

Regular Session, 2011

HOUSE BILL NO. 549

BY REPRESENTATIVES TUCKER, ANDERS, ARNOLD, BOBBY BADON, BURFORD, HENRY BURNS, CARMODY, CARTER, CHANDLER, CHANEY, CONNICK, DOVE, DOWNS, EDWARDS, FOIL, GREENE, GUILLORY, HARDY, HARRISON, HOFFMANN, HUTTER, KATZ, LIGI, LITTLE, LOPINTO, LORUSSO, NOWLIN, PEARSON, PONTI, PUGH, RICHARD, RICHARDSON, SCHRODER, SEABAUGH, SMILEY, GARY SMITH, JANE SMITH, ST. GERMAIN, TALBOT, TEMPLET, THIBAUT, AND WILLIAMS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

COLLEGES/UNIVERSITIES: Provides relative to the La. Granting Resources and Autonomy for Diplomas Act, including additional operational autonomies to be granted to public postsecondary education institutions and reporting requirements for such institutions and the Board of Regents

1 AN ACT

2 To amend and reenact R.S. 17:3139(B), (C)(3)(a) and (5)(introductory paragraph) and (i),

3 (D), (F)(introductory paragraph), (4), and (5), and (G)(1), (2)(introductory

4 paragraph) and (iii), and (3)(introductory paragraph), and 3386(E), to enact R.S.

5 17:3139(C)(1)(e) and (5)(j) and (G)(4) and (5), and to repeal R.S. 17:3139(F)(6),

6 relative to the Louisiana Granting Resources and Autonomy for Diplomas Act; to

7 provide for additional operational autonomies to be granted to public postsecondary

8 education institutions, including but not limited to authority and exemptions relative

9 to budgetary management, capital outlay, and procurement; to provide relative to

10 required reporting by public postsecondary education institutions and certain cost

11 data to be included in such reports; to provide relative to renewal periods of

12 institutions' performance agreements by the Board of Regents; to require

13 achievement of certain standards for retention of first-year students; to require the

14 Board of Regents to report on the standardization of student tracking and records

15 systems and the performance of institutions relative thereto; to provide relative to the

16 retention of certain unused funds by certain institutions; to direct the Louisiana State

1 Law Institute to redesignate certain statutory provisions; to provide for applicability;
2 to provide for an effective date; and to provide for related matters.

3 Be it enacted by the Legislature of Louisiana:

4 Section 1. R.S. 17:3139(B), (C)(3)(a) and (5)(introductory paragraph) and (i), (D),
5 (F)(introductory paragraph), (4), and (5), and (G)(1), (2)(introductory paragraph) and (iii),
6 and (3)(introductory paragraph), and 3386(E) are hereby amended and reenacted and R.S.
7 17:3139(C)(1)(e) and (5)(j) and (G)(4) and (5) are hereby enacted to read as follows:

8 §3139. Louisiana Granting Resources and Autonomy for Diplomas Act; purpose;
9 agreements; monitoring and renewal; reporting

10 * * *

11 B. Purpose. The purpose of this Section is to support the state's public
12 postsecondary education institutions in remaining competitive and increasing their
13 overall effectiveness and efficiency by ~~providing~~ requiring that the institutions
14 achieve specific, measurable performance objectives aimed at improving college
15 completion and at meeting the state's current and future workforce and economic
16 development needs, by improving the quality and type of data available on these
17 objectives and institutions' respective progress towards them, and by granting the
18 institutions limited operational autonomy and flexibility in exchange for achieving
19 such objectives.

20 C. Performance agreements; objectives. Effective beginning with the 2011
21 Fiscal Year, any public postsecondary education institution, including professional
22 schools, except for the schools and programs comprising the Louisiana State
23 University Health Sciences Center, may enter into an initial performance agreement
24 with the Board of Regents in order to be granted limited operational autonomy and
25 flexibility as provided in Subsection F of this Section in exchange for committing to
26 meet established targets for the following performance objectives as applicable to the
27 institution as determined by the Board of Regents:

28 (1)

29 * * *

1 (e) For the purposes of this Section, successful attainment of the student
2 success objectives shall be required for determination by the Board of Regents that
3 an institution has met the short-term targets of the performance agreement as
4 provided in this Subsection. Successful attainment of the student success objectives
5 also shall require, as appropriate for the mission of the institution, same-institution
6 graduation rate, percentage change in program completers, and retention rate.

7 * * *

8 (3) Workforce and economic development. (a) Eliminate academic program
9 offerings that have low student completer rates as identified by the Board of Regents
10 or are not aligned with current or strategic workforce needs of the state, region, or
11 both as identified by the Louisiana Workforce Commission and Louisiana Economic
12 Development.

