

BILL ANALYSIS

Senate Research Center
89R31926 CXP-F

C.S.H.B. 127
By: Wilson et al. (Hughes)
Education K-16
5/25/2025
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Foreign adversaries maintain close ties with tier-one universities in Texas. In the past two decades, colleges have received close to \$2 billion from hostile nations. These connections often result in the theft of innovative research and economic espionage. Such actions threaten the integrity of Texas' educational institutions and undermine national security.

H.B. 127 establishes several key provisions to protect the integrity of universities. A few of which are establishing a Higher Education Security Council, regulating gifts and donations, prohibiting contracts with foreign adversary companies, creating contract evaluation measures, and establishing standards of investigation for potential infractions. Noncompliance of a university would result in civil penalties or a second-degree felony, depending on the action.

The bill amends:

- Subchapter Z, Chapter 51, Education Code, by adding Section 51.957.
- Subtitle A, Title 3, Education Code, by adding Chapter 51B.
- Section 31.05 (c), Penal Code.

(Original Author's/Sponsor's Statement of Intent)

C.S.H.B. 127 amends current law relating to measures to protect institutions of higher education from foreign adversaries and to the prosecution of the criminal offense of theft of trade secrets and increases a criminal penalty.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Higher Education Coordinating Board in SECTION 2 (Section 51B.002, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter Z, Chapter 51, Education Code, by adding Section 51.957, as follows:

Sec. 51.957. HIGHER EDUCATION RESEARCH SECURITY COUNCIL. (a) Defines "council," "governing board," "institution of higher education," "private or independent institution of higher education," "public junior college," "public technical institute," "university system," "postsecondary educational institution," and "private or independent tier one research institution."

(b) Provides that the Higher Education Research Security Council (council) is established to promote secure academic research at postsecondary educational institutions while mitigating the risk of foreign espionage and interference.

(c) Provides that the council is composed of the following members:

(1) one research security officer appointed by the governing board of each university system;

(2) one additional research security officer appointed by each governing board of a university system that oversees one or more medical schools, as defined by Section 61.501 (Definitions), if the governing board elects to make that additional appointment;

(3) one research security officer appointed by the governing board of Texas Southern University; and

(4) one research security officer appointed by each private or independent tier one research institution that elects to participate in the council.

(d) Provides that a council member appointed under Subsection (c)(2) or (4) serves as a nonvoting member.

(e) Provides that a council member serves at the will of the person who appointed the member.

(f) Requires that a vacancy on the council be filled in the same manner as the original appointment.

(g) Requires the council member appointed under Subsection (c)(1) for The Texas A&M University System to serve as the initial presiding officer of the council.

(h) Requires the council to fulfill certain duties.

(i) Requires the council to meet at least once each quarter.

(j) Requires that a meeting conducted under Subsection (i) be in person or by video conference call, as determined by the presiding officer.

(k) Requires the council to prepare and submit to the governor, the Office of the Attorney General, and the presiding officer of each legislative committee with primary jurisdiction over higher education an annual report on the status of research security at postsecondary educational institutions and any associated recommendations.

(l) Provides that, unless otherwise approved by the council for dissemination to postsecondary educational institutions, information produced by the council under Subsection (h) is confidential and is not subject to disclosure under Chapter 552 (Public Information), Government Code. Provides that a report submitted under Subsection (k) is confidential and is not subject to disclosure under Chapter 552, Government Code.

(m) Provides that the council is authorized to solicit and accept gifts, grants, and donations for purposes of this section but is prohibited from soliciting or accepting a gift, grant, or donation from an entity or country that meets certain criteria.

SECTION 2. Amends Subtitle A, Title 3, Education Code, by adding Chapter 51B, as follows:

CHAPTER 51B. HIGHER EDUCATION RESEARCH AND PROTECTION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 51B.001. DEFINITIONS. Defines "company," "coordinating board," "council," "foreign adversary," "foreign government," "foreign source," "gift," "institution of higher education," and "political party."

Sec. 51B.002. RULES. Requires the Texas Higher Education Coordinating Board (THECB) to adopt rules necessary to implement this chapter.

