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## DIGEST

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HB 185 Engrossed

2022 Regular Session

Charles Owen

**Abstract:** Revises provisions relative to expressive activities on college campuses.

Present law provides for the protection of expressive activities at public postsecondary education institutions. Requires public postsecondary education management boards to adopt policies on free expression, including prohibiting protests and demonstrations that infringe upon the constitutional rights of others to engage in or listen to expressive activity by creating a "substantial and material disruption" to the functioning of the institution or to someone's expressive activity.

Proposed law adds that "substantial and material disruption" means when a person, with the intent and knowledge of doing so, significantly hinders expressive activity; prevents the communication of the message; or prevents the transaction of the business of a lawful meeting, gathering, or procession by either of the following:

- (1) Engaging in fighting, violence, or similar unlawful behavior.
- (2) Physically blocking or using threats of violence to prevent any person from attending, listening to, viewing, or otherwise participating in an expressive activity.

Proposed law provides that no conduct shall be deemed a material and substantial disruption that is protected under the federal or state constitution and further revises present law as follows:

- (1) Adds that an institution may require a permit as a condition of being granted exclusive control of a location and time for expressive activity.
- (2) Adds that an institution may charge security fees as part of an application for such a permit.
- (3) Requires institutions to maintain a policy prohibiting "student-on-student discriminatory harassment", which proposed law defines as unwelcome conduct that targets its victim on the basis of a class protected under federal, state, or local law and that is so severe, pervasive, and objectively offensive and so undermines and detracts from the victim's educational experience that the victim is effectively denied equal access to an institution's resources and opportunities.
- (4) Provides that nothing in proposed law shall be interpreted to prevent institutions from:
  - (a) Responding through nonpunitive actions to student expression that does not meet the

definition of student-on-student discriminatory harassment.

- (b) Maintaining policies prohibiting stalking or other criminal activity.
- (5) Provides that present law and proposed law shall supersede and control to the extent of any conflict with other present law and shall govern a public postsecondary education institution's obligation to address all forms of discriminatory harassment perpetrated by one student on another, including sexual harassment.

(Amends R.S. 17:3399.31, 3399.32(E), and 3399.35(3) and (5); Adds R.S. 17:3399.32(F) and (G) and 3399.38)