13 * * *

14 (5) ~~Submit a report to the Board of Regents, the legislative auditor, and the~~
15 ~~legislature containing certain organizational data, including but not limited to the~~
16 ~~following:~~ Each institution annually shall submit a report to the Board of Regents,
17 which shall publish the report on its website, the legislative auditor, the legislature,
18 and the division of administration containing certain organizational data, including
19 but not limited to the following:

20 * * *

- 21 (i) A cost performance analysis to include by institution:
22 (i) Total operating budget by function, amount, and percent of total, reported
23 in a manner consistent with the National Association of College and University
24 Business Officers guidelines.
25 (ii) Average yearly cost of attendance as reported to the United States
26 Department of Education.
27 (iii) Average time to degree for completion of academic programs at all
28 levels.
29 (iv) Average cost per degree awarded by degree level.

1 (v) Average cost per non-completer by degree program entered.

2 (j) All expenditures of the institution for that year.

3 (k) Any additional data requested by the speaker of the House of
4 Representatives or the president of the Senate.

5 * * *

6 D. Annual review; revocation; modifications. (1) The initial performance
7 agreement and each subsequent agreement shall be a six-year agreement and shall
8 be reviewed annually by the Board of Regents. The Board of Regents may revoke
9 an agreement at any time if it determines that an institution has failed to abide by the
10 terms of the agreement.

11 (2) The Board of Regents may ~~modify~~ lower the established targets for
12 performance objectives contained in an institution's performance agreement only in
13 the event extraordinary circumstances prevent the institution from meeting such
14 targets. Such modifications shall be subject to approval by the Joint Legislative
15 Committee on the Budget. The Board of Regents may raise, at the time of the annual
16 review, the established targets for performance objectives contained in an
17 institution's performance agreement to continue institutional progress and shall notify
18 the House Committee on Education and the Senate Committee on Education, in
19 writing, of any such increases.

20 * * *

21 F. Autonomies granted. ~~Each~~ Notwithstanding any other provision of law to
22 the contrary, each institution that enters into a performance agreement ~~as provided~~
23 ~~in this Section shall be granted the following:~~ shall be granted the authorities and
24 autonomies as provided in this Subsection.

25 * * *

26 ~~(4) A base level of operational autonomy as determined by the Board of~~
27 ~~Regents subject to the approval by the division of administration which, at a~~
28 ~~minimum, shall include greater flexibility in:~~

1 ~~(a) Carrying forward unexpended and unobligated funds from one fiscal year~~
2 ~~to the next.~~

3 ~~(b) Procuring information technology products and services.~~

4 ~~(c) Adhering to state travel regulations.~~

5 ~~(5) The Board of Regents, in collaboration with the division of~~
6 ~~administration, shall identify additional operational autonomies, including but not~~
7 ~~limited to exceptions from procurement and construction regulations. However, no~~
8 ~~exception from any provision of the Louisiana Procurement Code or from Chapter~~
9 ~~10 of Title 38 of the Louisiana Revised Statutes of 1950 shall be granted, and, unless~~
10 ~~specifically authorized by the legislature, no design-build contract shall be~~
11 ~~authorized pursuant to this Paragraph. The Board of Regents may grant such~~
12 ~~autonomies to an institution during the initial agreement period if all of the following~~
13 ~~are met:~~

14 ~~(a) After three years, the institution has achieved a sufficient number of the~~
15 ~~performance objectives provided in Subsection C of this Section as determined by~~
16 ~~the Board of Regents.~~

17 ~~(b) The institution has demonstrated the ability to successfully operate with~~
18 ~~the base levels of autonomies granted by this Section as determined by the Board of~~
19 ~~Regents.~~

20 ~~(6) (4)~~ Each postsecondary education management board shall establish
21 criteria for waiving any tuition or mandatory fee increase as authorized in this
22 Subsection in cases of financial hardship. Information relative to such waivers and
23 the criteria and procedures for obtaining a waiver shall be made available to all
24 prospective students in a timely manner such that each student is informed of the
25 availability of a waiver prior to the student making a final decision concerning
26 attendance at any public institution of postsecondary education.

27 (5) Operational autonomies. (a) Base level. Notwithstanding any provision
28 of law to the contrary, any institution that is determined by the Board of Regents to
29 have met the short-term targets established in the performance agreement may be

1 granted the autonomies as provided in this Subparagraph; however, no institution
2 shall be granted such an autonomy until after the division of administration
3 determines that for the following year the institution possesses the capacity relevant
4 to the autonomy including, at a minimum, a review of the most recent fiscal audit by
5 the legislative auditor.

6 (i) Authority to retain any funds which remain unexpended and unobligated
7 at the end of the fiscal year for use at the institution's discretion pursuant to R.S.
8 17:3386.

9 (ii) Authority to execute contracts up to a value of forty-nine thousand nine
10 hundred ninety-nine dollars within a twelve-month period in accordance with the
11 delegation of authority by the office of contractual review pursuant to R.S. 39:1488.

