

BILL ANALYSIS

C.S.S.B. 37
By: Creighton
Higher Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill sponsor has informed the committee that there has been growing concern in recent years among state leaders, parents, and stakeholders about the governance structure and academic priorities of Texas public institutions of higher education, about the ideological direction of core curricula, about the proliferation of low-enrollment or low-demand academic programs, and about a perceived lack of accountability in faculty governance and administrative decision-making. The bill sponsor has further informed the committee that the bill addresses a wide range of reforms intended to improve transparency, oversight, and alignment between public universities and the interests of students, taxpayers, and state workforce needs. C.S.S.B. 37 seeks to enhance accountability and transparency in the governance of public institutions of higher education by, among other things:

- requiring institutions to conduct regular reviews of their general education curriculum to ensure academic rigor, workforce relevance, and compliance with accreditation standards;
- empowering university governing boards with stronger oversight of hiring, program review, and curricular decisions;
- establishing a general education curriculum advisory committee to streamline course offerings;
- defining the role and limits of faculty councils or senates, ensuring they remain advisory and representative without encroaching on administrative authority; and
- creating a centralized ombudsman office within the Texas Higher Education Coordinating Board to investigate and address complaints regarding institutional noncompliance.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 37 amends the Education Code to set out provisions relating to the governance of public institutions of higher education, including review of curriculum and certain degree and certificate programs, a faculty council or senate, training for members of the governing board, and the establishment, powers, and duties of the Office of the Ombudsman.

ARTICLE 1. Curriculum and Academic Programs

General Education Curriculum Review

C.S.S.B. 37 requires the governing board of each public institution of higher education, at least once every five years, to conduct a comprehensive review of the general education curriculum established by the institution. The bill requires the governing board, in reviewing an institution's general education curriculum, to take the following actions:

- ensure courses in the curriculum:
 - are foundational and fundamental to a sound postsecondary education;
 - are necessary to prepare students for civic and professional life;
 - equip students for participation in the workforce and in the betterment of society;
 - ensure a breadth of knowledge in compliance with applicable accreditation standards; and
 - do not advocate or promote the idea that any race, sex, or ethnicity or any religious belief is inherently superior to any other race, sex, or ethnicity or any other religious belief; and
- consider the potential costs the curriculum may impose on students, including for additional tuition, fees, and time a student must spend to complete an undergraduate degree program at the institution.

The bill requires each institution of higher education to annually submit to the governing board of the institution an update regarding any changes to the general education curriculum offered at the institution. The bill defines "general education curriculum" as a core curriculum in liberal arts, humanities, and sciences and political, social, and cultural history and any other curriculum or competency all undergraduate students of an institution of higher education are required to complete before receiving an undergraduate degree.

C.S.S.B. 37 authorizes the governing board of an institution of higher education to reserve the right to overturn any decision made by the institution regarding any changes to the general education curriculum offered at the institution and authorizes the governing board to appoint a committee to assist the governing board in carrying out its duties under the bill's provisions, including by making recommendations to the governing board. Members of the committee may include faculty employed full time by the institution of higher education, institution administrators, community leaders, industry representatives, and other individuals selected by the governing board.

C.S.S.B. 37 requires the governing board of each institution of higher education, not later than January 1 of each year a review is conducted, to certify the governing board's compliance with these bill provisions to the Texas Higher Education Coordinating Board (THECB) and each standing legislative committee and subcommittee with primary jurisdiction over higher education.

C.S.S.B. 37 requires the governing board of each institution of higher education, not later than January 1, 2027, to complete the governing board's initial review in accordance with these bill provisions and certify the governing board's compliance with those provisions.

Institutional Authority and Responsibility

C.S.S.B. 37 establishes that the final decision-making authority on matters regarding an institution of higher education's degree programs and curricula belongs to the institution. The bill requires the institution of higher education to make the decisions on those matters under the direction of the institution's governing board.

Review of Minor Degree and Certificate Programs

C.S.S.B. 37 requires the president or chief executive officer of an institution of higher education to adopt and implement a process for reviewing minor degree and certificate programs offered by the institution to identify programs with low enrollment that may require consolidation or elimination. The bill requires the criteria for review to require that minor degree and certificate programs have specific industry data to substantiate workforce demand to avoid consideration for consolidation or elimination. The bill exempts from that review a minor degree or certificate program that has operated less than five years at the time the president or chief executive officer of an institution of higher education conducts the review.

C.S.S.B. 37 requires the governing board of an institution of higher education to approve or deny any decision made by the president or chief executive officer of the institution to consolidate or eliminate a minor degree or certificate program as a result of the conducted review. The bill requires the president or chief executive officer of an institution of higher education to conduct a review once every five years.

List of Courses

C.S.S.B. 37 authorizes the governing board of an institution of higher education to exclude from the comprehensive list of courses that will be offered by each institution under the supervision of that governing board during the following academic year courses that were not taught as an organized class or provided through individual instruction for the preceding two academic years.

