

- SUBJECT:** Coordinating Board approval for partnerships to offer courses and degrees
- COMMITTEE:** Higher Education — committee substitute recommended
- VOTE:** 8 ayes — Rangel, Cuellar, F. Brown, Farabee, Goolsby, J. Jones, Morrison, E. Reyna
- 0 nays
- 1 absent — Wohlgemuth
- WITNESSES:** For — None
- Against — None
- On — Lynn Rodriguez, Texas Higher Education Coordinating Board
- BACKGROUND:** Texas A&M University System entered into an affiliation agreement with the private South Texas College of Law, after which A&M asked the Texas Higher Education Coordinating Board for permission to offer law degrees. The coordinating board declined Texas A&M’s request.
- South Texas College of Law sued the coordinating board (*South Texas College of Law v. Texas Higher Education Coordinating Board*). The board made a motion for summary judgment, alleging Texas A&M University could not legally enter into the original agreement without board permission. On March 31, 1999, State District Judge Susan Covington of Austin voided the agreement on grounds it “violates Article III, § 51 of the Texas Constitution, exceeds the authority granted Texas A&M University in the Education Code, and further violates public policy as expressed in the Code.”
- DIGEST:** CSHB 3651 would prohibit the governing board of a state higher education institution from setting up a partnership or affiliation between a general academic teaching institution, a medical unit, or a dental unit and any other entity without the approval of the Texas Higher Education Coordinating Board or the Texas Legislature. To approve a partnership or affiliation for the purpose of offering a degree program or for-credit courses, the coordinating board would have to determine that this was consistent with the role and

mission of the institution, as well as previously authorized degree and certificate programs. The board also would have to determine whether the partnership or affiliation was consistent with the role and mission of the institution's parent university system if the institution was in a system.

The bill would not affect a partnership or agreement initiated prior to the effective date of the bill. CSHB 3651 would take immediate effect if finally passed by a two-thirds record vote of the membership of each house.

**SUPPORTERS
SAY:**

CSHB 3651 would spell out the requirements for higher education institutions seeking to affiliate with other institutions to offer for-credit classes and degree programs. The bill would send a clear message to institutions about expanding their degree programs, mission, and role without permission. The bill would require the Texas Higher Education Coordinating Board or the Legislature to approve all program expansions, no matter what the form.

If CSHB 3651 had been law before Texas A&M and South Texas Law School initiated their agreement, it would have been clear that such an agreement would have to have board approval.

The mission of the coordinating board is to avoid costly duplication of academic programs, which is why the law requires new programs to be approved by the board. This bill would not add to red tape. Instead it would close a potential loophole by ensuring that partnerships and affiliations to offer courses or programs would be listed as actions requiring board approval. This is well within the intent of current law.

**OPPONENTS
SAY:**

CSHB 3651 would increase bureaucratic red tape for institutions of higher education and could increase the need for regulatory or legislative action on partnerships and affiliations. The bill does not clearly define partnerships and affiliations. Universities enter into thousands of partnerships and agreements, including memoranda of understanding. With the unclear definitions in CSHB 3651, such agreements, and even memoranda of understanding, could be subject to coordinating board approval. If the coordinating board determined an agreement exceeded the university's role and mission, then the coordinating board could deny the proposed agreement. While a university's role and mission could be expanded, the law requires a long process, including public hearings to do so.

NOTES:

The committee substitute changed the original bill by:

- ! removing the condition of adequate funding for approval by the coordinating board;
- ! adding specific language about consistency with the institution's role and mission, and degree and certificate programs directing the coordinating board decision for approval;
- ! changing the description of institutions affected by the bill; and
- ! changing the name of Section 61.055 of the Education Code to Initiation of New Departments, Schools, and Programs; Partnerships and Affiliations.

The companion bill, SB 1431 by Duncan, has been referred to the Senate Education Subcommittee on Higher Education.