

## **BILL ANALYSIS**

Senate Research Center  
77R9312 JSA-F

S.B. 1465  
By: Bivins  
Education  
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### **DIGEST AND PURPOSE**

Institutions of higher education have identified changes to current statutes concerning several administrative areas that could save money, produce new revenue, or increase the operational efficiency of institutions of higher education across the state. As proposed, S.B. 1465 amends provisions relating to the operation, regulation, and administration of public institutions of higher education.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to institutions of higher education in SECTION 2.05 (Section 51.965, Education Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

#### ARTICLE 1. PURCHASING

SECTION 1.01. Amends Sections 51.9335(a)-(e), Education Code, to authorize an institution of higher education, rather than a medical and dental unit, to acquire goods or services by the method that provides the best value to the institution.

(b) Makes conforming changes.

(c) Authorizes the state auditor to audit purchases of goods or services by an institution of higher education or by a component of an institution of higher education that purchases goods and services, rather than by a medical and dental unit.

(d) Provides that to the extent of any conflict, this section prevails over any other law, including Chapters 2155 (Purchasing: General Provisions and Procedures), 2156 (Purchasing Methods), 2157 (Purchasing: Purchase of Automated Information Systems), 2158 (Purchasing: Miscellaneous Provisions for Purchase of Certain Goods and Services), and 2170 (Telecommunications Services), Government Code, except a law or rule relating to contracting with historically underutilized businesses. Authorizes, but does not require, an institution of higher education to acquire goods or services as provided by Chapters 2155, 2156, 2157, 2158, and 2170, Government Code.

(e) Defines “institution of higher education,” rather than “medical and dental unit.”

SECTION 1.02. Amends Chapter 497B, Government Code, by adding Section 497.0211, as follows:

Sec. 497.0211. EXCEPTION: INSTITUTIONS OF HIGHER EDUCATION. Provides that this subchapter does not apply to an institution of higher education, as defined by Section 61.003, Education Code.

SECTION 1.03. Amends Section 2155.067(b), Government Code, to delete wording related to the

authorization to sign the written justification.

SECTION 1.04. Amends Section 2155.268(a), Education Code, to delete wording related to an exception for an institution of higher education regarding bidders lists.

SECTION 1.05. Repealer: Section 2155.133 (Delegation of Authority to Institution of Higher Education), Government Code; Section 2155.134 (Group Purchasing Programs), Government Code; and Section 2155.135 (Purchases From Higher Education Research Funds), Government Code.

## ARTICLE 2. HUMAN RESOURCES

SECTION 2.01. Amends Chapter 51Z, Education Code, by adding Section 51.961, as follows:

Sec. 51.961. LEAVE PROVISIONS FOR CERTAIN EMPLOYEES OF UNIVERSITY SYSTEM. (a) Defines “governing board,” “medical and dental unit,” “university system,” and “leave.”

(b) Authorizes the governing board of a university system (governing board) to adopt a comprehensive leave policy that applies to employees working in a hospital or clinic of a medical and dental unit of the university system.

(c) Authorizes a policy adopted under this section to combine vacation, sick, and holiday leave into a paid system that does not distinguish or separate the types of leave to be awarded and to award leave in an amount determined by the governing board to be appropriate and cost-effective.

(d) Provides that Chapter 661 (Leave) and 662 (Holidays and Recognition Days and Months), Government Code, do not apply to employees covered by a policy adopted under this section. Requires the policy to include provisions addressing the subject matter of each subchapter of Chapters 661 and 662, Government Code, and the intended effect of the policy on the rights, duties, and responsibilities of employees and the employing entity under those subchapters.

(e) Requires a policy adopted under this section to include certain provisions.

(f) Authorizes a policy authorized by this section to include other matters as determined relevant and appropriate by the governing board.

(g) Requires a policy authorized by this section to be adopted by a governing board in an open meeting of the board.

(h) Requires the governing board, before implementing a policy adopted under this section, to enter into a memorandum of understanding with certain state agencies concerning awards of accrued leave for the purposes of retirement and other issues of concern related to the implementation of the policy.