General Education Curriculum Advisory Committee

C.S.S.B. 37 requires the THECB to take the following actions:

- establish an advisory committee to review the general education curriculum requirements of institutions of higher education;
- call for nominations from presidents or chief executive officers, chancellors, and chief academic officers at all institutions of higher education for representatives to serve on the advisory committee; and
- select a number of representatives determined by the board from those nominated with nominees drawn equally from two-year and four-year institutions.

The bill requires the advisory committee to consider methods for determining general education curriculum component courses and for condensing the number of general education curriculum courses required at institutions of higher education.

C.S.S.B. 37 requires the advisory committee, not later than November 1, 2026, to produce a report regarding the advisory committee's findings and recommendations and provide the report to the THECB. The bill requires the THECB, not later than December 31, 2026, to review the advisory committee's report and submit to the legislature THECB recommendations for legislative or other action necessary to implement the findings of the report. The bill abolishes the advisory committee and sets the bill's provisions relating to the committee to expire September 1, 2027.

ARTICLE 2. Institutional Governance

Responsibility of Governing Boards

C.S.S.B. 37 requires each governing board of an institution of higher education to approve or deny the hiring of an individual for the position of provost or deputy, associate, or assistant provost by each institution under the board's control and management. With respect to the requirement in current law for each governing board to set campus admission standards consistent with the role and mission of the institution of higher education and considering the admission standards of similar institutions nationwide having a similar role and mission, as

determined by the THECB, the bill specifies that the governing board must collaborate with institutions under its control and management to set those campus admission standards.

C.S.S.B. 37 authorizes the governing board of an institution of higher education to overturn any hiring decision for the position of vice president or dean made by the administration of a campus under the board's control and management. The bill requires the action by the governing board to be implemented by the institution through appropriate action with respect to the relevant hiring decision at issue, including rescission of an employment offer, termination of employment, or termination of an employment agreement. The bill requires each governing board to annually submit to the governor, the lieutenant governor, the speaker of the house of representatives, and each member of the legislature a report regarding decisions made by the governing board for the applicable academic year on any hiring of administration in which the board approved or denied the hiring decision or took an appropriate action.

Faculty Council or Senate

C.S.S.B. 37 restricts the authority to establish a faculty council or senate, defined as a representative faculty organization, at an institution of higher education to the governing board of the institution. The bill requires the governing board of an institution of higher education, before establishing the faculty council or senate, to adopt a policy governing the selection of the faculty council's or senate's members that does the following:

- ensures adequate representation of each college and school of the institution;
- requires the members to be faculty members; and
- except as otherwise provided by the governing board, limits the number of members to not more than 60 with at least two representatives from each college or school, including:
 - one member appointed by the president or chief executive officer of the institution; and
 - the remaining members elected by a vote of the faculty of the member's respective college or school.

C.S.S.B. 37 establishes that a faculty council or senate is advisory only and may not be delegated the final decision-making authority on any matter. A faculty council or senate must represent the entire faculty of the institution of higher education and advise the institution administration and any system administration regarding matters related to the general welfare of the institution. The bill prohibits a faculty council or senate from issuing any statement or publish a report using the institution's official seal, trademark, or resources funded by the institution on any matter not directly related to the council's or senate's duties to advise the institution administration. The bill establishes that service on the faculty council or senate is an additional duty of the faculty member's employment and that members of the faculty council or senate are not entitled to compensation or reimbursement of expenses for their role as members of the faculty council or senate unless the expense is on behalf of and approved by the institution of higher education.

C.S.S.B. 37 authorizes a member of the faculty council or senate appointed by the president or chief executive officer of the institution of higher education in accordance with the bill's provisions to serve up to six consecutive one-year terms and establishes that the member may only be reappointed after the second anniversary of the last day of the member's most recent term. The bill establishes that a member of the faculty council or senate elected by a vote of the faculty of the member's respective college or school serves a two-year term, staggered in a manner that allows approximately one-half of the elected members to be elected each year, and may only be reelected after the second anniversary of the last day of the member's most recent term.