12 (iii) Authority to identify and dispose of obsolete equipment, excluding
13 vehicles and items deemed by federal law to be of a dangerous nature, up to an
14 original acquisition value of five thousand dollars.

15 (iv) Authority to be excluded from oversight or review by the office of
16 information technology, as provided in R.S. 39:15.3, for purchases with an academic
17 research or classroom instructional purpose.

18 (v) Authority to engage in competitive sealed bidding in accordance with
19 R.S. 39:1594 or a competitive request for proposals process in accordance with R.S.
20 39:1593 without publishing each advertisement in the official journal of the state.

21 (vi) Authority to exclude from the institution's authorized table of
22 organization any full-time or part-time position of employment for which a budget
23 has been approved and an appropriation has been made or for which a transfer of
24 funds effected pursuant to law is fully funded by nonappropriated funds.

25 (b) Intermediate level. Notwithstanding any provision of law to the contrary
26 and in addition to the base level autonomies granted pursuant to Subparagraph (a)
27 of this Paragraph, any institution that is determined by the Board of Regents to have
28 met the short-term targets established in the performance agreement may be granted
29 the autonomies as provided in this Subparagraph; however, no institution shall be

1 granted such an autonomy until after the division of administration determines that
2 for the following year the institution possesses the capacity relevant to the autonomy
3 including, at a minimum, a review of the most recent fiscal audit by the legislative
4 auditor, and the institution has met the Board of Regents' requirements for
5 significantly streamlining its academic service delivery to students to meet regional
6 workforce needs as provided in Item (vi) of this Subparagraph.

7 (i) Notwithstanding the provisions of R.S. 39:1702, authority to procure
8 materials, supplies, equipment, and services through any purchasing agreements
9 established by a not-for-profit cooperative buying organization located in the United
10 States, if such purchasing agreements have been established pursuant to a
11 competitive bid proposal process. Prior to entering any purchasing agreement with
12 a not-for-profit cooperative buying organization, the institution shall publish a notice
13 of intent to enter such purchasing agreement through a centralized, electronic,
14 interactive environment administered by the division of administration as provided
15 in R.S. 39:1593 and on the institution's website and shall allow fifteen days for
16 interested vendors to submit proposals for the materials, supplies, equipment, or
17 services. The proposals submitted by interested vendors shall adhere to the request
18 for proposal or solicitation issued by the cooperative buying organization. The
19 institution shall review the proposals submitted by interested vendors and compare
20 the proposals to the cooperative buying organization agreement to determine the
21 lowest responsive and responsible vendor. The institution shall utilize the lowest
22 responsive and responsible vendor for the procurement. For purposes of this Item,
23 lowest responsive and responsible bidder shall be defined as set forth in R.S.
24 39:1591.

25 (ii) Authority to directly administer minor facility capital outlay projects
26 without oversight or control by the office of facility planning and control. For
27 purposes of this Item, minor facilities projects shall mean, in addition to the authority
28 provided in R.S. 39:128, those that do not require the use of and coordination
29 between more than two trades or that do not require the use of the professional

1 services of an architect or engineer pursuant to the provisions of R.S. 39:1482 and
2 1484.

3 (iii) Authority to join an existing cooperative purchasing agreement in
4 accordance with R.S. 39:1702 and Item (i) of this Subparagraph. Prior to entering
5 any purchasing agreement with a not-for-profit cooperative buying organization, the
6 institution shall publish a notice of intent to enter such purchasing agreement through
7 a centralized, electronic, interactive environment administered by the division of
8 administration as provided in R.S. 39:1593 and on the institution's website and shall
9 allow fifteen days for interested vendors to submit proposals for the materials,
10 supplies, equipment, or services. The proposals submitted by interested vendors
11 shall adhere to the request for proposal or solicitation issued by the cooperative
12 buying organization. The institution shall review the proposals submitted by
13 interested vendors and compare the proposals to the cooperative buying organization
14 agreement to determine the lowest responsive and responsible vendor. The
15 institution shall utilize the lowest responsive and responsible vendor for the
16 procurement. For purposes of this Item, lowest responsive and responsible bidder
17 shall be defined as set forth in R.S. 39:1591.

18 (iv) Authority to use reverse auctions. For purposes of this Item, reverse
19 auction means a competitive online solicitation process on the Internet for products,
20 supplies, services, and other materials in which vendors compete against each other
21 in real time in an open and interactive environment.

22 (v) Authority for the director of purchasing at a college or university to make
23 a determination to use a competitive request for proposal process as provided in R.S.
24 39:1593(C) without the approval of the commissioner of administration or the
25 director of state purchasing.

