

S.B. 37 by Creighton (Senator from The Woodlands)

S.B. 37 amends current law relating to the governance of public institutions of higher education, including review of curriculum and certain degree and certificate programs, a faculty council or senate, training for members of the governing board, and the establishment, powers, and duties of the Texas Higher Education Coordinating Board Office of the Ombudsman.

Short Version

Curriculum Reform:

- Governing boards may appoint a committee to assist with general education curriculum review.
- Provides more specific language regarding what is and is not allowable in general education curriculum.
- Establishes a THECB core curriculum committee to redefine foundational component areas and make recommendations to taper down required SCH of core curriculum.
- Creates framework for THECB to make ROI and manageable debt analysis of degree programs to recommend to governing boards.
- Reduces requirement that institutions inventory courses from five years down to two.

Governing Board Authority:

- Presidents conduct reviews of major administrative positions and report their recommendations to the governing board.
- Governing boards have discretionary authority over all hiring decisions made at member institutions.

Faculty/Faculty Senates/Councils:

- Faculty does not have to be tenured to serve on the faculty senate/council.
- Limits number of members to 60 with clearer term limits for appointed/elected members.
- Official faculty senate/council duties are to advise administration—any published report or statement outside of that purview is prohibited.
- Clarifies faculty may not be involved in decision-making of a faculty grievance process.

Office of Excellence in Higher Education:

- Uses existing statutory framework—renames to "Office of the Ombudsman" established as a new division under THECB.

- Cites specific state law that are subject to reports of noncompliance.
- Strengthens requirements for submission of reports of noncompliance.
- Provides 25-day resolution period for institutions prior to further investigation + turnover to AG.
- Gives AG specific authority to ensure compliance is met following failure to meet compliance during the resolution period.

Long Version

ARTICLE 1. CURRICULUM AND ACADEMIC PROGRAMS

Sec. 51.315. GENERAL EDUCATION CURRICULUM REVIEW

Requires the governing board of each institution of higher education, at least once every five years, to conduct a comprehensive review of the general education curriculum established by the institution. Requires the governing board, in reviewing an institution's general education curriculum, to ensure courses in the curriculum meet certain requirements.

Requires the governing board of an institution of higher education, in reviewing the general education curriculum of the institution to consider the potential costs the curriculum may impose on students, including for additional tuition, fees, and time a student is required to spend to complete an undergraduate degree program at the institution.

Requires each institution of higher education to annually submit to the governing board of the institution an update regarding any changes to the general education curriculum offered at the institution. Authorizes the governing board to reserve the right to overturn any decision made by the institution regarding any changes to the general education curriculum offered at the institution.

Authorizes the governing board of an institution of higher education to appoint a committee to assist the governing board in carrying out its duties under this section, including by making recommendations to the governing board. Provides that members of the committee are authorized to include faculty employed full-time by the institution, institution administrators, community leaders, industry representatives, and other individuals selected by the governing board.

Requires the governing board of each institution of higher education, not later than January 1 of each year a review is conducted under this section, to certify the governing board's compliance with this section to the Texas Higher Education Coordinating Board (THECB) and each standing legislative committee and subcommittee with primary jurisdiction over higher education.

Sec. 51.345.

Provides that the final decision-making authority on matters regarding an institution of higher education's degree programs and curricula belongs to the institution. Requires the institution to make the decisions on those matters under the direction of the institution's governing board.

SECTION 1.03.

Sec. 51.989. REVIEW OF MINOR DEGREE AND CERTIFICATE PROGRAMS.

Requires the president or chief executive officer of an institution of higher education to adopt and implement a process for reviewing minor degree and certificate programs offered by the institution to identify programs with low enrollment that may require consolidation or elimination.

Requires that the criteria for review of minor degree and certificate programs have specific industry data to substantiate workforce demand to avoid consideration for consolidation or elimination.

Provides that a minor degree or certificate program that has operated less than five years at the time the president or chief executive officer of an institution of higher education conducts the review under this section is exempt from that review.

Requires the governing board of an institution of higher education to approve or deny any decision made by the president or chief executive officer of the institution to consolidate or eliminate a minor degree or certificate program as a result of the review conducted under this section.

Requires the president or chief executive officer of an institution of higher education to conduct a review under this section once every five years.

SECTION 1.04. Authorizes a governing board to exclude from the comprehensive list of courses submitted that were not taught as an organized class or provided through individual instruction for the preceding two academic years.