C.S.S.B. 37 provides the following:

- a faculty member serving on the faculty council or senate may be immediately removed from the council or senate for failing to conduct the member's responsibilities within the

council's or senate's parameters, failing to attend council or senate meetings, or engaging in other similar misconduct;

- a member of a faculty council or senate may be removed on recommendation of the institution's provost and approval by the institution's president or chief executive officer;
- the president or chief executive officer of the institution of higher education must appoint a presiding officer, associate presiding officer, and secretary from the members of the faculty council or senate;
- the presiding officer so appointed must preside over meetings of the faculty council or senate and represent the council or senate in official communications with the institution administration and any system administration;
- statutory provisions governing state agency advisory committees do not apply to a faculty council or senate;
- the faculty council or senate must conduct meetings at which a quorum is present in a manner that is open to the public and in accordance with procedures prescribed by the president or chief executive officer of the institution of higher education;
- the faculty council or senate must broadcast over the internet live video and audio, as applicable, of each open meeting of the council or senate if more than 50 percent of the members of the council or senate are in attendance;
- the faculty council or senate must adopt rules for establishing a quorum;
- the following must be made available to the public on the institution of higher education's website not later than the seventh day before a meeting of the faculty council or senate:
 - an agenda for the meeting with sufficient detail to indicate the items that are to be discussed or that will be subject to a vote; and
 - any curriculum proposals reviewed by the council or senate that will be discussed or voted on at the meeting; and
- the names of the members in attendance must be recorded at a meeting in which the faculty council or senate conducts business related to:
 - a vote of no confidence regarding an institution or system administrator; or
 - policies related to curriculum and academic standards.

The bill expressly prohibits these bill provisions relating to a faulty council or senate from being construed to limit a faculty member of an institution of higher education from exercising the faculty member's right to freedom of association protected by the U.S. Constitution or Texas Constitution.

Shared Governance

C.S.S.B. 37 requires institutions of higher education in Texas to be governed by a principle of shared governance, which refers to a structured decision-making process in which the governing board of the institution exercises ultimate authority and responsibility for institutional oversight, financial stewardship, and policy implementation, while allowing for appropriate consultation with faculty, administrators, and other stakeholders on matters related to academic policy and institutional operations. The bill establishes that the principle of shared governance may not be construed to diminish the authority of the governing board to make final decisions in the best interest of the institution, students, and taxpayers.

C.S.S.B. 37 requires the administrators at institutions of higher education to make decisions in a manner that promotes efficiency, accountability, and responsiveness to state priorities, workforce needs, and the institution's institutional mission. Faculty and staff may provide recommendations on academic matters, but that input is only advisory in nature, ensuring that governing boards and institutional leadership retain clear and ultimate decision-making authority. The bill prohibits shared governance structures from being used to obstruct, delay, or undermine necessary institutional reforms or serve as a mechanism for advancing ideological or political agendas.

Responsibility of President or Chief Executive Officer

C.S.S.B. 37 requires the president or chief executive officer of an institution of higher education to conduct annual evaluations for individuals who hold the positions of vice president, provost, dean, or a similar leadership position that oversees curriculum or student affairs for the institution and report to the institution's governing board regarding any decision to remove an individual from any of those positions.

Executive Search Committees

C.S.S.B. 37 requires the membership of an executive search committee for a president or chief executive officer of an institution of higher education to include at least two members of the institution's governing board with at least one of those members serving as the chair. The bill revises the definition of executive search committee, with respect to its primary purpose to evaluate and assess candidates and nominees for the position of chief executive officer of a system administration, institution of higher education, or other agency of higher education, to include as another primary purpose the evaluation and assessment of candidates and nominees for the position of president of such an entity.

Grievance, Hiring, and Discipline Decision-Making Authority

C.S.S.B. 37 establishes that only the president or chief executive officer or provost of an institution of higher education, university system administration, or the president's or chief executive officer's, provost's, or administration's designee may be involved in decision-making regarding review of a faculty grievance, including a grievance on certain personnel issues, or the faculty discipline process. The bill prohibits a faculty member of an institution of higher education who does not serve in an administrative leadership position from having final decision-making authority on the hiring of an individual for any faculty or administrative leadership position at the institution.

ARTICLE 3. Coordination and Oversight of Institutions of Higher Education

Office of Ombudsman

C.S.S.B. 37 sets out provisions establishing the Texas Higher Education Coordinating Board Office of the Ombudsman, makes applicable to the office of ombudsman the provisions in current law regarding public information and complaints requiring the THECB to maintain a file on each written complaint filed with THECB, and, accordingly, amends those current provisions to conform to these bill provisions. The bill also clarifies in those revisions that a person who is a subject of a complaint under those provisions of current law is an individual alleged to be involved in the failure to comply with the bill's provisions regarding general education curriculum review, the bill's provisions regarding a faculty council or senate, the provisions of current law regarding the responsibility of governing boards regarding diversity, equity, and inclusion initiatives, the bill's provisions regarding the responsibility of president or chief executive officer, the bill's provisions regarding the grievance, hiring, and discipline decision-making authority, and the bill's provisions regarding the general education curriculum advisory committee.

C.S.S.B. 37 establishes the office of ombudsman and requires the THECB to establish the office of ombudsman to serve as an intermediary between the legislature and the public and institutions of higher education, including by answering questions from the legislature and the public regarding the obligations of an institution of higher education to students, faculty, employees, and the public. The bill requires the office of ombudsman to perform the functions described by the bill's provisions and coordinate the THECB's compliance monitoring functions under state law and requires the individual serving as ombudsman for the office to serve as the director of compliance and monitoring. The bill requires the governor, with the advice and consent of the

senate, to appoint a person to serve as ombudsman and establishes that the ombudsman serves at the pleasure of the governor.

