

GREEN SHEET REDIGEST

HB 766

2015 Regular Session

Adams

(KEYWORD, SUMMARY, AND DIGEST as amended by Senate committee amendments)

COLLEGES/UNIVERSITIES. Provides relative to the operations of public colleges and universities and exemptions from specified regulations

DIGEST

Present law (the GRAD Act) authorizes public postsecondary education institutions, including professional schools, to enter into performance agreements with the Board of Regents in order to be granted limited operational autonomy and flexibility in exchange for committing to meet established targets for performance objectives as applicable to the institution. Such objectives are categorized relative to student success, articulation and transfer, workforce and economic development, and institutional efficiency and accountability. Institutions may receive authority to increase tuition and various exemptions and exceptions from state regulations of their operations (operational autonomies) pursuant to such performance agreements.

Proposed law, with respect to the operational autonomies, removes the performance agreement conditions on their exercise. Requires instead that an institution that meets certain financial conditions is granted a modified list of operational autonomies as follows:

- (1) If a postsecondary management board grants approval to an institution in its system to exercise operational autonomies, the division of administration shall subsequently approve the exercise of such autonomies to all institutions in the system, provided the system 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. If the system did not receive for the 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, the division of administration shall approve the exercise of such autonomies to all institutions in the system, except for any institution which was responsible for the finding of noncompliance at the system level.
- (2) If an institution granted the right to exercise operational autonomies pursuant to proposed law subsequently receives an audit with a material weakness through a financial audit, the institution shall be required to develop and implement a corrective action plan for approval by the management board. The institution shall be required to demonstrate to the management board that the necessary corrective actions were taken within six months from the date the audit finding was reported, or the institution will lose the authority to exercise the autonomies granted for the remainder of the period that this authority is in effect. The corrective action plan and post-implementation report shall be submitted to the division of administration and the Board of Regents.

Proposed law, with respect to the operational autonomies that an institution may exercise, adds, retains, modifies, or removes autonomies as follows:

- (1) Present law authorizes an institution to retain funds which are unexpended and unobligated at the end of the fiscal year for use at the institution's discretion subject to the prior review and approval of the Joint Legislative Committee on the Budget. Proposed law removes the stipulation that such autonomy is subject to approval by the legislative budget committee.

- (2) Present law authorizes an institution to dispose of obsolete equipment, excluding vehicles and items deemed by federal law to be of a dangerous nature, up to an original acquisition value of \$5,000. Proposed law removes the value limit and requires that the postsecondary management board provide certification to the division of administration that electronic devices are sanitized of any personally identifiable information.
- (3) Present law authorizes the exclusion of positions fully funded by nonappropriated funds from the institution's table of organization. Proposed law authorizes the division of administration to exclude the institution as a whole from any table of organization.
- (4) Present law authorizes exemption from participation in the state's risk management program. Proposed law adds provision that requires a determination by the division of administration that the institution or management board has the capacity to manage its own risk as a condition for such exemption; otherwise retains present law.
- (5) Present law generally authorizes an institution to administer facilities projects funded with self-generated revenue, federal funds, donations, grants, or revenue bonds. Proposed law retains present law.
- (6) Present law provides for pilot procurement codes as an alternative to the state procurement code. Proposed law authorizes adoption of a higher education procurement code which has been developed by LSU.
- (7) Present law authorizes investment of certain funds in governmental or public corporation bonds. Proposed law additionally authorizes investment of funds in municipal bonds.
- (8) Proposed law removes the following present law autonomies:
 - (a) To execute contracts up to a value of \$49,999 within a 12-month period in accordance with the delegation of authority by the office of state procurement.
 - (b) To join a not-for-profit cooperative buying organization and to procure materials, supplies, equipment, and services through purchasing agreements established by such an organization under specified conditions.
 - (c) To directly administer certain minor facility capital outlay projects without oversight or control by the office of facility planning and control.
 - (d) To use reverse auctions.
 - (e) For the director of purchasing to make a determination to use a competitive request for proposal process pursuant to present law without the approval of the commissioner of administration or the director of state purchasing.

Present law provides that the exemption from participation in the state's risk management program does not alter the authority of the attorney general and the Dept. of Justice to represent state agencies in litigation arising out of tort or contract. Proposed law provides similarly with respect to all autonomies granted by present law and proposed law.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 17:3139.2(intro. para.), 3139.5, and 3139.6(1))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Education to the original bill:

1. Were primarily technical.
2. Remove a deadline for submitting a request to exercise autonomies to the division of administration and add a deadline for requesting that an autonomy be removed.
3. Remove a proposed autonomy authorizing audits by private accountants rather than the legislative auditor.

The House Floor Amendments to the engrossed bill:

1. Add a sunset provision that provides that institutions that meet certain financial conditions may exercise a modified list of operational autonomies only until July 1, 2020.
2. Delete provision that increases the dollar limit under which institutions have the authority to select architects for professional service contracts.
3. Change condition on the exercise of autonomies from unmodified audits for a majority of the previous five years to unmodified audits for all audits conducted in the previous five years. Remove an exception to this requirement applicable to the authorization in 2015.
4. Remove a waiver of the state's obligation to pay a judgment against a management board.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Education to the re-reengrossed bill

1. Removes 7/1/2020 sunset provision on autonomies granted.
2. Provides that once a postsecondary management board grants approval to one of its institutions to exercise operational autonomies, the division of administration must grant such autonomies to all institutions in the system, provided the system received a financial audit that meets specified criteria.
3. Provides that if a postsecondary system does not receive a satisfactory financial audit, any institution that was responsible for the finding of noncompliance shall lose its authority to exercise the operational autonomies previously granted.
4. Provides that an institution that receives an audit with a material weakness must develop a corrective action plan and demonstrate to its management board that all necessary corrective actions were taken within six months from the date the audit finding was reported, or lose its operational autonomies.
5. Requires that an institution's corrective action plan be submitted to the division of administration and the Board of Regents.