26 (vi) For purposes of this Subparagraph, for an institution to meet the
27 requirement of significantly streamlining academic service delivery, the institution
28 shall have acted on at least two items from a list approved by the Board of Regents,
29 which shall include the following:

1 ~~(aa) The review of all of its programs and academic offerings and~~
2 ~~appropriate action to improve those programs and academic offerings through~~
3 ~~modification, consolidation, or elimination, including consideration of online~~
4 ~~delivery of academic offerings to meet workforce needs and maximize resources.~~

5 ~~(bb) The review and streamlining of all course offerings to align with~~
6 ~~program requirements and facilitate on-time graduation.~~

7 ~~(cc) If a two-year institution, the review of nonacademic programs and~~
8 ~~degrees and appropriate action to improve such programs and degrees through~~
9 ~~modification, consolidation, or elimination, including consideration of online~~
10 ~~delivery of academic offerings.~~

11 ~~(dd) If a four-year institution, raised the minimum composite score on the~~
12 ~~American College Test required for admission to at least two points higher than the~~
13 ~~Board of Regents baseline appropriate for its type of institution. This requirement~~
14 ~~shall be notwithstanding a student's grade point average. Opting not to participate~~
15 ~~in this requirement shall not preclude an institution from implementing minimum~~
16 ~~admission standards in accordance with Board of Regents policy.~~

17 ~~(c) High level. Notwithstanding any provision of law to the contrary and in~~
18 ~~addition to the base level and intermediate level autonomies granted pursuant to~~
19 ~~Subparagraphs (a) and (b) of this Paragraph, any institution that is determined by the~~
20 ~~Board of Regents to have met the short-term targets established in the performance~~
21 ~~agreement may be granted the autonomies as provided in this Subparagraph;~~
22 ~~however, no institution shall be granted such an autonomy until after the division of~~
23 ~~administration determines that for the following year the institution possesses the~~
24 ~~capacity relevant to the autonomy including, at a minimum, a review of the most~~
25 ~~recent fiscal audit by the legislative auditor and has a one hundred fifty percent of~~
26 ~~normal-time Integrated Postsecondary Education Data System graduation rate within~~
27 ~~five percent of the average graduation rate for its classification according to the~~
28 ~~Southern Regional Education Board.~~

1 (i) Authority to participate in a pilot procurement code as established by the
2 initial qualifying institution to be in place for an initial period of three years and
3 approved by the division of administration. An institution granted this autonomy
4 shall use this pilot procurement code in lieu of the Louisiana Procurement Code as
5 provided in R.S. 39:15.3, 196 through 200, 1481 through 1526, and 1551 through
6 1755.

7 (ii) Exemption from participation in the state's risk management program
8 established by R.S. 39:1527 et seq. and administered by the office of risk
9 management, pursuant to a phased-in plan of implementation as determined by the
10 institution in collaboration with the attorney general and the division of
11 administration. This exemption shall not include the coverage provided by the
12 state's risk management program pursuant to R.S. 40:1299.39. Nothing in this
13 exemption shall abrogate, amend, or alter the authority of the attorney general or the
14 Department of Justice under Article 4, Sections 1 and 8 of the Constitution of
15 Louisiana or any other provision of law to represent the state and all departments and
16 agencies of state government in all litigation arising out of or involving tort or
17 contract. Any institution that is granted an exemption under this Item shall enter into
18 an interagency agreement with the attorney general and pay the attorney general
19 reasonable attorney fees and expenses incurred in representing the institution.

20 (aa) Nothing in this Item shall be construed as creating any independent or
21 separate cause of action against the state. The state shall continue to be sued only
22 through the exempt institution's management board and cannot be sued in addition
23 to or separately from the exempt institution's management board in any cause of
24 action asserted against the exempt institution. Neither the state nor the office of risk
25 management shall be responsible for payment of any judgment against the exempt
26 institution's management board.

27 (bb) Any contract between the exempt institution's management board and
28 its insurer shall name the state as an additional insured. Any provision in any

1 contract between the exempt institution's management board and its insurer that
2 conflicts with the provisions of this Section shall be deemed null and void.

3 (cc) Nothing in this Item shall be construed to adversely affect any of the
4 substantive and procedural limitations applicable to actions against the state,
5 including but not limited to the provisions of R.S. 13:5106, 5107, 5108.1, and 5112,
6 and R.S. 9:2800 which would continue to apply equally to any exempted institution.
7 Those provisions that will not apply are those that are specifically excluded in this
8 Section.

9 (iii) Notwithstanding the provisions of R.S. 39:113, authority to administer
10 all facilities projects funded with self-generated revenue, federal funds, donations,
11 grants, or revenue bonds, including all projects falling under R.S. 39:128; however,
12 excluding those projects falling under R.S. 39:128, these projects shall not be
13 exempted from the capital outlay budget or any requirements as pertains thereto.

