

BILL ANALYSIS

Senate Research Center
89R21479 MM-D

C.S.S.B. 37
By: Creighton
Education K-16
4/3/2025
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 37 Substitute Changes Overview

Curriculum Reform:

- Governing boards may appoint a committee to assist with general education curriculum review.
- Provides more specific language regarding what is and is not allowable in general education curriculum.
- Establishes a THECB core curriculum committee to redefine foundational component areas and make recommendations to taper down required SCH of core curriculum.
- Creates framework for THECB to make ROI and manageable debt analysis of degree programs to recommend to governing boards.
- Reduces requirement that institutions inventory courses from five years down to two.

Governing Board Authority:

- Presidents conduct reviews of major administrative positions and report their recommendations to the governing board.
- Governing boards have discretionary authority over all hiring decisions made at member institutions.

Faculty/Faculty Senates/Councils:

- Faculty does not have to be tenured to serve on the faculty senate/council.
- Limits number of members to 60 with clearer term limits for appointed/elected members.
- Official faculty senate/council duties are to advise administration—any published report or statement outside of that purview is prohibited.
- Clarifies faculty may not be involved in decision-making of a faculty grievance process.

Office of Excellence in Higher Education:

- Uses existing statutory framework—renames to "Office of the Ombudsman" established as a new division under THECB.
- Cites specific state law that are subject to reports of noncompliance.
- Strengthens requirements for submission of reports of noncompliance.
- Provides 25-day resolution period for institutions prior to further investigation + turnover to AG.
- Gives AG specific authority to ensure compliance is met following failure to meet compliance during the resolution period.

C.S.S.B. 37 amends current law 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 of the Texas Higher Education Coordinating Board Office of the Ombudsman and authorizes a civil penalty.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the faculty council or senate in SECTION 3 (Section 51.3522, Education Code) of this bill.

Rulemaking authority is expressly granted to the Texas Higher Education Coordinating Board in SECTION 7 (Section 61.0522, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter F, Chapter 51, Education Code, by adding Sections 51.315 and 51.316, as follows:

Sec. 51.315. GENERAL EDUCATION CURRICULUM REVIEW. (a) Defines "general education curriculum," "governing board," and "institution of higher education."

(b) Requires that the governing board of each institution of higher education conduct a comprehensive review of the general education curriculum and other graduation requirements established by the institution at least once every five years. Requires the governing board, in reviewing an institution's core curriculum, to ensure courses in the curriculum meet certain requirements.

(c) Requires the governing board of the institution, in reviewing the general education curriculum and other graduation requirements for an institution of higher education under Subsection (b), to consider the potential costs the curriculum or requirements may impose on students, including for additional tuition, fees, and time a student must spend to complete an undergraduate degree program at the institution.

(d) Authorizes the governing board of an institution of higher education to appoint a committee to assist the governing board in carrying out its duties under this section, including by making recommendations to the governing board. Authorizes members of the committee to include faculty employed full-time by the institution, institution administrators, community leaders, industry representatives, and other individuals selected by the governing board.

(e) Requires the governing board of each institution of higher education, not later than January 1 of each year, to certify the governing board's compliance with this section to the Texas Higher Education Coordinating Board (THECB) and each standing legislative committee and subcommittee with primary jurisdiction over higher education.

Sec. 51.316. DEGREE PROGRAM REVIEW PROCEDURE. (a) Defines "coordinating board," "governing board," and "institution of higher education."

(b) Requires THECB, every five years, to

(1) conduct a review to determine the return on investment for students and manageable student debt levels for degree programs at each institution of higher education; and

(2) prepare and provide to the governing board of each institution of higher education a report on the review conducted under Subdivision (1) for the institution.

(c) Requires THECB, after each review under Subsection (b)(1), to determine recommended thresholds for each reviewed degree program based on THECB's manageable student debt and return on investment analysis under that subdivision in a manner consistent with the goals of THECB's higher education strategic plan

and recommend one of the following performance ratings for the program: "reward," "monitor," "sanction," or "sunset."

(d) Requires the governing board of each institution of higher education to assign a performance rating to each degree program offered by the institution based on THECB's recommendation under Subsection (c).

(e) Prohibits an institution of higher education from using money appropriated by the legislature to provide a degree program that receives a "sanction" rating under Subsection (d) beginning with the academic year immediately following the academic year in which the rating was received.

(f) Prohibits an institution of higher education from enrolling students in a degree program that receives a "sunset" rating under Subsection (d) beginning with the academic year immediately following the academic year in which the rating was received. Requires the institution to notify each student enrolled in the program at the time the program receives the rating of the rating and give the student the opportunity to complete the student's degree. Requires the institution to consolidate or eliminate the program after the last student enrolled in the program is awarded a degree.

SECTION 2. Amends Section 51.352, Education Code, by adding Subsections (g) and (h), as follows:

(g) Authorizes the governing board of an institution of higher education to overturn any decision made by the administration of a campus under the board's control and management.

