton; Creighton
Subcommittee on Higher Education
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas's institutions of higher education are all currently accredited through a private educational assistance organization known as Southern Association of Colleges and Schools Commission on Colleges or SACs COC. When at their best, accreditors serve to create a framework allowing for institutions to transfer their courses amongst themselves and receive federal funds while knowing that the institutions meet their academic standards. Many accreditation agencies have strayed from their core mission, which has led to decreased outcomes for the students, and less services provided to the institutions.

S.B. 2335 would create the Texas Higher Education Accreditation Commission (THEAC), which is comprised of nine members with three appointees each from the governor, lieutenant governor, and speaker of the house of representatives. Each member would serve a four-year term and would serve at the will of the official who appointed them. The governor would appoint an additional member to serve as the presiding officer of the commission.

THEAC would be charged with conducting an evaluation of all approved accrediting agencies. They may classify an accreditor in three categories:

1. Exemplary, which an institution may use as long as the accreditor retains the status;
2. Satisfactory, which would require the institution to seek a new accreditor after 15 years; and
3. Unsatisfactory, which would require the institution to seek a new accreditor before the date of their current accreditor expires.

Institutions that fail to comply with THEAC's recommendations will be required to be notified, and given six months before state funding is withheld from the offending institution.

As proposed, S.B. 2335 amends current law relating to the accreditation of public institutions of higher education and provides a private cause of action.

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 Chapter 51, Education Code, by adding Subchapter G-1, as follows:

SUBCHAPTER G-1. ACCREDITATION OF INSTITUTIONS OF HIGHER EDUCATION

Sec. 51.371. DEFINITIONS. Defines "accrediting agency," "commission," and "institution of higher education."

Sec. 51.372. TEXAS HIGHER EDUCATION ACCREDITATION COMMISSION. (a) Provides that the Texas Higher Education Accreditation Commission (THEAC) is an independent state agency directly accountable to the governor.

(b) Provides that THEAC is composed of nine members of the public appointed as follows:

(1) three members appointed by the governor;

(2) three members appointed by the lieutenant governor; and

(3) three members appointed by the speaker of the house of representatives.

(c) Requires at least two of the three THEAC members appointed under Subsections (b)(1), (b)(2), and (b)(3) to be an employer or representative of an association of employers in a target occupations field, as determined by the Texas Workforce Commission.

Sec. 51.373. APPROVAL AND REVIEW OF ACCREDITING AGENCIES. (a) Requires THEAC to identify and approve at least three accrediting agencies best suited to serve as accreditors for institutions of higher education.

(b) Requires THEAC to conduct a biennial evaluation of approved accrediting agencies. Requires that the evaluation rate each agency as unsatisfactory, satisfactory, or exemplary based on evaluation standards established by THEAC. Requires THEAC to publish the evaluation standards in a manner that is easily accessible to the general public.

(c) Requires that THEAC's evaluation of each approved accrediting agency include an assessment of:

(1) educational and labor market outcomes for students attending an institution accredited by the agency, including:

(A) the percentage of students who return to the accredited institution after completing their first year of study;

(B) degree or credential completion and graduation rates;

(C) the percentage of institution graduates employed in a field related to the credential or degree received within one year of graduation, to the extent that data is available;

(D) the median student loan debt among borrowers attending the institution;

(E) the percentage of students at each accredited institution who fully repay their student loans within the standard 10-year repayment period; and

(F) the median earnings of institution graduates expressed as a yearly amount and as a percentage of median student debt among borrowers, as reported by the U.S. Department of Education's College Scorecard or successor tool; and

(2) whether the agency takes or considers taking action with respect to an institution's accreditation in a manner that would hinder or interfere with the authority of the institution's governing board and the institution's accountability to the legislature.

(d) Requires THEAC, not later than November 1 of each even-numbered year, to submit a report of the evaluation made under this section to the governor, lieutenant governor, speaker of the house of representatives, Legislative Budget

Board, and chairs of the standing committees of each house of the legislature with primary jurisdiction over higher education. Requires that the report include a ranking of the performance of approved accrediting agencies and information on any accrediting agency THEAC determines should no longer be approved due to poor performance.

Sec. 51.374. ACCREDITATION OF INSTITUTIONS OF HIGHER EDUCATION. (a) Requires each institution of higher education, at the institution's expense, to seek accreditation by an accrediting agency approved by THEAC with a performance rating of satisfactory or higher.

(b) Requires an institution of higher education accredited by an accrediting agency that receives an unsatisfactory performance rating from THEAC, at the institution's expense, to obtain accreditation from a different approved accrediting agency with at least a satisfactory performance rating as of the date the institution's current accreditation expires.

(c) Requires an institution of higher education accredited by an accrediting agency with a satisfactory performance rating, at the institution's expense, to obtain accreditation from a different approved accrediting agency at the institution's next accreditation renewal date after 15 years have elapsed from the date of the institution's current accreditation.

(d) Requires an institution of higher education accredited by an accrediting agency with an exemplary performance rating, at the institution's expense, to obtain accreditation from a different approved accrediting agency at the institution's next accreditation renewal date after 20 years have elapsed from the date of the institution's current accreditation.

(e) Prohibits an institution of higher education, notwithstanding any other law, from receiving any state funding for a state fiscal year following a state fiscal year in which the Texas Higher Education Coordinating Board determines that the institution has not substantially complied with the requirements of this section.

Sec. 51.375. CAUSE OF ACTION. Authorizes an institution of higher education that is adversely impacted by retaliatory action taken against the institution by an accrediting agency to bring an action against the accrediting agency in a court of competent jurisdiction and to be awarded liquidated damages up to the amount of federal financial aid received by the institution in the most recent academic year, court costs, and reasonable attorney's fees.

SECTION 2. (a) Requires the governor, lieutenant governor, and speaker of the house of representatives, as soon as practicable after the effective date of this Act, to appoint the members to THEAC as provided by Section 51.372, Education Code, as added by this Act.

(b) Requires THEAC established under Subchapter G-1, Chapter 51, Education Code, as added by this Act, to identify and approve accrediting agencies as required by Section 51.373(a), Education Code, as added by this Act, not later than September 1, 2024.

SECTION 3. Effective date: September 1, 2023.