14 (iv) Authority to invest funds as defined by R.S. 49:327(C), in addition to
15 those instruments laid out in R.S. 49:327(B)(1), in tax exempt bonds and other
16 taxable governmental bonds issued by any state or a political subdivision or public
17 corporation of any state, provided that such bonds are rated by a nationally
18 recognized rating agency as investment grade. The investment policy governing
19 such investment as defined by R.S. 49:327(C)(1)(b) shall require only the approval
20 of the institution's management board and shall define the allocation of funds among
21 instruments and the term of maturity of the instruments. If an institution pursuant
22 to the Board of Regents' annual review is either no longer meeting its short-term
23 targets or is determined by the division of administration to no longer possess the
24 capacity relevant to this autonomy, or both, authority to invest additional funds shall
25 be limited to those instruments defined by R.S. 49:327(B)(1) and (C), and shall
26 exclude further investments in tax exempt bonds and other taxable government
27 bonds issued by the state or a political subdivision or public corporation of the state.

28 G. Monitoring; reporting; renewal. (1) The Board of Regents annually shall
29 monitor and report to the legislature and the governor on each participating

1 institution's progress in meeting the established targets for performance objectives
 2 as specified in Subsection C of this Section. At the end of the ~~initial agreement~~
 3 ~~period~~ first six years and each subsequent ~~agreement~~ six-year period, the Board of
 4 Regents shall determine whether to recommend renewal of an institution's
 5 performance agreement subject to the approval of the Joint Legislative Committee
 6 on the Budget. Such determination shall be based on the recommendations of a
 7 review panel established by the Board of Regents to conduct a comprehensive review
 8 and evaluation of the institution's progress in meeting the performance objectives.
 9 The composition of the review panel shall be the same as is provided in R.S.
 10 17:3138(C) with the addition of two representatives from the business community,
 11 who each possess a postsecondary degree, one recommended by the speaker of the
 12 House of Representatives and one recommended by the president of the Senate.

13 (2) If an institution's initial performance agreement is renewed ~~for a second~~
 14 ~~six-year period,~~ after six years, the institution in exchange shall:

15 * * *

16 (iii) A graduation rate of at least fifty percent for any institution classified
 17 as a "Four-Year 3", "Four-Year 4", ~~or~~ "Four-Year 5", or "Four-Year 6" institution by
 18 the Southern Regional Education Board.

19 * * *

20 (3) If an institution's performance agreement is renewed ~~for subsequent~~
 21 ~~periods following the first renewal period,~~ after six years, the institution in exchange
 22 shall:

23 * * *

24 (4) The Board of Regents shall inventory all institutional student records
 25 systems and recommend a plan to standardize and integrate such systems to include
 26 student transcript analysis and degree auditing components. This system shall
 27 include all undergraduate students and at a minimum and by student, the number of
 28 course credits earned, the number of course credits needed for degree completion,
 29 a time line for successful degree completion that shows if the student is behind, on

1 track, or ahead, and course credits needed as determined by the student's declared
2 area of concentration. The Board of Regents shall report on the progress of such
3 standardization to the legislature and the division of administration sixty days prior
4 to the 2012 Regular Session of the Legislature of Louisiana and annually thereafter
5 on the performance of qualifying institutions at achieving on-time graduation based
6 on the student tracking and records system. The report shall be posted on the Board
7 of Regents' website and shall be made easily accessible to the public.

8 (5) In addition to all of the targets in a performance agreement during the
9 first or any subsequent renewal period, no institution that grants baccalaureate
10 degrees shall be granted or exercise autonomies, including authority to increase
11 tuition, that are contingent on performance pursuant to this Section unless, in the
12 immediately prior academic year, it retained its first-year, full-time baccalaureate
13 degree seeking students at a rate that is predictive of the mean graduation rate of
14 each institution's peers as identified by the Board of Regents in accordance with R.S.
15 17:3351(A)(5)(e)(i). The Board of Regents shall collect and analyze data from
16 institutions in Southern Regional Education Board member states to determine the
17 appropriate retention rate for each class of institution.

18 * * *

19 §3386. Surplus funds; retention; use; exceptions

20 * * *

21 ~~E. The provisions of this Section requiring at least fifty percent of retained~~
22 ~~funds to be maintained in a reserve fund and used only for preventative maintenance~~
23 ~~purposes and prohibiting more than two percent of certain state general fund~~
24 ~~appropriations or allocations from being carried forward shall not apply to any public~~
25 ~~postsecondary education institution entering into a Notwithstanding any provision~~
26 ~~of law to the contrary, an institution that is determined by the Board of Regents to~~
27 ~~have met the short-term targets established in the performance agreement entered~~
28 ~~into pursuant to R.S. 17:3139 if the agreement so provides. may retain any funds~~
29 ~~appropriated or allocated to such college, university, or consortium thereof,~~

1 excluding those as specified in Subsection C of this Section, which remain
2 unexpended and unobligated at the end of the fiscal year, in accordance with R.S.
3 17:3139(F)(5)(a)(i) and such funds shall be used at the institution's discretion.