C.S.S.B. 37 requires the office of ombudsman to receive and, if necessary, investigate complaints submitted in accordance with subsequent bill provisions regarding an institution of higher education's failure to comply with provisions relating to the following:

- the bill's provisions regarding general education curriculum review;
- the bill's provisions regarding a faculty council or senate;
- current law regarding the responsibility of governing boards regarding diversity, equity, and inclusion initiatives;
- the bill's provisions regarding the responsibility of president or chief executive officer;
- the bill's provisions regarding the grievance, hiring, and discipline decision-making authority; and
- the bill's provisions regarding the general education curriculum advisory committee.

The bill authorizes a student or faculty or staff member at an institution of higher education who has reason to believe the institution has failed to comply with one of the aforementioned bulleted provisions to submit a written complaint to the office of ombudsman that, as follows:

- provides the individual's name and contact information;
- states the specific statute the individual believes has been violated; and
- includes specific facts supporting the allegation, including relevant dates, identifying information regarding the individuals involved, and any supporting evidence in the individual's possession.

The bill establishes that an individual is not eligible to file such a complaint if the individual has filed with another state agency, a federal agency, or a court, as applicable, one of the following against the institution of higher education that is the subject of the complaint:

- a lawsuit that makes the same or similar allegations or arises out of the same factual situation; or
- an administrative complaint that makes the same or similar allegations or arises out of the same factual situation.

The bill requires the office of ombudsman to dismiss any complaint that the office determines was filed in violation of these provisions. The bill requires an individual who knowingly submits a false complaint to be held responsible for any costs incurred by the office of ombudsman in conducting an investigation resulting from the false complaint. The office of ombudsman may refuse to investigate a future complaint filed by an individual who is found to have knowingly filed a false complaint.

C.S.S.B. 37 requires the office of ombudsman to notify the governing board of the institution of higher education that is the subject of a complaint of noncompliance that meets the bill's requirements for filing such a written complaint not later than the fifth day after the date the office receives the complaint. The bill requires the governing board of the institution to respond to the complaint not later than the 175th day after the date the governing board receives the notice unless the office of ombudsman has granted an extension for good cause.

C.S.S.B. 37 authorizes the office, in investigating a complaint of noncompliance, to request information from the institution and requires the institution's governing board to respond in writing to the office's written request for information not later than the 30th day after the date the institution receives the request. The bill establishes that these bill provisions may not be construed to require an institution to provide privileged information to the office.

C.S.S.B. 37 requires the office of ombudsman, based on findings related to an investigation under the bill's provisions, to submit to the governing board of the institution of higher education that is the subject of an investigation a report on the investigation that includes the office's final determination regarding the investigation and recommendations based on the conclusions of the investigation. If, not later than the 180th day after the date the office submits the report to the governing board of an institution of higher education that is the subject of an investigation, the

office determines the governing board has not resolved any noncompliance issues identified in the report, the office of ombudsman must submit to the ombudsman and state auditor a report on the noncompliance that includes the office's recommendations. The bill authorizes the ombudsman, on receipt of such a report, to recommend to the legislature that the institution of higher education not be allowed to spend money appropriated to the institution for a state fiscal year until the institution's governing board certifies compliance and the state auditor confirms the institution's compliance.

C.S.S.B. 37 authorizes the office of ombudsman to issue a civil investigative demand in the same manner as the procedures prescribed by Civil Practice and Remedies Code provisions relating to civil investigative authority for civil investigative demands issued by the attorney general or a local prosecuting attorney under those Civil Practice and Remedies Code provisions and to require cooperation from an institution of higher education in an investigation if the office determines a complaint of noncompliance with an applicable provision is credible. The bill requires the office to annually submit a report to the governor, the lieutenant governor, the state auditor, and the chair of each standing legislative committee with jurisdiction over higher education regarding the following:

- the number of complaints of noncompliance with an application provision received by the office;
- the number of investigations conducted and substantiated by the office; and
- a summary of the results of those investigations.

THECB Approval of Academic Programs

C.S.S.B. 37 revises the requirement in current law for the THECB to review each degree or certificate program offered by an institution of higher education at the time the institution requests to implement a new program to ensure that the program is needed by the state and the local community by specifying that the THECB does so to ensure the program meets a national need or is needed by the state and the local community.

Training for Members of Governing Boards

C.S.S.B. 37 requires the topics covered by the training program for members of governing boards of institutions of higher education to include the following in addition to the requirements established under applicable current law:

- an overview of the legislature, the General Appropriations Act, and the state budget as those topics relate to the responsibilities of the governing board; and
- an emphasis on the commitment the members of the governing board are making to the institutions of higher education under the board's control and management and, if applicable, the university system, the State of Texas, and the taxpayers of Texas.