SUBCHAPTER B. REQUIREMENTS FOR GIFTS FROM AND CONTRACTS WITH FOREIGN ADVERSARIES AND CERTAIN COMPANIES

Sec. 51B.051. GIFT FROM FOREIGN ADVERSARY. (a) Prohibits an institution of higher education or employee of an institution of higher education, except as provided by Subsection (c), from accepting a gift the institution or employee knows is directly or indirectly offered from a foreign source of a foreign adversary unless the gift is of de minimis value, as determined by THECB rule in consultation with the council.

(b) Requires an institution of higher education to include the prohibition described by Subsection (a) in the institution's ethics policy and create a mechanism by which an employee of the institution is authorized to report being offered from a foreign source of a foreign adversary a gift prohibited by Subsection (a).

(c) Provides that an institution of higher education is authorized to accept a gift of more than de minimis value from a foreign source of a foreign adversary only if:

(1) the foreign source is an individual;

(2) the gift is determined by the institution's research security officer serving on the council not to be an indirect gift from a government of a foreign adversary;

(3) the institution uses the best practices adopted by the council under Section 51.957(h)(1)(B) (relating to requiring the council to identify best practices for a postsecondary educational institution to vet and approve any gift from an individual who is a citizen of a foreign adversary) to vet and approve the gift; and

(4) if the gift has a value of more than \$25,000, the gift is approved by the chief executive officer of the institution and disclosed to the council at an interval established by the council.

(d) Provides that a gift described by Subsection (c)(4) is not subject to disclosure under Chapter 552, Government Code, except as otherwise required by federal or state law.

(e) Requires each institution of higher education that submits reporting on foreign gift and contract disclosures to the United States Department of Education required under Section 117, Higher Education Act of 1965 (20 U.S.C. Section 1001 et seq.), to submit that reporting to THECB at the time when the institution is required to submit that reporting to the United States Department of Education.

(f) Requires THECB, not later than December 1 of each year, to submit to the governor, the lieutenant governor, and the speaker of the house of representatives a report detailing the information submitted by institutions of higher education under Subsection (e) for that year.

(g) Provides that information required to be reported under this section is not confidential except as otherwise provided by federal or state law or unless protected as a trade secret by federal or state law.

Sec. 51B.052. INVESTIGATION. (a) Requires an institution of higher education to investigate an alleged violation of this subchapter if the institution receives a complaint from a compliance officer of a state agency or the institution or a sworn complaint based on substantive information and reasonable belief.

(b) Authorizes an institution of higher education to request from any person records relevant to a reasonable suspicion of a violation of this subchapter.

Requires a person who receives a request under this subsection to produce the records not later than the 10th day after the date the person receives the request, unless the institution and the person agree to a later date.

SUBCHAPTER C. ACADEMIC PARTNERSHIPS AND STUDENT ASSOCIATIONS

Sec. 51B.101. DEFINITIONS. Defines "academic partnership," "benefit," and "student organization."

Sec. 51B.102. CERTAIN INTERNATIONAL ACADEMIC PARTNERSHIPS PROHIBITED. (a) Prohibits an institution of higher education from participating in an academic partnership with a foreign source of a foreign adversary, or an entity controlled by a foreign adversary, that meets certain criteria.

(b) Requires an institution of higher education, before entering into an academic partnership with a foreign source of a foreign adversary, to share the partnership with the council and omit information that may be confidential or proprietary. Authorizes the council to establish a process for reviewing an academic partnership under this section and best practices for institutions of higher education seeking to enter into an academic partnership. Authorizes the council, if the council determines that an academic partnership violates the prohibition under Subsection (a), to recommend that the institution not participate in the partnership.

(c) Requires the council, not later than December 1 of each year, to submit to the governor, the lieutenant governor, and the speaker of the house of representatives a report detailing the total number of academic partnerships that were entered into by institutions of higher education but not recommended for participation by the council in the 12 months preceding the date of the report.

Sec. 51B.103. PROHIBITIONS IN RELATION TO CERTAIN FOREIGN INFLUENCE ON STUDENT ORGANIZATION. (a) Prohibits a student organization at an institution of higher education from accepting a gift from a foreign adversary or an agent of a foreign adversary or entering into a contract or agreement with a foreign adversary or an agent of a foreign adversary under which the student organization receives financial support.