4 Section 2. R.S. 17:3139(F)(6) is hereby repealed in its entirety.

5 Section 3. The provisions of R.S. 17:3139(G)(5) as enacted by this Act shall be
6 applicable beginning with the 2017-2018 academic year as based on the retention rate
7 between the 2015-2016 and 2016-2017 academic years and shall be applicable every year
8 thereafter as based on the retention rate in the immediately prior academic year.

9 Section 4. The Louisiana State Law Institute is hereby directed to designate Sections
10 3121 through 3138 of Chapter 24 of Title 17 of the Louisiana Revised Statutes of 1950 as
11 "Part I. General Provisions" and Section 3139 of Chapter 24 of Title 17 of the Louisiana
12 Revised Statutes of 1950 as "Part II. Louisiana Granting Resources and Autonomy for
13 Diplomas Act". The institute generally shall designate each Subsection in R.S. 17:3139 as
14 a Section in Part II of Chapter 24 and make appropriate adjustments to designations and
15 citations throughout.

16 Section 5. This Act shall become effective upon signature by the governor or, if not
17 signed by the governor, upon expiration of the time for bills to become law without signature
18 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
19 vetoed by the governor and subsequently approved by the legislature, this Act shall become
20 effective on the day following such approval.

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)]

Tucker

HB No. 549

Abstract: Relative to the La. Granting Resources and Autonomy for Diplomas Act (GRAD Act), provides for additional operational autonomies to be granted to public postsecondary education institutions, including but not limited to authority and exemptions relative to budgetary management, capital outlay, and procurement; requires certain reporting by public postsecondary education institutions and the Board of Regents; provides relative to renewal periods of institutions' performance agreements; and provides for the retention of certain unused funds by some institutions.

Present law 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 and generally include graduation rate and graduation productivity goals, increasing admission standards, eliminating certain academic program offerings, increasing research productivity and technology, eliminating remedial education course offerings, demonstrating progress in placing students in jobs, increasing nonresident tuition amounts, designating centers of excellence, and reporting organizational data. Requires institutions entering into performance agreements to report to the Board of Regents, the legislative auditor, and the legislature on certain organizational data.

Proposed law generally retains present law and adds, relative to the student success objectives, that successful attainment of such objectives shall be required for a determination by the Board of Regents that an institution has met the short-term targets of the performance agreement. Further adds, relative to the workforce and economic development objective, that La. Economic Development shall identify workforce needs (along with the La. Workforce Commission as provided in present law).

Relative to reporting requirements, proposed law requires that such report be submitted annually, be submitted to the division of administration (in addition to entities listed in present law), be published by the Board of Regents on its website, and include certain cost and budget data as specified in proposed law and all expenditures of the institution.

Proposed law excludes all schools and programs of the LSU Health Sciences Center from present law and proposed law.

Present law, relative to autonomies granted to institutions entering into performance agreements, provides certain tuition authority and a base level of operational autonomy and flexibility relative to carrying forward unexpended and unobligated funds, procurement of information technology products and services, and state travel regulations.

Proposed law retains present law tuition authority but deletes present law operational autonomies and provides instead the following:

- (1) Base level. Institutions that meet the short-term targets in the performance agreement and are determined by the division of administration to possess the operational capacity relevant to that autonomy may be granted the following:
 - (a) Authority to retain any funds which remain unexpended and unobligated at the end of the fiscal year for use at the institution's discretion pursuant to present law (R.S. 17:3386).
 - (b) Authority to execute contracts up to \$49,999 within a 12-month period in accordance with the delegation of authority by the office of contractual review pursuant to present law (R.S. 39:1488).
 - (c) Authority to identify and dispose of obsolete equipment, excluding certain vehicles and items, up to an original acquisition value of \$5,000.
 - (d) Authority to be excluded from the oversight or review by the office of information technology, as provided in present law (R.S. 39:15.3), for purchases with an academic research or classroom instructional purpose.
 - (e) Authority to engage in competitive sealed bidding in accordance with present law (R.S. 39:1594) or a competitive request for proposals process in

accordance with present law (R.S. 39:1593) without publishing each advertisement in the official journal of the state.