The bill requires a member of a governing board, on completion of the training program, to provide a sworn statement affirming the member's understanding of the member's duties and responsibilities.

ARTICLE 4. Applicability

C.S.S.B. 37, except as otherwise provided, applies beginning January 1, 2026.

C.S.S.B. 37 establishes that a faculty council or senate established at a public institution of higher education before the bill's effective date is abolished on September 1, 2025, unless, as follows:

- the faculty council or senate was established in the manner prescribed by the bill's provisions; or
- the faculty council's or senate's continuation is ratified by the institution's governing board before that date based on a finding by the governing board that the faculty council

or senate meets the requirements of any policy adopted by the governing board under the bill's provisions regarding a faculty council or senate.

A faculty council or senate authorized but not yet established at a public institution of higher education before the bill's effective date may be established only in the manner prescribed by the bill's provisions regarding a faculty council or senate.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 37 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

General Education Curriculum Review

While both versions require the governing board of each institution of higher education, at least once every five years, to conduct a comprehensive review of the general education curriculum established by the institution, the substitute does not include the specification included in the engrossed to also conduct a comprehensive review of other graduation requirements.

The engrossed required the governing board to ensure courses in the curriculum do not require or attempt to require a student to adopt a belief that any race, sex, or ethnicity or social, political, or religious belief is inherently superior to any other race, sex, or ethnicity or social, political, or religious belief, or to adopt any other similar ideology. However, the substitute requires the governing board to ensure courses in the curriculum do not advocate or promote the idea that any race, sex, or ethnicity or any religious belief is inherently superior to any other race, sex, or ethnicity or any other religious belief.

Both the engrossed and the substitute provide for the annual submission to the institution's governing board of an update regarding any changes to the general education curriculum offered at the institution and authorizes the governing board to reserve the right to overturn any decision regarding any changes to the curriculum. However, the engrossed required each individual in a leadership position that oversees curriculum or student affairs for the institution to make the annual submission and authorized the governing body to reserve the right to overturn the individuals' decision, whereas the substitute requires each institution to make the submission without the engrossed version's specification as to which individual is responsible for doing so and authorizes the institution to reserve the right to overturn any decision made by the institution.

Degree Program Review Procedure

The substitute does not include the provisions in the engrossed relating to a degree program review procedure that did the following:

- required the THECB, every five years, to conduct a credential of value review to determine the return on investment for students, including a review of manageable student debt levels for degree programs at each institution of higher education and prepare and provide to the governing board of each institution a report on the review conducted for the institution;
- required the THECB, after each review, to determine recommended thresholds for each reviewed degree program based on the THECB's manageable student debt and return on investment analysis in a manner consistent with the goals of the THECB's long-range master plan for higher education and recommend a specified value rating for the program;

- required each governing board to assign a value rating to each degree program offered by the institution based on the coordinating board's recommendation and prohibited the board from delegating its authority to do so;
- required each institution of higher education to publish prominently on the institution's website a list of each degree program offered by the institution and the value rating assigned for that program;
- set out requirements for the governing board for each degree program that receives a "does not meet" rating and relating to the reevaluation process;
- required each governing board to annually submit to certain recipients a report documenting the status of each degree program offered by each institution under the governing board's authority that has received a rating of "does not meet" and each action taken by the governing board regarding the program;
- set out provisions limiting the manner in which an institution of higher education may spend or use certain money appropriated to the institution; and
- required the THECB to adopt rules necessary to administer these provisions relating to degree program review procedure.

Institutional Authority and Responsibility

The substitute includes provisions absent from the engrossed relating to institutional authority and responsibility with respect to the final decision-making authority on matters regarding an institution's degree programs and curricula, specifying that the institution is required to make the decisions on those matters under the direction of its governing board.

Responsibility of Governing Boards

Both the engrossed and the substitute require each governing board to approve or deny the hiring of an individual for the position of provost and other positions by each institution under the board's control and management but they differ as follows:

- the engrossed required each governing board to also approve or deny the hiring of an individual for the position of dean, but the substitute does not; and
- the substitute requires each governing board to also approve or deny the hiring of an individual for the position of deputy, associate, or assistant provost, but the engrossed did not.

The substitute includes a provision absent from the engrossed that revises the requirement in current law that each governing board set campus admission standards consistent with the role and mission of the institution and considering the admission standards of similar institutions nationwide having a similar role and mission, as determined by the THECB, to specify that each governing board must collaborate with institutions under its control and management to set the campus admissions standards.

