

HOUSE SUMMARY OF SENATE AMENDMENTS**HB 766****2015 Regular Session****Adams**

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

Synopsis of Senate Amendments

1. Remove provision terminating the authority granted by proposed law on July 1, 2020.
2. Conditions the exercise of operational autonomies by public postsecondary education institutions on the most recent audit rather than the audits conducted in the previous five years.
3. Authorize a management board to decide that its institutions shall not exercise the autonomies granted by proposed law, but remove authority for a management board to decide that a particular institution does not have the capacity to exercise particular autonomies.
4. Provide that an institution that is responsible for a system's failure to receive a satisfactory audit shall not be granted authority to exercise autonomies.
5. Add provisions relative to corrective action plans for an institution that is granted autonomies but subsequently receives an audit with a material weakness.

Digest of Bill as Finally Passed by Senate

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. Replaces the performance agreement conditions with requirement that the division of administration shall approve the exercise of the autonomies subject only to the following conditions:

- (1) A public postsecondary education management board may decide that none of its institutions will have such authority.
- (2) The division of administration shall approve the exercise of such autonomies to institutions in a system if 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.
- (3) Notwithstanding (2) above, if the system did not receive 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 not approve the exercise of such autonomies by any institution that was responsible for the finding of noncompliance at the system level.

Proposed law provides that 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. Provides that 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 the 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))