- (f) Authority to exclude from the institution's authorized table of organization any full-time or part-time position of employment for which a budget has been approved and an appropriation has been made or for which a transfer of funds effected pursuant to law is fully funded by nonappropriated funds.
- (2) Intermediate level. In addition to the base level autonomies, institutions that meet the short-term targets in the performance agreement, are determined by the division of administration to possess the capacity relevant to that autonomy, and meet requirements for significantly streamlining academic service delivery to students to meet regional workforce needs, may be granted the following:
- (a) Authority to procure materials, supplies, equipment, and services through purchasing agreements established by a not-for-profit cooperative buying organization if such purchasing agreements have been established pursuant to a competitive bid proposal process. Requires institutions to publish notice of intent prior to entering any such purchasing agreement through the means specified in present law (R.S. 39:1593) and on the institution's website and provides requirements for proposals submitted by interested vendors.
 - (b) Authority to directly administer minor facility capital outlay projects without oversight or control by the office of facility planning and control. Defines minor facilities projects as those that do not require the use of and coordination between more than two trades or that do not require the use of the professional services of an architect or engineer pursuant to present law (R.S. 39:1482 and 1484).
 - (c) Authority to join an existing cooperative purchasing agreement in accordance with present law (R.S. 39:1702) and proposed law. Requires institutions to publish notice of intent prior to entering any such purchasing agreement through the means specified in present law (R.S. 39:1593) and on the institution's website and provides requirements for proposals submitted by interested vendors.
 - (d) Authority to use reverse auctions. Defines reverse auction as a competitive online solicitation process on the Internet for products, supplies, services, and other materials in which vendors compete against each other in real time in an open and interactive environment.
 - (e) Authority for the director of purchasing at a college or university to make a determination to use a competitive request for proposal process as provided in present law (R.S. 39:1593(C)) without the approval of the commissioner of administration or the director of state purchasing.
- (3) High level. In addition to the base and intermediate level autonomies, institutions that meet the short-term targets in the performance agreement, are determined by the division of administration to possess the capacity relevant to that autonomy, and have a six-year Integrated Postsecondary Education Data System graduation rate within five percentage points of the average graduation rate for its classification according to the Southern Regional Education Board, may be granted the following:
- (a) Authority to participate in a pilot procurement code as established by the initial qualifying institution to be in place for an initial period of three years and approved by the division of administration to be used in lieu of the La. Procurement Code as provided in present law (R.S. 39:15.3, 196 through 200, 1481 through 1526, and 1551 through 1755).

- (b) Exemption from participation in the state's risk management program established by present law (R.S. 39:1527 et seq.) pursuant to a phased-in plan of implementation in collaboration with the attorney general and the division of administration. Provides that such exemption shall not include the coverage provided by the state's risk management program pursuant to present law (R.S. 40:1299.39) and shall not abrogate the authority of the attorney general or the Dept. of Justice to represent the state in tort or contract litigation. Requires exempt institutions to pay the attorney general reasonable attorney fees and expenses incurred in representing the institution and provides that the state and the office of risk management shall not be responsible for paying any judgment against the exempt institution's management board. Further provides relative to contracts between management boards and insurers and the substantive and procedural limitations of actions against the state applicable to exempt institutions.
- (c) Authority to administer all facilities projects funded with self-generated revenue, federal funds, donations, grants, or revenue bonds, including all projects under present law (R.S. 39:128). Provides that except for those projects under present law (R.S. 39:128), these projects shall not be exempted from the capital outlay budget or any requirements as pertains thereto.
- (d) Authority to invest funds as defined by present law (R.S. 49:327(C)), in addition to those instruments listed in present law (R.S. 49:327(B)(1)), in tax exempt bonds and other taxable governmental bonds issued by any state or a political subdivision or public corporation of any state. Provides that if an institution is either no longer meeting its short-term targets or is determined by the division of administration to no longer possess the capacity relevant to this autonomy, or both, authority to invest additional funds shall be limited to those instruments defined by present law (R.S. 49:327 (B)(1) and (C)) and shall exclude further investments in tax exempt bonds and other taxable government bonds.

Specifies that for proposed law purposes, for an institution to meet the requirement of significantly streamlining academic service delivery, the institution shall have acted on at least two items from a list approved by the Board of Regents which shall include the following:

- (1) The review of all programs and academic offerings and appropriate action to improve those programs and academic offerings through modification, consolidation, or elimination including consideration of online delivery to meet workforce needs and maximize resources.
- (2) The review and streamlining of all course offerings to align with program requirements and facilitate on-time graduation.
- (3) If a two-year institution, the review of nonacademic programs and degrees and appropriate action to improve such programs and degrees through modification, consolidation, or elimination, including consideration of online delivery.
- (4) If a four-year institution, raised the minimum composite score on the ACT required for admission to at least two points higher than the Board of Regents baseline appropriate for its type of institution. Provides that such requirement shall be notwithstanding a student's grade point average and that opting not to participate in this requirement shall not preclude an institution from implementing minimum admission standards in accordance with Board of Regents policy.

Present law provides that the initial performance agreement and each subsequent agreement shall be a six-year agreement and shall be reviewed annually by the Board of Regents. Authorizes the board to revoke agreements and to modify performance objective targets under certain circumstances. Provides that such modifications shall be subject to the approval of the Joint Legislative Committee on the Budget.