(h) Requires the governing board of each institution of higher education 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 certain subjects.

SECTION 3. Amends Subchapter G, Chapter 51, Education Code, by adding Sections 51.3522 and 51.3541, as follows:

Sec. 51.3522. FACULTY COUNCIL OR SENATE. (a) Defines "faculty council or senate."

(b) Provides that only the governing board of an institution of higher education is authorized to establish a faculty council or senate at the institution. Requires the governing board, before establishing the faculty council or senate, to adopt a policy governing the selection of the faculty council's or senate's members that meets certain requirements.

(c) Provides that a faculty council or senate is advisory only and is prohibited from being delegated the final decision-making authority on any matter. Requires a faculty council or senate to 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. Prohibits a faculty council or senate from issuing any statement or publishing a report on any matter not directly related to the council's or senate's duties to advise the institution administration.

(d) Provides that service on the faculty council or senate is an additional duty of the faculty member's employment. Provides that members of the faculty council or senate are not entitled to compensation or reimbursement of expenses.

(e) Authorizes a member of the faculty council or senate appointed by the president of the institution of higher education in accordance with Subsection

(b)(3)(A) (relating at least two members of the senate being representatives from each college or school, including one member appointed by the president of the institution) to serve up to six consecutive one-year terms and then only be reappointed after the second anniversary of the last day of the member's most recent term. Provides 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 is authorized to only be reelected after the second anniversary of the last day of the member's most recent term.

(f) Authorizes a faculty member serving on the faculty council or senate to be immediately removed from the council or senate for failure to conduct the member's responsibilities within the council's or senate's parameters, including by using the member's position for personal political advocacy, failing to attend council or senate meetings, or engaging in other similar misconduct as determined by the governing board of the institution of higher education. Authorizes a member of a faculty council or senate to be removed on recommendation of the institution's provost and approval by the institution's president.

(g) Requires the president of the institution of higher education, with the advice and consent of the governing board, to appoint a presiding officer, associate presiding officer, and secretary from the members of the faculty council or senate.

(h) Requires the presiding officer appointed under Subsection (g) to 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.

(i) Provides that Chapter 2110 (State Agency Advisory Committees), Government Code, does not apply to a faculty council or senate.

(j) Requires the faculty council or senate to 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 of the institution of higher education.

(k) Requires the faculty council or senate to 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.

(l) Requires the faculty council or senate to adopt rules for establishing a quorum.

(m) Requires that certain information be made available to the public on the institution of higher education's Internet website not later than the seventh day before a meeting of the faculty council or senate, including an agenda for the meeting with sufficient detail to indicate the items on which final action is contemplated, and any curriculum proposals reviewed by the council or senate that will be discussed or voted on at the meeting.

(n) Requires that the names of the members in attendance 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.

(o) Prohibits this section from being construed to limit a faculty member of an institution of higher education from exercising the faculty member's freedom of association protected by the United States or Texas Constitution.

Sec. 51.3541. RESPONSIBILITY OF PRESIDENT. (a) Defines "governing board" and "institution of higher education."

(b) Requires the president of an institution of higher education to approve or deny the hiring of an individual for the position of vice president, provost, dean, or a similar leadership position that oversees curriculum or student affairs for the institution.

(c) Requires the president of an institution of higher education to conduct annual evaluations for individuals who hold the positions described by Subsection (b) at the institution and report to the institution's governing board regarding any recommendations for removing an individual from a position.

(d) Prohibits the president of an institution of higher education from delegating the president's responsibilities under this section to any other individual.

SECTION 4. Amends Subchapter Z, Chapter 51, Education Code, by adding Sections 51.9431 and 51.989, as follows:

Sec. 51.9431. GRIEVANCE, HIRING, AND DISCIPLINE DECISION-MAKING AUTHORITY. (a) Defines "governing board," "institution of higher education," and "university system."

(b) Provides 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 is authorized to be involved in decision-making regarding review of a faculty grievance, including under Section 51.960 (Grievance Rights on Certain Personnel Issues), or the faculty discipline process.

(c) Prohibits a faculty member of an institution of higher education from having decision-making authority on any decision regarding the hiring of an individual for employment by the institution.

Sec. 51.989. REVIEW OF MINOR DEGREE AND CERTIFICATE PROGRAMS. (a) Defines "governing board" and "institution of higher education."

(b) Requires the president of an institution of higher education to develop 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.

(c) Requires that the criteria for review under Subsection (b) require that minor degree and certificate programs have specific industry data to substantiate workforce demand to avoid consideration for consolidation or elimination.

(d) Provides that 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 the review under this section is exempt from that review.

(e) Requires the governing board of an institution of higher education to approve or deny any decision made by the president of the institution to consolidate or eliminate a minor degree or certificate program as a result of the review conducted under this section.

(f) Requires the president of an institution of higher education to conduct a review under this section once every four years.

SECTION 5. Reenacts Section 61.031, Education Code, and amends it, as follows:

Sec. 61.031. New heading: OFFICE OF OMBUDSMAN. (a) Defines "office" and "ombudsman."