(b) Provides that Subsection (a) does not prohibit a student organization at an institution of higher education from accepting member dues or fees.

(c) Requires each student organization at an institution of higher education annually to certify to the institution the organization's compliance with Subsection (a).

(d) Prohibits an institution of higher education, notwithstanding Section 51.9315 (Protected Expression on Campus), from providing any benefit to a student organization that violates this section. Requires an institution of higher education that determines a student organization has violated this section to terminate the organization's recognition or registration, as applicable.

SUBCHAPTER D. SCREENING OF FOREIGN RESEARCHERS

Sec. 51B.151. SCREENING OF FOREIGN RESEARCHERS REQUIRED. (a) Requires an institution of higher education, before offering an applicant employment for a research or research-related support position at the institution or granting a person access to research data or activities or other sensitive data of the institution, to screen the applicant as provided by this subchapter if the person is a citizen of a foreign country and is not a permanent resident of the United States or is affiliated with an institution or program, or has at least one year of employment or training, in a foreign adversary, other than employment or training by an agency of the United States.

(b) Requires that a screening under this section include a background check to determine if the person has any ties to a foreign adversary that would prevent the person from being able to maintain the security or integrity of the institution of higher education and research data or activities or other sensitive data of the institution. Authorizes the council to establish a risk-based framework for the screening of a person under this subchapter.

(c) Requires an institution, if the institution of higher education procures a third party to conduct a background check under Subsection (b), to consult with DPS and the council in determining whether the third party is qualified to conduct a background check that meets the requirements of that subsection.

(d) Authorizes an institution of higher education to screen additional persons as provided by this subchapter for a position described by Subsection (a) at the institution's discretion.

(e) Authorizes an institution of higher education to waive the screening requirement under Subsection (a) for a person who possesses an active United States government security clearance issued by a federal agency.

Sec. 51B.152. EMPLOYMENT: REQUIRED MATERIALS. (a) Requires an institution of higher education to require a person subject to screening under Section 51B.151 to submit to the institution:

(1) if the person is a citizen of a foreign country, a copy of the person's passport and nonimmigrant visa application most recently submitted to the United States Department of State; and

(2) any additional information as determined by the council.

(b) Authorizes an institution of higher education to destroy or return to a person subject to screening under Section 51B.151 the copy of the person's nonimmigrant visa application submitted under Subsection (a)(1) after extracting all information relevant to the requirements of this subchapter.

Sec. 51B.153. RESEARCH SECURITY OFFICE. (a) Requires the chief administrative officer of an institution of higher education to establish a research security office to review the materials submitted to the institution by an applicant under Section 51B.152, take certain reasonable steps to verify the information in the submission, and take any other action the office considers appropriate.

(b) Authorizes a research security office established under this section to serve in an institutional or system-wide capacity.

(c) Authorizes an institution of higher education to direct the research security office to approve persons for hire using a risk-based determination that considers the nature of the research and the person's background and ongoing affiliations.

(d) Requires an institution of higher education to complete the requirements of this subchapter before hiring a person described by Section 51B.151(a) in a research or research-related support position or granting the person access to research data or activities or other sensitive data.

(e) Prohibits an institution of higher education from employing a person subject to screening under Section 51B.151 in a research or research-related support position if the person fails to disclose in the submission a substantial educational, employment, or research-related activity, publication, or presentation unless the applicable department head or the department head's designee certifies in writing the substance of the failure to disclose and the reasons for disregarding that

failure. Requires that a copy of the certification be kept in the investigative file of the research security office.

(f) Requires the research security office to report to any law enforcement agency designated by the governor or the institution of higher education's governing board the identity of a person who is rejected for employment based on the screening required by this subchapter or other risk-based screening.

SUBCHAPTER E. FOREIGN TRAVEL

Sec. 51B.201. FOREIGN TRAVEL. (a) Requires an institution of higher education to establish an international travel approval and monitoring program.

(b) Requires that the program establish a risk-based framework for employment-related foreign travel approval, including health, safety, and security factors.

(c) Requires a research security office to preapprove certain employment-related foreign travel according to the risk-based framework established under the program. Requires that the preapproval require a traveling employee to review and acknowledge guidance related to foreign adversaries or countries under sanctions or other restrictions by this state or the United States government.