Whereas the engrossed authorized the governing board of an institution to overturn any hiring decision made by the administration of a campus under the THECB's control and management, the substitute authorizes the governing board of an institution to overturn any hiring decision for the position of vice president or dean made by the administration of a campus under the THECB's control and management and includes an additional provision absent from the engrossed requiring action by the governing board in overturning any such hiring decision to be implemented by the institution through appropriate action with respect to the relevant hiring decision at issue, including rescission of an employment offer, termination of employment, or termination of an employment agreement.

Both the engrossed and the substitute require a governing board to annually submit to the governor, lieutenant governor, the speaker of the house of representatives, and each member of the legislature a report regarding certain decisions made by the governing board for the applicable academic year on any hiring of administration but they differ as follows:

- the engrossed required the report to include decisions made by the governing board for the applicable academic year on any hiring of administration and faculty in which the board was involved, any review and evaluation of the institution's administration, and any other subject as determined by the governing board; whereas
- the substitute specifies that the report is in regard to any hiring of administration in which the board approved or denied the hiring decision or took the appropriate action with respect to the relevant hiring decision at issue.

Additional Responsibilities of Governing Board

The substitute does not include provisions from the engrossed that set out additional responsibilities of a governing board that, as follows:

- required the governing board to approve or deny on an individual basis or in accordance with the engrossed version's requirement for en bloc approval by the full governing board of each posting or other advertisement for a tenured faculty position in a field related to liberal arts, communications, education, and social work at each institution under the governing board's authority;
- required the governing board to post on the institution's website notice of each meeting at which a posting or other advertisement for a tenured faculty position in a field related to liberal arts, communications, education, and social work will be considered at least seven business days before the meeting; and
- authorized the governing board to establish a subcommittee on educational excellence composed of members of the governing board and set out authorizations for the subcommittee to, as follows:
 - consider whether to approve or deny the hiring of an individual for the position of provost or dean by each institution under the board's control and management;
 - consider each posting or other advertisement for a tenured faculty position in a field related to liberal arts, communications, education, and social work;
 - present the subcommittee's decisions regarding the hiring of an individual for the position of provost or dean and the posting or other advertisements considered with respect to a field related to liberal arts, communications, education, and social work for approval en bloc by the full governing board; and
 - annually approve or overturn any changes made to the general education curriculum as a result of the comprehensive general education curriculum review.

Faculty Council or Senate

Both the engrossed and the substitute set out provisions regarding a faculty council or senate and both provide that only the governing board may establish a faculty council or senate at the institution but they differ as follows:

- with respect to the policy required in both versions that must be adopted to govern the selection of members of the faculty council or senate by the governing board before it establishes the faculty council or senate and that, among other things, must limit the number of members:
 - the engrossed limited the number of members to not more than 60 with at least two representatives from each college or school, whereas the substitute authorizes an exception to that limitation as otherwise provided by the governing board; and
 - the engrossed provided that one member is appointed by the president of the institution, whereas the substitute provides that one member is appointed either by the president or chief executive officer of the institution;
- with respect to the prohibition in both versions against a faculty council or senate issuing any statement or publish a report on any matter not directly related to the council's or senate's duties to advise the institution administration, the substitute includes a

specification absent from the engrossed that a faculty council or senate may not do so using the institution's official seal, trademark, or resources funded by the institution;

- with respect to the provision in both versions establishing that members of the faculty council or senate are not entitled to compensation or reimbursement of expenses for their role as members of the faculty council or senate, the substitute includes a specification absent from the engrossed making an exception for an expense that is on behalf of and approved by the institution;
- the engrossed did not include the provisions in the substitute providing for the terms of service of an appointee of the chief executive officer of the institution, providing for the removal of a member of a member of the faculty council or senate on approval by the chief executive officer, providing for the chief executive officer's appointment of a presiding officer, associate presiding officer, and secretary, or providing for the conduct of meetings in accordance with procedures prescribed by the chief executive officer; and
- the substitute does not include the following specifications from the engrossed that, as follows:
 - authorized a faculty member serving on the faculty council or senate to be immediately removed from the council or senate for using the member's position for political advocacy; and
 - required that the appointment of a presiding officer, associate presiding officer, and secretary from the members of the faculty council or senate be made with the approval of the governing board.

Whereas the engrossed required an agenda for the meeting with sufficient detail to indicate the items on which final action is contemplated to be made available to the public on the institution's website, the substitute requires an agenda with sufficient detail to indicate instead the items that are to be discussed or that will be subject to a vote.

Both the engrossed and the substitute provide for the abolishment of a faculty council or senate established at a public institution of higher education before the bill's effective date and both provide for the same exceptions to the abolishment. However, the engrossed abolished the faculty council or senate on October 1, 2025, whereas the substitute abolishes a faculty council or senate on September 1, 2025.