Proposed law generally retains present law and authorizes the board to lower the established targets only under certain circumstances as specified in present law. Proposed law further authorizes the Board of Regents to raise the established targets to continue institutional progress and requires written notification of such to the House and Senate education committees.

Present law requires the Board of Regents annually to monitor and report to the legislature and the governor on each participating institution's progress in meeting the established targets for the performance objectives. Provides for a determination by the board as to whether to recommend renewal of an institution's performance agreement, subject to the approval of the Joint Legislative Committee on the Budget. Provides that such determination shall be based on the recommendations of a review panel established by the board as specified in present law. Specifies further objectives to be met by an institution if its agreement is renewed, including further increasing cohort graduation rate goals. Requires that agreements be certified by the respective management boards.

Proposed law retains present law and, relative to the objective on increasing a graduation rate of at least 50% for specified institutions, adds "Four-Year 6" institutions to such list.

Proposed law adds requirement that the Board of Regents inventory all institutional student records systems and recommend a plan to standardize and integrate such systems to include student transcript analysis and degree auditing components. Provides that the system shall include all undergraduate students, and at a minimum, and by student, the number of course credits earned, the number of course credits needed for degree completion, a time line for successful degree completion that shows if the student is behind, on track, or ahead, and course credits needed as determined by the student's declared area of concentration. Requires the Board of Regents to report on the progress of such standardization to the legislature and the division of administration 60 days prior to the 2012 R.S. and annually thereafter on the performance of qualifying institutions at achieving on-time graduation based on the student tracking and records system and to post the report on its website and make it easily accessible to the public.

Proposed law provides that in addition to all of the targets in a performance agreement during the first or any subsequent renewal period, no institution that grants baccalaureate degrees shall be granted or exercise autonomies, including authority to increase tuition, that are contingent on performance pursuant to present law unless, in the immediately prior academic year, it retained its first-year, full-time baccalaureate degree seeking students at a rate that is predictive of the mean graduation rate of each institution's peers as identified by the board in accordance with present law. Requires the board to collect and analyze data from institutions in Southern Regional Education Board member states to determine the appropriate retention rate for each class of institution. Proposed law becomes applicable beginning with the 2017-2018 academic year as based on retention rates between the 2015-2016 and 2016-2017 academic years.

Present law exempts institutions entering into a performance agreement pursuant to present law from present law requirement that at least 50% of state general funds which remain unexpended and unobligated at the end of the fiscal year be maintained in a reserve fund and used only for preventative maintenance purposes and from the prohibition on more than 2% of certain state general fund appropriations or allocations being carried forward.

Proposed law provides instead that an institution that meets the short-term targets in the performance agreement may retain any funds appropriated or allocated to such institution

to be used at its discretion, excluding those specified in present law (relative to appropriations for a specific purpose), which remain unexpended and unobligated at the end of the fiscal year, in accordance with proposed law (relative to the granting of certain operational autonomies).

Directs the La. State Law Institute to redesignate certain present law and proposed law provisions.

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

(Amends R.S. 17:3139(B), (C)(3)(a) and (5)(intro. para.) and (i), (D), (F)(intro. para.), (4), and (5), and (G)(1), (2)(intro. para) and (iii), and (3)(intro. para.), and 3386(E); Adds R.S. 17:3139(C)(1)(e) and (5)(j) and (G)(4) and (5); Repeals R.S. 17:3139(F)(6))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Education to the original bill.

1. Relative to the intermediate level authorities to procure materials, supplies, equipment, and services through cooperative purchasing agreements, adds provision requiring institutions to advertise notice of intent prior to entering any such purchasing agreement through the means specified in present law and on the institution's website and provides requirements for proposals submitted by interested vendors.
2. Relative to the definition of minor facilities projects, deletes those which cost is not greater than \$500.
3. Relative to the high level exemption from participation in the state's risk management program, adds that such exemption shall not abrogate the authority of the attorney general or the Dept. of Justice to represent the state in tort or contract litigation; requires exempt institutions to pay the attorney general reasonable attorney fees and expenses incurred in representing the institution; provides that the state and the office of risk management shall not be responsible for paying any judgment against the exempt institution's management board; and provides for contracts between management boards and insurers and the substantive and procedural limitations of actions against the state applicable to exempt institutions.
4. Adds provision requiring baccalaureate granting institutions to achieve retention rates predictive of the mean graduation rate of the institution's peers beginning in 2017.
5. Adds provision directing the La. State Law Institute to redesignate certain present law and proposed law provisions.
6. Makes technical changes.

House Floor Amendments to the engrossed bill.

1. Excludes the schools and programs of the LSU Health Sciences Center from present law and proposed law.
2. Reinstates present law requirement that performance agreements be annually "reviewed" (instead of renewed) by the Board of Regents.

3. Requires institutions to annually report all expenditures of the institution for the given year.
4. Adds provision specifying that the granting of autonomies shall be a cumulative process.
5. Makes technical changes.