

CONFERENCE COMMITTEE REPORT
House Bill No. 549 By Representative Tucker

June 23, 2011

To the Honorable Speaker and Members of the House of Representatives and the Honorable President and Members of the Senate.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning House Bill No. 549 by Representative Tucker, recommend the following concerning the Reengrossed bill:

1. That Senate Committee Amendments Nos. 1 through 22 proposed by the Senate Committee on Education and adopted by the Senate on June 14, 2011, be adopted.
2. That Senate Committee Amendments Nos. 23 through 25 proposed by the Senate Committee on Education and adopted by the Senate on June 14, 2011, be rejected.
3. In Senate Committee Amendment No. 3 proposed by the Senate Committee on Education and adopted by the Senate on June 14, 2011, on page 1, line 7, after "(G)(4)" delete the remainder of the line and insert a comma ","
4. In Senate Committee Amendment No. 21 proposed by the Senate Committee on Education and adopted by the Senate on June 14, 2011, on page 2, at the end of line 25, change "six year" to "six-year"
5. That Amendments Nos. 1 and 2 proposed by the Legislative Bureau and adopted by the Senate on June 15, 2011, be rejected.
6. That Senate Floor Amendments Nos. 1 through 3 and 5 through 16 proposed by Senator Appel and adopted by the Senate on June 20, 2011, be adopted.
7. That Senate Floor Amendment No. 4 proposed by Senator Appel and adopted by the Senate on June 20, 2011, be rejected.
8. That the following amendments to the Reengrossed bill be adopted:

AMENDMENT NO. 1

On page 2, line 7, after "(G)(4)" and before "are" delete "and (5)"

AMENDMENT NO. 2

On page 3, delete lines 1 through 6 in their entirety and insert the following:

"(e) For the purposes of this Section, successful attainment of the student success objectives shall be required for determination by the Board of Regents that an institution has met the short-term targets of the performance agreement as provided in this Subsection. An institution which has failed to meet its same-institution graduation rate, program completer, and retention rate targets, as appropriate for the mission of the institution, shall not be deemed by the Board of Regents to have met the requirements of its performance agreement for the year."

AMENDMENT NO. 3

On page 14, delete lines 5 through 8 in their entirety

AMENDMENT NO. 4

On page 14, line 9, change "Section 4." to "Section 2."

AMENDMENT NO. 5

On page 14, line 16, change "Section 5." to "Section 3."

Respectfully submitted,

Representative Austin Badon

Senator Conrad Appel

Representative Hollis Downs

Senator Joel T. Chaisson II

Representative Jim Tucker

Senator Ben Nevers

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)]

CONFERENCE COMMITTEE REPORT DIGEST

House Bill No. 549 by Representative Tucker

Keyword and oneliner of the instrument as it left the House

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

Report adopts Senate amendments to:

1. Add requirement for approval of the Joint Legislative Committee on the Budget (JLCB) for base level operational autonomy of retaining unexpended and unobligated funds at the end of the fiscal year for discretionary use.
2. Delete base level autonomy authorizing institutions to exclude from the 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.
3. Add base level autonomy authorizing an institution to exclude from its table of organization any position fully funded with nonappropriated funds.
4. Delete base level autonomy relative to engaging in competitive sealed bidding or requests for proposals process without proper advertisement.
5. Add requirement for approval of the JLCB before an institution is granted any intermediate level autonomy.
6. Relative to intermediate level autonomies authorizing cooperative purchasing agreements, add a requirement that the institutions publish notice of intent prior to joining a not-for-profit cooperative buying organization.
7. Relative to the pilot procurement code (high level) autonomy, add that such code be established in accordance with the Administrative Procedure Act by the initial qualifying institution; provide that such code may be used instead of shall be used in lieu of the La. Procurement Code; and require approval of the JLCB before an institution is granted such autonomy.
8. Relative to the high level autonomy exempting institutions from participation in the state's risk management program, add that the state's obligation to indemnify a covered individual shall not be performed by the office of risk management; provide that certain present law provisions relative to claims and suits against the state shall not apply to lines of coverage transferred to and claims asserted against the institution; and require approval by the JLCB.
9. Relative to the high level autonomy to invest funds, delete the requirement that the investment policy governing such investment require only the approval of the institution's management board and add that it shall be subject to approval of the investment advisory committee.

10. Provide that all autonomies granted shall terminate if the Bd. of Regents revokes an institution's six-year performance agreement or if an institution fails to maintain the relevant operational capacity and require notice be given to the JLCB of any such revocation or failure.
11. Delete provisions prohibiting institutions from being granted autonomies unless certain student retention rates are achieved and require that the Bd. of Regents collect data to determine appropriate retention rates.
12. Delete provision that excluded the LSU Health Sciences Center from present law and proposed law and provide instead that proposed law shall not suspend the requirements of present law (R.S. 39:1593.1) relative to approval by the commissioner of administration prior to the awarding of certain group purchasing contracts by the center.
13. Relative to Bd. of Regents' authority to raise established targets for performance objectives, add that the board shall do so in consultation with the institution and its management board.

Report rejects Senate amendments which would have:

1. Removed language relative to requirements for successful attainment of student success objectives as appropriate for the mission of the institution for determining if the institution has met its performance agreement targets.

Report amends the bill to:

1. Clarify provisions relative to criteria for determining if an institution has met its performance agreement targets on certain student success objectives.
2. Makes technical changes.

Digest of the bill as proposed by the Conference Committee

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 determination by the Board of Regents that an institution has met the short-term targets of the performance agreement. Provides that an institution that fails to meet its same-institution graduation rate, program completer, and retention rate targets as appropriate for the institution shall not have met the requirements of its performance agreement for the year. 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.

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), subject to the review and approval of the Joint Legislative Committee on the Budget (JLCB).
 - (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 exclude from its table of organization any position 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 autonomies, subject to the prior review and approval of the JLCB:
 - (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 joining a not-for-profit organization and prior to entering any such purchasing agreement.
 - (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 joining a not-for-profit organization and prior to entering any such purchasing agreement.
 - (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 autonomies:
- (a) Authority to participate in a pilot procurement code as established by the initial qualifying institution, in accordance with the Administrative Procedure Act, to be in place for an initial period of three years and approved by the division of administration. Provides that it may 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). Further provides that such authority shall be subject to prior review and approval of the JLCB.
 - (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, subject to the review and approval of the JLCB. 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 provisions and 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.

Proposed law adds that nothing in proposed law shall suspend the requirements of present law (R.S. 39:1593.1) relative to approval by the commissioner of administration prior to the awarding of certain group purchasing contracts by the LSU Health Sciences Center.

Proposed law provides that if the Board of Regents revokes an institution's six-year performance agreement, any operational autonomies granted to the institution shall also be revoked, and the Board of Regents shall notify the JLCB. Further provides that if the division of administration determines that an institution has failed to maintain the operational capacity relevant to an autonomy, that autonomy shall terminate immediately and the JLCB shall be notified.

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 JLCB.

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, in consultation with the institution and its management board, 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 JLCB. 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.

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), (5), and (6), 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 (k), and (G)(4))