Responsibility for Annual Evaluations of Certain Individuals

Both the engrossed and the substitute provide for the annual evaluations for individuals who hold the positions of vice president, provost, dean, or a similar leadership position that oversees curriculum or student affairs for the institution and report to the institution's governing board regarding any decision to remove an individual from a position. However, they differ as follows:

- whereas both versions require the president of an institution to conduct the evaluations, the substitute requires the president or the chief executive officer of an institution to conduct the evaluations; and
- whereas the engrossed required the president to conduct the evaluations in consultation with the chancellor of any university system of which the institution is a component, the substitute does not require such consultation.

The substitute does not include the provision that was in the engrossed that prohibits the president of an institution from delegating the president's responsibilities to any other individual.

Executive Search Committees

The substitute includes a provision absent from the engrossed relating to executive search committees that, as follows:

- includes the evaluation and assessment of candidates and nominees for the position of president of a system administration, institution of higher education, or other agency of higher education, as another primary purpose of an executive search committee, whereas current law includes only the evaluation and assessment of candidates and nominees for the position of chief executive officer of such an entity; and

- requires the membership of an executive search committee for a president or chief executive officer to include at least two members of the institution's governing board with at least one of those members serving as the chair.

Grievance, Hiring, and Discipline Decision-Making Authority

Whereas the engrossed provided that only the president or provost of an institution of higher education, university system administration, or the president's, provost's, or administration's designee may be involved in decision-making regarding review of a faculty grievance or the faculty discipline process, the substitute authorizes not only the involvement of those individuals but also the involvement of the chief executive officer or the officer's designee in decision-making regarding such review.

Whereas the engrossed prohibited a faculty member of an institution of higher education from having final decision-making authority on any decision regarding the hiring of an individual for employment by the institution, the substitute instead prohibits a faculty member of an institution who does not serve in an administrative leadership position from having final decision-making authority on the hiring of an individual for any faculty or administrative leadership position at the institution.

Review of Minor Degree and Certificate Programs

Whereas both the engrossed and the substitute require the president of an institution to adopt and implement a process for reviewing minor degree and certificate programs offered by the institution to identify programs with low enrollment that may require consolidation or elimination, the substitute requires the president or chief executive officer of an institution to adopt and implement the process.

Whereas the engrossed exempted a minor degree or certificate program that has operated less than six years at the time the president of an institution of higher education conducts a review of such programs, the substitute does so for a program that has operated less than five years at the time the president or chief executive officer of the institution conducts the review.

Office of Ombudsman

Both the engrossed and the substitute provide for the establishment by the THECB of the office of ombudsman but the substitute includes provisions absent from the engrossed that do the following:

- expressly require the office to perform the functions described by the substitute and to coordinate the THECB's compliance monitoring functions;
- require the ombudsman to serve as the director of compliance and monitoring;
- establish that an individual is not eligible to file such a complaint if the individual has filed with another state agency, a federal agency, or a court, as applicable, one of the following against the institution that is the subject of the complaint:
 - a lawsuit that makes the same or similar allegations or arises out of the same factual situation; or
 - an administrative complaint that makes the same or similar allegations or arises out of the same factual situation; and
- require the office to dismiss any complaint that the office determines was filed in violation of the preceding bulleted provision.

The engrossed required the office to receive and, if necessary, investigate reports regarding an institution's failure to comply with certain provisions of the bill, whereas the substitute requires the office to receive and, if necessary, investigate complaints submitted in accordance with the substitute's provisions regarding an institution's failure to comply with certain provisions of the bill.

Additionally, the substitute and engrossed differ as follows with regard to the office:

- whereas the engrossed authorized an individual with reason to believe an institution of higher education has failed to comply with an applicable provision to submit a complaint to the office, the substitute instead authorizes a student or faculty or staff member at an institution of higher education who has reason to believe the institution has failed to comply with an applicable provision to submit a written complaint to the office;
- the substitute clarifies that these provisions regard the following, which the engrossed did not:
 - an individual alleged to be involved in the failure to comply and not a person subject to a complaint; and
 - an individual filing the complaint and not a person filing the complaint;
- with respect to the requirement for the office, based on findings related to an investigation, to submit to the governing board of the institution of higher education that is the subject of an investigation a report on the investigation that includes the office's final determination:
 - the engrossed established that the office's final determination regards the investigation and requirements for action based on the conclusions of the investigation; whereas
 - the substitute establishes that the office's final determination regards the investigation and recommendations based on the conclusions of the investigation;
- with respect to the report of noncompliance, the engrossed required the office to submit it to attorney general and specified that the report includes the office's requirements for action, whereas the substitute requires the office to submit it to the ombudsman and state auditor and specifies that it includes the office's recommendations;
- the engrossed authorized the attorney general, on receipt of a report, to ensure the institution's compliance by acting to impose penalties on the institution, including recommending to the legislature that the institution not be allowed to spend money appropriated to the institution for a state fiscal year until the institution's governing board certifies compliance, whereas the substitute authorizes the ombudsman, on receipt of a report, to recommend to the legislature that the institution not be allowed to spend money appropriated to the institution for a state fiscal year until the institution's governing board certifies compliance and the state auditor confirms the institution's compliance;
- with respect to the authorization for the office to issue a civil investigative demand that is included in both versions, the substitute expands the authorization to specify that such demand is made in the same manner as the procedures prescribed by applicable state law for civil investigative demands issued by the attorney general or a local prosecuting attorney under that law;
- the substitute does not include the provision in the engrossed that authorized the office to publicize a violation of an applicable provision by an institution that is confirmed by an investigation; and
- with respect to requirement in both the engrossed and the substitute that the office submit an annual report to certain public officials regarding the number of reports of noncompliance with an applicable provision received by the office, the number of investigations conducted and substantiated by the office, and a summary of those results:
 - the engrossed included the attorney general as a recipient but the substitute does not; and
 - the substitute includes the state auditor as a recipient, but the engrossed did not.