Sec. 61.0522. GENERAL EDUCATION CURRICULUM ADVISORY COMMITTEE.

Requires THECB to establish an advisory committee to review the general education curriculum requirements of institutions of higher education.

Requires THECB to call for nominations from presidents or chief executive officers, chancellors, and chief academic officers at all institutions of higher education for representatives to serve on the advisory committee. Requires THECB to select a number of representatives determined by THECB from those nominated with nominees drawn equally from two-year and four-year institutions.

Requires the advisory committee to consider methods for determining general education curriculum component courses and for condensing the number of general education curriculum courses required at institutions of higher education.

Requires the advisory committee, not later than November 1, 2026, to produce a report regarding the advisory committee's findings and recommendations under this section and provide the report to THECB.

Requires THECB, not later than December 31, 2026, to review the advisory committee's report and submit to the legislature THECB's recommendations for legislative or other action necessary to implement the findings of the report.

Provides that the advisory committee is abolished and this section expires September 1, 2027.

ARTICLE 2. INSTITUTIONAL GOVERNANCE

SECTION 2.01.

Requires each governing board, in addition to powers and duties specifically granted by the Education Code or other law, to take certain actions, including approving or denying the hiring of an individual for the position of provost or deputy, associate, or assistant provost by each institution under the board's control and management and collaborating with institutions under its control and management to set campus admission standards consistent with the role and mission of the institution and considering the admission standards of similar institutions nationwide having a similar role and mission, as determined by THECB.

Authorizes the governing board of an institution of higher education to overturn any hiring decision for the position of vice president or dean made by the administration of a campus under THECB's control and management. Requires that action by the governing board under this subsection be implemented by the institution through appropriate action with respect to the relevant hiring decision at issue, including rescission of an employment offer, termination of employment, or termination of an employment agreement.

Requires the governing board of each institution of higher education to annually submit to the governor, the lieutenant governor, the speaker of the house of representatives, and each member of the legislature a report regarding decisions made by the governing board for the applicable academic year on any hiring of administration in which THECB approved or denied the hiring decision or took action.

SECTION 2.02.

Sec. 51.3522. FACULTY COUNCIL OR SENATE.

Provides that only the governing board of an institution of higher education is authorized to establish a faculty council or senate at the institution. Requires the governing board, before

establishing the faculty council or senate, to adopt a policy governing the selection of the faculty council's or senate's members that meets certain requirements.

Provides that a faculty council or senate is advisory only and is prohibited from being delegated the final decision-making authority on any matter. Requires a faculty council or senate to represent the entire faculty of the institution of higher education and advise the institution administration and any system administration regarding matters related to the general welfare of the institution. Prohibits a faculty council or senate from issuing any statement or publishing a report using the institution's official seal, trademark, or resources funded by the institution on any matter not directly related to the council's or senate's duties to advise the institution administration.

Provides that service on the faculty council or senate is an additional duty of the faculty member's employment. Provides that members of the faculty council or senate are not entitled to compensation or reimbursement of expenses for their role as members of the faculty council or senate unless the expense is on behalf of and approved by the institution of higher education.

Provides that a member of the faculty council or senate appointed by the president or chief executive officer of the institution of higher education in accordance with Subsection (b)(3)(A) (relating to at least two members of the senate being representatives from each college or school, including one member appointed by the president of the institution) is authorized to serve up to six consecutive one-year terms and then authorized only to be reappointed after the second anniversary of the last day of the member's most recent term. Provides that a member of the faculty council or senate elected by a vote of the faculty of the member's respective college or school serves a two-year term, staggered in a manner that allows approximately one-half of the elected members to be elected each year, and is authorized to only be reelected after the second anniversary of the last day of the member's most recent term.

Authorizes a faculty member serving on the faculty council or senate to be immediately removed from the council or senate for failing to conduct the member's responsibilities within the council's or senate's parameters, failing to attend council or senate meetings, or engaging in other similar misconduct. Authorizes a member of a faculty council or senate to be removed on recommendation of the institution's provost and approval by the institution's president or chief executive officer.

Requires the president or chief executive officer of the institution of higher education to appoint a presiding officer, associate presiding officer, and secretary from the members of the faculty council or senate.

Requires the presiding officer appointed under Subsection (g) to preside over meetings of the faculty council or senate and represent the council or senate in official communications with the institution administration and any system administration.

Requires the faculty council or senate to conduct meetings at which a quorum is present in a manner that is open to the public and in accordance with procedures prescribed by the president or chief executive officer of the institution of higher education.