(d) Requires a traveling employee to agree to comply with the institution of higher education's limitation on travel and activities abroad and all applicable federal laws.

Sec. 51B.202. MAINTENANCE OF RECORDS AND REPORT. (a) Requires an institution of higher education to maintain for at least three years, or any longer period of time required by applicable federal or state law, certain records relating to employment-related foreign travel to and activities involving a foreign adversary by a faculty member, researcher, or research department staff member of the institution.

(b) Requires an institution of higher education to annually submit to the institution's governing board a report on employment-related foreign travel by a faculty member, researcher, or research department staff member of the institution to a foreign adversary. Requires that the report list each traveler, foreign location visited, and foreign institution visited.

SUBCHAPTER F. FOREIGN ADVERSARY EDUCATION SOFTWARE

Sec. 51B.251. REVIEW OF EDUCATION SOFTWARE. (a) Requires the council, in coordination with the coordinating board, to:

(1) conduct a thorough review of the use of testing, tutoring, or other education software owned or controlled by a foreign adversary or a company domiciled or headquartered in a foreign adversary; and

(2) publish a list of prohibited software on THECB's Internet website.

(b) Prohibits an institution of higher education from entering into or renewing a contract to provide testing, tutoring, or other education software included on the list published under Subsection (a)(2).

SUBCHAPTER G. ENFORCEMENT

Sec. 51B.301. ENFORCEMENT. (a) Prohibits an institution of higher education from spending money appropriated to the institution for a state fiscal year until the governing board of the institution submits to the governor, the legislature, THECB, and the council a report certifying the governing board's compliance with this chapter during the preceding state fiscal year.

(b) Requires the governing board of each institution of higher education, or the board's designee, in the interim between each regular session of the legislature, to testify before the standing legislative committees with primary jurisdiction over higher education at a public hearing of the committee regarding the board's compliance with this chapter.

(c) Requires the state auditor to periodically conduct a compliance audit of each institution of higher education to determine whether the institution has spent state money in violation of this section. Requires the state auditor to adopt a schedule by which the state auditor will conduct compliance audits under this subsection. Requires that the schedule ensure that each institution of higher education is audited at least once every four years.

(d) Provides that, if the state auditor determines pursuant to a compliance audit conducted under Subsection (c) that an institution of higher education has spent state money in violation of this section, the institution:

(1) is required to cure the violation not later than the 180th day after the date on which the determination is made; and

(2) if the institution fails to cure the violation during the period described by Subdivision (1), is ineligible to receive formula funding increases, institutional enhancements, or exceptional items during the state fiscal biennium immediately following the state fiscal biennium in which the determination is made.

SECTION 3. Amends Section 31.05(a), Penal Code, by adding Subdivisions (2-a), (2-b), and (2-c) to define "foreign agent," "foreign government," and "foreign instrumentality."

SECTION 4. Amends Section 31.05(c), Penal Code, to provide that an offense under Section 31.05 (Theft of Trade Secrets) is a felony of the third degree, except that the offense is a felony of the second degree if it is shown on the trial of the offense that the person who committed the offense intended to benefit a foreign agent, foreign government, or foreign instrumentality.

SECTION 5. (a) Requires the appropriate entities, not later than October 1, 2025, to designate the members of the council established under Section 51.957, Education Code, as added by this Act.

(b) Requires the council established under Section 51.957, not later than January 1, 2026, Education Code, as added by this Act, to hold its initial meeting.

SECTION 6. Makes application of Section 31.05, Penal Code, prospective.

SECTION 7. Provides that Section 51B.103, Education Code, as added by this Act, applies beginning with the 2025–2026 school year.

SECTION 8. Provides that Sections 51B.051, 51B.151, and 51B.152, Education Code, as added by this Act, apply beginning with the academic year immediately following the adoption of standards relating to those sections by the Higher Education Research Security Council established under Section 51.957, Education Code, as added by this Act.

SECTION 9. Provides that Section 51B.301(a), Education Code, as added by this Act, applies beginning with money appropriated to a public institution of higher education for the state fiscal year beginning September 1, 2026.

SECTION 10. Effective date: September 1, 2025.