(i) Authorizes the governing board, on or after September 15, 2005, to adopt a leave policy as provided by this section for employees of the institution.

SECTION 2.02. Amends Chapter 51Z, Education Code, by adding Section 51.962, as follows:

Sec. 51.962. MERIT SALARY INCREASES. Authorizes an institution of higher education, as defined by Section 61.003, to grant merit salary increases, including one-time merit payments, to employees described by this section. Provides that a merit salary increase made under this section is compensation for purposes of Chapter 659 (Compensation), Government

Code, and salary and wages and member compensation for purposes of Title 8 (Public Retirement Systems), Government Code. Authorizes an institution of higher education to pay merit salary increases under this section from any funds. Requires an institution of higher education to adopt criteria for the granting of merit salary increases before awarding a merit salary increase under this section. Requires an employee, to be eligible for a merit salary increase under this section, to have been employed by the institution of higher education for the six months immediately preceding the effective date of the increase and requires that at least six months have elapsed since the employee's last merit salary increase.

SECTION 2.03. Amends Chapter 51Z, Education Code, by adding Section 51.963, as follows:

Sec. 51.963. EMPLOYEE WITH MULTIPLE APPOINTMENTS. Authorizes a full-time employee of an institution of higher education as defined by Section 61.003 who has appointments to more than one position at the same institution to receive pay for working more than 40 hours in a week if the institution determines that pay in lieu of compensatory time is in the best interest of the institution.

SECTION 2.04. Amends Chapter 51Z, Education Code, by adding Section 51.964, as follows:

Sec. 51.964. HIRING OF CERTAIN RETIREES. Authorizes an institution of higher education as defined by Section 61.003 to employ a person who has retired under any provision of Title 8, Government Code, under certain conditions. Authorizes the governing board to pay a person employed under this section an amount considered by the governing board to be appropriate. Authorizes a person employed under this section to participate in the appropriate retirement system under Title 8, Government Code. Provides that this section, to the extent of any conflict, prevails over other law governing the hiring of retired employees by an institution of higher education.

SECTION 2.05. Amends Chapter 51Z, Education Code, by adding Section 51.965, as follows:

Sec. 51.965. EMPLOYEE NOTIFICATION. Authorizes an institution of higher education, as defined by Section 61.003, if a state law requires the institution to provide written notification to its officers or employees of any retirement, right, duty, or responsibility provided by state law, to provide the notification by use of electronic media. Authorizes an institution of higher education to adopt rules and guidelines to ensure that notification provided by electronic media under this section is effective and that any required notification is provided to officers and employees who do not have access to electronic media.

SECTION 2.06. Amends Section 661.062(a), Government Code, to provide that a state employee who, at any time during the employee's lifetime, has accrued six months of state employment and who resigns, is dismissed, or otherwise separates from state employment by an institution of higher education is entitled to be paid for the accrued balance of the employee's vacation time as of the date of separation.

SECTION 2.07. Amends the heading of Chapter 659J, Government Code, to read as follows:

**SUBCHAPTER J. PAYROLL REDUCTION OR DEDUCTION FOR CERTAIN EMPLOYEE  
BENEFITS AT INSTITUTIONS OF HIGHER EDUCATION**

SECTION 2.08. Amends Section 659.202, Government Code, as follows:

Sec. 659.202. New heading: PAYROLL REDUCTION OR DEDUCTION AUTHORIZED; USE OF FUNDS. Authorizes an employee of an institution of higher education to authorize in writing a reduction, rather than deduction, each pay period from the employee's salary or wage payment for the payment of any fee or charge for parking, a parking permit, a transportation

pass, or other qualified transportation benefit authorized under Section 132(f), Internal Revenue Code of 1986, as amended. Deletes wording related to parking fees charged by the institution of higher education. Requires, rather than provides, an authorization for a reduction, rather than a deduction, under this subchapter by the employee to be voluntary. Requires the institution to determine which fee or charge an employee is authorized to pay under this section. Authorizes an employee of an institution of higher education to authorize in writing a deduction each pay period from the employee's salary or wage payment for the payment of any fee or charge for parking or for a club membership, recreational sports membership, or similar activity or program. Requires an authorization for a deduction under this subchapter by the employee to be voluntary. Requires the institution to determine which fee or charge an employee is authorized to pay under this section. Deletes wording related to funds collected under this section.