Requires the faculty council or senate to broadcast over the Internet live video and audio, as applicable, of each open meeting of the council or senate if more than 50 percent of the members of the council or senate are in attendance.

Requires the faculty council or senate to adopt rules for establishing a quorum.

Requires that certain information be made available to the public on the institution of higher education's Internet website not later than the seventh day before a meeting of the faculty council or senate.

Requires that the names of the members in attendance be recorded at a meeting in which the faculty council or senate conducts business related to a vote of no confidence regarding an institution or system administrator or policies related to curriculum and academic standards.

Prohibits this section from being construed to limit a faculty member of an institution of higher education from exercising the faculty member's right to freedom of association protected by the United States Constitution or Texas Constitution.

Sec. 51.3523. **SHARED GOVERNANCE**

Requires institutions of higher education in this state to be governed by a principle of shared governance, which refers to a structured decision-making process in which the governing board of the institution exercises ultimate authority and responsibility for institutional oversight, financial stewardship, and policy implementation, while allowing for appropriate consultation with faculty, administrators, and other stakeholders on matters related to academic policy and institutional operations. Prohibits the principle of shared governance from being construed to diminish the authority of the governing board to make final decisions in the best interest of the institution, students, and taxpayers.

Requires administrators at institutions of higher education to make decisions in a manner that promotes efficiency, accountability, and responsiveness to state priorities, workforce needs, and the institution's institutional mission. Provides that faculty and staff are authorized to provide recommendations on academic matters, but that input is only advisory in nature, ensuring that governing boards and institutional leadership retain clear and ultimate decision-making authority. Prohibits shared governance structures from being used to obstruct, delay, or undermine necessary institutional reforms or serve as a mechanism for advancing ideological or political agendas.

Sec. 51.3541. **RESPONSIBILITY OF PRESIDENT OR CHIEF EXECUTIVE OFFICER.**

Requires the president or chief executive officer of an institution of higher education to conduct annual evaluations for individuals who hold the positions of vice president, provost, dean, or a similar leadership position that oversees curriculum or student affairs for the institution and report to the institution's governing board regarding any decision to remove an individual from a position described by this subsection.

SECTION 2.03.

Requires that the membership of an executive search committee for a president or chief executive officer of an institution of higher education include at least two members of the institution's governing board with at least one of those members serving as the chair.

SECTION 2.04.

Sec. 51.9431. GRIEVANCE, HIRING, AND DISCIPLINE DECISION-MAKING AUTHORITY.

Provides that only the president or chief executive officer or provost of an institution of higher education, university system administration, or the president's or chief executive officer's, provost's, or administration's designee is authorized to be involved in decision-making regarding review of a faculty grievance, including under Section 51.960 (Grievance Rights on Certain Personnel Issues), or the faculty discipline process.

Prohibits a faculty member of an institution of higher education who does not serve in an administrative leadership position from having decision-making authority on the hiring of an individual for any faculty or administrative leadership position at the institution.

ARTICLE 3. COORDINATION AND OVERSIGHT OF INSTITUTIONS OF HIGHER EDUCATION

SECTION 3.01.

Requires THECB to establish the THECB Office of the Ombudsman (office) to serve as an intermediary between the legislature and the public and institutions of higher education, including by answering questions from the legislature and the public regarding the obligations of an institution of higher education to students, faculty, employees, and the public. Requires the office to perform the functions described by this section and coordinate THECB's compliance monitoring functions under Section 61.035 (Compliance Monitoring). Requires the ombudsman to serve as the director of compliance and monitoring.

Requires the governor, with the advice and consent of the senate, to appoint a person to serve as ombudsman. Provides that the ombudsman serves at the pleasure of the governor.

Requires the office to receive and, if necessary, investigate complaints submitted in accordance with Subsection (d) regarding an institution of higher education's failure to comply with certain provisions of the Education Code.

Authorizes a student or faculty or staff member at an institution of higher education who has reason to believe an institution of higher education has failed to comply with a provision listed under Subsection (c) to submit a written complaint to the office that includes certain information.

Provides that an individual is not eligible to file a complaint under Subsection (d) if the individual has filed with another state agency, a federal agency, or a court, as applicable, one of the following against the institution of higher education that is the subject of the complaint: a lawsuit that makes the same or similar allegations or arises out of the same factual situation or an administrative complaint that makes the same or similar allegations or arises out of the same factual situation.