THECB Approval of Academic Programs

The engrossed, but not the substitute, included provisions revising current law regarding the THECB approval of certificate programs to remove the following:

- the provision requiring specific prior approval of a new certificate program by the THECB before an institution of higher education may add the program;
- the provision requiring a review of each certificate program offered by an institution of higher education at least every 10 years after establishment;
- the provision prohibiting the THECB from ordering the consolidation or elimination of any certificate program; and
- the provision setting out certain conditions applicable to the THECB's approval of a certificate program.

However, while the engrossed removed the requirement that the THECB review each certificate program offered by an institution of higher education at the time the institution requests to implement a new program to ensure that, among other things, the program is needed by the state and the local community, the substitute instead revises that provision, while retaining its applicability to each degree or certificate program offered, and specifies instead that the THECB must review each degree or certificate to ensure that the program meets a national need or is needed by the state and the local community.

Curriculum Advisory Committee

Both the engrossed and the substitute create an advisory committee to review certain curriculum requirements of institutions of higher education but they differ as follows:

- the engrossed made its provisions regarding the advisory committee applicable to a "core curriculum," which is defined by reference as the curriculum in liberal arts, humanities, and sciences and political, social, and cultural history that all undergraduate students of an institution of higher education are required to complete before receiving an academic undergraduate degree; whereas
- the substitute makes its provisions applicable to a "general education curriculum," which is defined by reference as the same core curriculum but which includes any other curriculum or competency all undergraduate students of an institution of higher education are required to complete before receiving an undergraduate degree.

Additionally, the engrossed required the advisory committee to consider methods for determining foundational component courses and for condensing the number of core curriculum courses required at institutions of higher education, whereas the substitute requires the advisory committee to consider methods for determining general education curriculum component courses and for condensing the number of general education curriculum courses required at institutions of higher education.

With respect to the membership of the advisory committee:

- the engrossed provided that the committee consists of three members appointed by the governor, two members appointed by the lieutenant governor, two members appointed by the speaker of the house of representatives, and six representatives selected by the THECB from nominations the THECB calls for from presidents, chancellors, and chief academic officers at institutions of higher education, with nominees drawn equally from two-year and four-year institutions; whereas
- the substitute does not provide for appointed members but instead provides that the THECB must call for nominations from presidents or chief executive officers, chancellors, and chief academic officers at all institutions of higher education for representatives to serve on the advisory committee and requires the THECB to select a number of representatives determined by the THECB from those nominated with nominees drawn equally from two-year and four-year institutions.

The substitute does not include the following provisions that were in the engrossed:

- the provision that required the governor to appoint the chair of the advisory committee from among the governor's appointees; and
- the provision that required the THECB to adopt rules based on the findings of the advisory committee and to ensure the governing boards of institutions of higher education implement those rules.

Both the engrossed and the substitute require the committee to produce a report regarding the advisory committee's findings and recommendations but they differ as follows:

- the engrossed required the report to be produced not later than December 1, 2026, whereas the substitute requires it to be produced not later than November 1, 2026; and
- the engrossed required the report to be provided to the governing boards of institutions of higher education, whereas the substitute requires it to be provided to the THECB.

Whereas the engrossed required the governing board of each institution of higher education, not later than the start of the 2027-2028 academic year, to implement the advisory committee's recommendations included in the report, the substitute does not include that requirement. The substitute instead requires the THECB, not later than December 31, 2026, to review the advisory committee's report and submit to the legislature the THECB recommendations for legislative or other action necessary to implement the findings of the report.

Applicability

The engrossed version's provisions applied beginning with the 2025-2026 academic year, whereas the substitute's provisions, except as otherwise provided, apply beginning January 1, 2026.

Effective Date

The substitute changes the bill's effective date to provide only for the bill to take effect September 1, 2025, with no possibility for immediate effect, whereas the engrossed provided for the bill's possible immediate effect, contingent on receiving the requisite constitutional vote.