

2020 Regular Session

HOUSE BILL NO. 733

BY REPRESENTATIVE ZERINGUE

COLLEGES/UNIVERSITIES: Extends authority of public postsecondary education institutions to exercise certain operational autonomies

1 AN ACT

2 To amend and reenact R.S. 17:3139.5(B)(1) and (2)(a) and (d)(i) and to repeal R.S.
3 17:3139.1 through 3139.4, 3139.5(A), 3139.6, and 3139.7, relative to colleges and
4 universities; to provide relative to the exceptions and exemptions that a public
5 postsecondary education institution may receive from state regulations of their
6 operations under certain conditions; to extend an institution's authority to exercise
7 certain operational autonomies under such conditions; to repeal provisions pertaining
8 to performance agreements and tuition autonomy relative to the Louisiana Granting
9 Resources and Autonomy for Diplomas Act; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 17:3139.5(B)(1) and (2)(a) and (d)(i) are hereby amended and
12 reenacted to read as follows:

13 §3139.5. ~~Tuition autonomy; operational~~ Operational autonomy contingent on audit
14 findings

15 * * *

16 B.(1)(a) Notwithstanding any provision of law to the contrary, any institution
17 that meets the requirements of this Paragraph may exercise ~~until July 1, 2020,~~ the
18 autonomies provided by this Subsection subject to the limitations provided in this
19 Paragraph.

1 (b) Subsequent to a postsecondary management board granting approval to
2 an institution in its system to exercise operational autonomies or a system exercising
3 the provided authorities, the division of administration shall approve the exercise of
4 such autonomies to all institutions in the system governed by the management board,
5 provided the system received for its most recent audit, a financial audit with an
6 unmodified opinion, where the financial statements were free of material
7 misstatements and material weaknesses, and the financial position, results of
8 operations, and cash flows were represented fairly in accordance with Generally
9 Accepted Accounting Principles. If the system did not receive for the most recent
10 audit, a financial audit with an unmodified opinion, where the financial statements
11 were free of material misstatements and material weaknesses, and the financial
12 position, results of operations, and cash flows were represented fairly in accordance
13 with Generally Accepted Accounting Principles, then the division of administration
14 shall approve the exercise of such autonomies to all institutions in the system, except
15 for any institution which was responsible for the finding of non-compliance at the
16 system level.

17 (c) If an institution granted the right to exercise operational autonomies
18 pursuant to Subparagraph (b) of this Paragraph subsequently receives an audit with
19 a material weakness through a financial audit, the institution shall be required to
20 develop and implement a corrective action plan for approval by the management
21 board. The institution shall be required to demonstrate to the management board that
22 the necessary corrective actions were taken within six months from the date the audit
23 finding was reported, or the institution will lose the authority to exercise the
24 autonomies granted for the remainder of the period that this authority is in effect.
25 The corrective action plan and post-implementation report shall be submitted to the
26 division of administration ~~and the Board of Regents~~.

27 (2) The operational autonomies that may be granted pursuant to this
28 Subsection are:

1 (a) Authority to retain any funds which remain unexpended and unobligated
2 at the end of the fiscal year for use at the institution's discretion ~~pursuant to R.S.~~
3 ~~17:3386.~~

4 * * *

5 (d)(i) Authority to participate in the higher education procurement code as
6 established by Louisiana State University and Agricultural and Mechanical College
7 and approved by the division of administration. Institutions within the same system
8 may cooperatively operate procurement operations under the higher education
9 procurement code. Each postsecondary education management board may adopt the
10 higher education procurement code, with amendments necessary to insert the name
11 of each management board into the procurement code and to implement the code but
12 excluding any substantive changes, pursuant to rules and regulations adopted in
13 accordance with the Administrative Procedure Act. Any entity whose budget is
14 appropriated through Schedule 19-Higher Education or 19E-LSU Health Sciences
15 Center-health care services division may use the higher education procurement code
16 in lieu of the Louisiana Procurement Code as provided in R.S. 39:15.3, 196 through
17 200, and 1551 through 1755, subject to the prior review and approval of the Joint
18 Legislative Committee on the Budget. Any changes to the higher education
19 procurement code after an initial five-year period shall be submitted to the Joint
20 Legislative Committee on the Budget for approval. However, there shall be only one
21 higher education procurement code except for nonsubstantive changes required to
22 implement the code.

23 * * *

24 Section 2. R.S.17:3139.1 through 3139.4, 3139.5(A), 3139.6, and 3139.7 are hereby
25 repealed in their entirety.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 733 Original

2020 Regular Session

Zeringue

Abstract: Extends the authority of public postsecondary education institutions to exercise certain operational autonomies.

Operational autonomy

Present law (R.S. 17:3139.5) authorizes public postsecondary education institutions that meet certain conditions to be granted various exemptions and exceptions from state regulations of their operations (operational autonomies). Provides that a public postsecondary education institution may exercise certain operational autonomies until July 1, 2020, if the institution's management board approves the exercise of autonomies by any institution in the system and one of the following conditions is met:

- (1) The institution is in a system that received, for its most recent audit, a financial audit with an unmodified opinion, where the financial statements were free of material misstatements and material weaknesses, and the financial position, results of operations, and cash flows were represented fairly in accordance with Generally Accepted Accounting Principles.
- (2) The institution is in a system that did not meet (1) above, but the institution was not responsible for the finding of noncompliance at the system level.

Present law specifies that such operational autonomies are as follows:

- (1) Authority to retain funds unexpended and unobligated at the end of the fiscal year for use at the institution's discretion.
- (2) Authority to identify and dispose of obsolete equipment.
- (3) Authority to be excluded by the division of administration from any table of organization.
- (4) Authority to participate in the higher education procurement code as established by Louisiana State University and approved by the division of administration.
- (5) Exemption from participation in the state's risk management program pursuant to certain conditions.
- (6) The authority to administer facilities projects funded with self-generated revenue, federal funds, donations, grants, or revenue bonds.
- (7) Authority to invest certain funds in certain bonds.

Proposed law indefinitely extends an institution's authority to exercise such operational autonomies under such conditions by removing the July 1, 2020, "sunset" date and otherwise retains present law. Proposed law also authorizes cooperative procurement under the higher education procurement code (4 above).

Performance agreements

Present law (R.S. 17:3139.2) provides that any public postsecondary education institution, including professional schools, may enter into an initial performance agreement with the Bd. of Regents in order to be granted limited tuition autonomy and flexibility in exchange for committing to meet established targets for the certain performance objectives, including those relative to student success, articulation and transfer, workforce and economic development, institutional efficiency, and accountability. Proposed law repeals present law.

Present law (R.S. 17:3139.3) provides that the initial performance agreement and each subsequent agreement shall be a six-year agreement and shall be reviewed annually by the Bd. of Regents. Proposed law repeals present law.

Present law (R.S. 17:3139.7) requires any agreements between the Bd. of Regents and institutions authorized by present law to be certified by the respective management boards. Proposed law repeals present law.

Tuition and fee autonomy

Present law (R.S. 17:3439.5(A)), applicable to the 2010-2011, 2011-2012, 2012-2013 fiscal years, authorized institutions that entered performance agreements or that met targets set in those agreements to increase tuition and mandatory fees. Proposed law repeals present law.

Audits

Present law (R.S. 17:3139.4) requires the legislative auditor to annually audit institutional data relative to meeting performance objective targets to ensure data reliability. Proposed law repeals present law.

(Amends R.S. 17:3139.5(B)(1) and 2(a) and (d)(i); Repeals R.S. 17:3139.1 through 3139.4, 3139.5(A), 3139.6, and 3139.7)