Requires the office to dismiss any complaint that the office determines was filed in violation of Subsection (d-1).

Requires an individual who knowingly submits a false complaint under Subsection (d) to be held responsible for any costs incurred by the office in conducting an investigation resulting from the false complaint. Authorizes the office to refuse to investigate a future complaint filed by an individual who is found to have knowingly filed a false complaint.

Creates this subsection from existing text. Requires the office, rather than THECB, to maintain a file on each written complaint filed with THECB. Requires that the file contain certain information, including the name of the individual, rather than the person, who filed the complaint. Makes a conforming change.

Requires the office to provide to the individual filing the complaint and to each individual alleged to be involved in the failure to comply, rather than the person who is a subject of the complaint, a copy of the office's policies and procedures relating to complaint investigation and resolution. Makes conforming changes.

Requires the office to notify the governing board of the institution of higher education that is the subject of a complaint of noncompliance that meets the requirements not later than the fifth day after the date the office receives the complaint. Requires the governing board of the institution to respond to the complaint not later than the 175th day after the date the governing board receives the notice unless the office has granted an extension for good cause.

Authorizes the office, in investigating a complaint of noncompliance regarding an institution of higher education received under this section, to request information from the institution. Requires the governing board of the institution to respond in writing to the office's written request for information not later than the 30th day after the date the institution receives the request. Prohibits this subsection from being construed to require an institution to provide privileged information to the office.

Requires the office, based on findings related to an investigation under this section, to submit to the governing board of the institution of higher education that is the subject of an investigation under this section a report on the investigation that includes the office's final determination regarding the investigation and recommendations based on the conclusions of the investigation.

Requires the office, if not later than the 180th day after the date the office submits the report to the governing board of an institution of higher education that is the subject of an investigation under this section, the office determines the governing board has not resolved any

noncompliance issues identified in the report, to submit to the ombudsman and state auditor a report on the noncompliance that includes the office's recommendations.

Authorizes the ombudsman, on receipt of a report under Subsection (k), to recommend to the legislature that the institution of higher education not be allowed to spend money appropriated to the institution for a state fiscal year until the institution's governing board certifies compliance and the state auditor confirms the institution's compliance.

Authorizes the office to issue a civil investigative demand in the same manner as the procedures prescribed by Subchapter B (Civil Investigative Authority), Chapter 140B (Civil Remedies and Enforcement Related to Racketeering and Unlawful Debt Collection), Civil Practice and Remedies Code, for civil investigative demands issued by the attorney general or a local prosecuting attorney under that subchapter and require cooperation from an institution of higher education in an investigation under this section if the office determines a complaint of noncompliance with a provision listed under Subsection (c) is credible.

Requires the office to annually submit a report to the governor, the lieutenant governor, the state auditor, and the chair of each standing legislative committee with jurisdiction over higher education regarding certain subjects.

SECTION 3.02.

Requires THECB to review each degree or certificate program offered by an institution of higher education at the time the institution requests to implement a new program to ensure that the program meets certain criteria, including meeting a national need or is needed by the state and the local community, and does not unnecessarily duplicate programs offered by other institutions of higher education or private or independent institutions of higher education.

SECTION 3.03.

Requires that topics covered by the training program on the official role and duties of the members of governing boards include:

An overview of the legislature, the General Appropriations Act, and the state budget as those topics relate to the responsibilities of the governing board;

An emphasis on the commitment the members of the governing board are making to the institutions of higher education under THECB's control and management and, if applicable, the university system, this state, and taxpayers of this state; and

Requires a member of a governing board, on completion of a training program under this section, to provide a sworn statement affirming the member's understanding of the member's duties and responsibilities.

ARTICLE 4. APPLICABILITY; EFFECTIVE DATE

SECTION 4.01.

Provides that, except as provided by Subsection (b) of this section, this Act applies beginning January 1, 2026.

Provides that a faculty council or senate established at a public institution of higher education before the effective date of this Act is abolished on September 1, 2025, unless the faculty council or senate was established in the manner prescribed by Section 51.3522, Education Code, as added by this Act, or the faculty council's or senate's continuation is ratified by the institution's governing board before that date based on a finding by the governing board that the faculty council or senate meets the requirements of any policy adopted by the governing board under that section.

Provides that a faculty council or senate authorized but not yet established at a public institution of higher education before the effective date of this Act is authorized to be established only in the manner prescribed by Section 51.3522, Education Code, as added by this Act.

SECTION 4.02. Effective date: September 1, 2025.