(b) Requires THECB to establish the THECB Office of the Ombudsman (office) 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.

(c) Requires the office to receive and, if necessary, investigate reports regarding an institution of higher education's failure to comply with certain provisions.

(d) Authorizes an individual with reason to believe an institution of higher education has failed to comply with a provision listed under Subsection (c) to submit a notarized, written complaint to the office by mail that includes certain information.

(e) Creates this subsection from existing text. Requires the office, rather than THECB, to maintain a file on each written complaint filed with the board. Makes a conforming change.

(f) Redesignates existing Subsection (b) as Subsection (f). Makes conforming changes.

(g) Requires the office to notify the governing board of the institution of higher education that is the subject of a complaint of noncompliance that meets the requirements under Subsection (d) not later than the fifth day after the date the office receives the complaint. Requires the governing board of the institution to respond to the complaint not later than the 25th day after the date the governing board receives the notice.

(h) Authorizes the office, in investigating a complaint of noncompliance regarding an institution of higher education received under this section, to request information from the institution. Requires the governing board of the institution 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.

(i) Requires the office, based on findings related to an investigation under this section, to submit to the governing board of the institution of higher education that is the subject of an investigation under this section a report on the investigation that includes the office's final determination regarding the investigation and requirements for action based on the conclusions of the investigation.

(j) Redesignates existing Subsection (c) as Subsection (j). Makes a conforming change.

(k) Requires the office, if not later than the 30th day after the date the office submits the report under Subsection (i) to the governing board of an institution of higher education that is the subject of an investigation under this section, the office determines the governing board has not resolved any noncompliance issues identified in the report, to submit to the attorney general a report on the noncompliance that includes the office's requirements for action.

(l) Authorizes the attorney general, on receipt of a report under Subsection (k), to ensure the institution of higher education's compliance by acting to impose certain penalties on the institution.

(m) Redesignates existing Subsection (d) as Subsection (m). Makes conforming changes.

(n) Authorizes the office to require cooperation from an institution of higher education in an investigation under this section if the office determines a

complaint of noncompliance with a provision listed under Subsection (c) is credible and publicize a violation of a provision listed under Subsection (c) by an institution of higher education that is confirmed by an investigation.

(o) Requires the office to annually submit a report to the governor, the lieutenant governor, the attorney general, and the chair of each standing legislative committee with jurisdiction over higher education regarding certain subjects.

SECTION 6. Amends Section 61.052, Education Code, by adding Subsection (a-1) to authorize a governing board to exclude from the comprehensive list of courses submitted under Subsection (a) (relating to a comprehensive list by department, division, and school of all courses that will be offered by each institution 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.

SECTION 7. Amends Subchapter C, Chapter 61, Education Code, by adding Section 61.0522, as follows:

Sec. 61.0522. CURRICULUM ADVISORY COMMITTEE. (a) Defines "advisory committee" and "core curriculum."

(b) Requires THECB to establish an advisory committee to review the core curriculum requirements of institutions of higher education.

(c) Provides that the advisory 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 representative, and the commissioner of higher education serving as an ex officio member.

(d) Requires the governor to appoint the chair of the advisory committee from among the governor's appointees.

(e) Requires 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.

(f) Requires the advisory committee, not later than December 1, 2026, to produce a report regarding the advisory committee's findings and recommendations under this section and provide the report to the governing boards of institutions of higher education.

(g) Requires THECB to adopt rules based on the findings of the advisory committee and ensure the governing boards of institutions of higher education implement those rules.

(h) Requires 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 provided under Subsection (f).

(i) Provides that the advisory committee is abolished and this section expires September 1, 2027.

SECTION 8. Amends Section 61.084, Education Code, by amending Subsection (d) and adding Subsection (i), as follows:

(d) Requires that topics covered by the training program on the official role and duties of the members of governing boards include:

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

(9) makes a nonsubstantive change to this subdivision;

(10) an overview of the legislature, the General Appropriations Act, and the state budget as those topics relate to the responsibilities of the governing board;

(11) 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, this state, and taxpayers of this state; and

(12) creates this subdivision from existing text and makes no further changes.

(i) Requires a member of a governing board, on completion of a training program under this section, to provide a sworn statement affirming the member's understanding of the member's duties and responsibilities.

SECTION 9. Provides that this Act applies beginning with the 2025–2026 academic year.

SECTION 10. Requires the governing board of each public institution of higher education, not later than January 1, 2027, to complete the governing board's initial review in accordance with Section 51.315, Education Code, as added by this Act and certify compliance with Section 51.315, Education Code, as added by this Act, as required by Subsection (e) of that section.

SECTION 11. Provides that a faculty council or senate established at a public institution of higher education before the effective date of this Act is abolished on October 1, 2025, unless the faculty council or senate was established in the manner prescribed by Section 51.3522, Education Code, as added by this Act, 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 that section.

SECTION 12. Effective date: upon passage or September 1, 2025.