SECTION 2.09. Amends Chapter 659J, Government Code, by adding Section 659.205, as follows:

Sec. 659.205. STATUS OF DEDUCTION OR SALARY REDUCTION. Requires a salary deduction made by an employee under this subchapter, if so designated by the employing institution of higher education, to be considered compensation under this chapter and salary and wages and member compensation under Title 8. Authorizes a salary deduction or reduction under this subchapter, if authorized by federal law, to be made on a pretax basis.

SECTION 2.10. Amends Section 822.201(b), Government Code, to redefine "salary and wages."

SECTION 2.11 Amends Chapter 54D, Education Code, by adding Section 54.220, as follows:

Sec. 54.220. EMPLOYEES OF INSTITUTIONS OF HIGHER EDUCATION. Authorizes the institution's governing board to exempt full-time employees of the institution from the payment of all or a portion of tuition or fees of the type and in the amount determined under a written policy adopted by the governing board.

### ARTICLE 3. FINANCIAL MANAGEMENT

SECTION 3.01. Amends Section 74.103, Education Code, to delete wording relating to a requirement of the board regarding the acceptance of gifts, grants, and donations.

SECTION 3.02. Amends Section 74.153, Education Code, to delete wording relating to a requirement of the board regarding the acceptance of gifts, grants, and donations.

SECTION 3.03. Amends Section 2251.026, Government Code, to prohibit interest from accruing or being paid under this section on a payment if the total amount of interest that would have otherwise have accrued is equal to or less than \$5 and the payment is made from the institutional funds of an institution of higher education as defined by Section 61.003, Education Code.

SECTION 3.04. Makes application of Section 2251.026, Government Code, as amended by this Act, prospective.

### ARTICLE 4. REPORTING

SECTION 4.01. Amends Section 2166.101, Government Code, by adding Subsection (f), to require the General Services Commission, an institution of higher education, and a state agency, if information to be obtained from the institution of higher education, as defined by Section 61.003, Education Code, for inclusion in the report is also included in another report to be made by the institution of higher education to another state agency, to enter into a memorandum of understanding concerning the information to be reported in order to enable the institution of higher education to provide the required information in the most cost-effective manner taking into account the costs of each affected agency.

Provides that this subsection does not limit the authority of the state auditor to request and receive information directly from an institution of higher education.

SECTION 4.02. Amends Section 2167.005, Government Code, to require the General Services Commission, an institution of higher education, and a state agency, if information to be included in the report is also included in another report to be made by the institution of higher education to another state agency, to enter into a memorandum of understanding concerning the information to be reported in order to enable the institution of higher education to provide the required information in the most cost-effective manner taking into account the costs of each affected agency.

#### ARTICLE 5. STRATEGIC PLANNING

SECTION 5.01. Amends Section 2056.001, Government Code, to redefine "state agency."

#### ARTICLE 6. OTHER FINANCIAL MATTERS

SECTION 6.01. Amends Chapter 54E, Education Code, by adding Section 54.5011, as follows:

Sec. 54.5011. CREDIT CARD FEES. Authorizes an institution of higher education that accepts payment of tuition, a fee, or other charge by credit card to charge the credit card user a fee for processing the payment. Prohibits a fee charged under this section from exceeding the amount charged the institution by the issuer of the credit card in connection with the payment. Requires the institution, before accepting a payment by credit card, to notify the student of any fee to be charged under this section.

SECTION 6.02. Repealer: Section 54.010 (Reduction in Tuition), Education Code, as added by Chapter 1053, Acts of the 76th Legislature, Regular Session, 1999.

#### ARTICLE 7. EFFECTIVE DATE

SECTION 7.01. Effective date: upon passage or September 1, 2001.