

**CHAPTER 225**

S.B. No. 578

An Act relating to higher education finance, including the appropriation and allocation of funds under Article VII, Section 17, of the Texas Constitution and the effective date of previously authorized tuition increases; adding Section 61.075 to Chapter 61 and adding Chapter 62, Education Code.

*Be it enacted by the Legislature of the State of Texas:*

**SECTION 1.** Title 3, Education Code, as amended, is amended by adding a new Chapter 62 to read as follows:

***“Chapter 62. DIVISION OF CONSTITUTIONALLY APPROPRIATED FUNDS  
AMONG CERTAIN INSTITUTIONS OF HIGHER EDUCATION***

***“Subchapter A. GENERAL PROVISIONS***

***“Section 62.001. SHORT TITLE.*** This chapter may be cited as ‘*The Excellence in Higher Education Act*’ of 1985.

***“Section 62.002. PURPOSE.*** Through equitable allocation of the annual appropriation mandated by Article VII, Section 17(a), of the Constitution of Texas, the purpose of this chapter is to provide to the governing boards of the institutions and agencies of higher education eligible to participate in the distribution of funds pursuant to Article VII, Section 17, of the Constitution of Texas, the means to create and maintain a degree of excellence at the respective institutions and agencies of higher education that is above and apart from the normal appropriative formulas established by the Coordinating Board, Texas College and University System.

"Section 62.003. **DEFINITIONS.** *In this chapter:*

"(1) 'Eligible institution' means the eligible agencies and institutions of higher education listed in Article VII, Section 17(b), of the Constitution of Texas, and any institution or agency of higher education that is later made eligible to participate in the disbursement of funds pursuant to Article VII, Section 17(c), of the Constitution of Texas.

"(2) 'Governing board' means the board of regents or other state governmental body to which an eligible agency or institution is assigned for governance by the Texas Constitution or by the laws of the State of Texas.

**"SUBCHAPTER B. AMOUNTS ALLOCATED BY EQUITABLE ALLOCATION FORMULA**

"Section 62.021. **ALLOCATIONS.** (a) *Each fiscal year, an eligible institution is entitled to receive an amount allocated in accordance with this section from funds appropriated by Article VII, Section 17(a), of the Constitution of Texas. The comptroller of public accounts shall distribute funds allocated under this subsection only on presentation of a claim and issuance of a warrant in accordance with Article 4357, Revised Statutes. The comptroller may not issue a warrant from any funds allocated under this subsection before the delivery of goods or services described in Section 17, Article VII, Texas Constitution, except for the payment of principal or interest on bonds or notes. The allocation of funds under this subsection is made in accordance with an equitable formula consisting of the following elements: space deficit, facilities condition, institutional complexity, separate allocation for medical units, and additional allocation for compliance with the Texas Desegregation Plan. The amounts allocated by such formula are as follows:*

- \$ 3,253,087 East Texas State University including East Texas State University at Texarkana;
- \$ 7,172,517 Lamar University including Lamar University at Orange and Lamar University at Port Arthur;
- \$ 1,693,414 Midwestern State University;
- \$10,949,820 North Texas State University;
- \$ 3,106,426 Pan American University including Pan American University at Brownsville;
- \$ 5,146,404 Stephen F. Austin State University;
- \$ 2,166,667 Texas College of Osteopathic Medicine;
- \$19,461,584 Texas State University System Administration and the following component institutions:
  - Angelo State University;
  - Sam Houston State University;
  - Southwest Texas State University;
  - Sul Ross State University including Uvalde Study Center;
- \$ 6,849,730 Texas Southern University (includes allocation of \$2,700,000 for compliance with Texas Desegregation Plan);
- \$10,696,291 Texas Tech University;
- \$ 4,333,333 Texas Tech University Health Sciences Center;
- \$ 3,586,150 Texas Woman's University;
- \$15,717,588 University of Houston System Administration and the following component institutions:
  - University of Houston - University Park;
  - University of Houston - Victoria;
  - University of Houston - Clear Lake;
  - University of Houston - Downtown;
- \$ 3,603,059 University System of South Texas System Administration and the following component institutions:
  - Corpus Christi State University;
  - Laredo State University;
  - Texas A&I University; and
- \$ 2,263,930 West Texas State University.

"(b) *Each governing board participating in the distribution of funds as described in this section may expend such funds without limitation, and as such governing board may decide in its sole discretion, for any and all purposes described in Article VII, Section 17, of the Constitution of Texas; provided, however, that for new construction, major repair and rehabilitation projects, and land acquisition projects, such funds may not be expended without the prior approval of the legislature or the approval, review, or endorsement, as applicable, of the Coordinating Board, Texas College and University System; and provided further that review and approval of major repair and rehabilitation shall apply only to projects in excess of \$300,000; and provided further that any land acquisition project proposed for coordinating board endorsement within three months of a legislative session shall be automatically referred to the legislature for consideration.*

“(c) Each governing board participating in the distribution of funds as described in this section may issue bonds and notes as authorized in Article VII, Section 17, of the Constitution of Texas.

“(d) All funds appropriated by Article VII, Section 17, of the Constitution of Texas, but not expended during the fiscal year of appropriation, shall be carried forward and reappropriated for each of the succeeding fiscal years until expended by the governing boards of eligible institutions for the purposes described in Article VII, Section 17, of the Constitution of Texas.

“Section 62.022. **ADJUSTMENT OF ALLOCATION FORMULA.** (a) Prior to the convening of the regular session of the Texas Legislature in 1989, the Coordinating Board, Texas College and University System, will conduct, with the full participation of the eligible institutions, a study and present recommendations to the Legislative Budget Board and to the Texas House and Texas Senate standing committees having cognizance over legislation related to higher education as to whether and, if so, how, the equitable allocation formula should be adjusted for the five-year period beginning September 1, 1990.

“(b) The legislature shall approve, modify and approve, or reject the recommendations of the coordinating board.

“(c) If, prior to September 1, 1990, the Texas Legislature has failed to act on a recommendation for adjustment in the equitable allocation formula, the 10-year allocation provided for in Subsection (a) of Section 62.021 of this code shall continue until the end of the 10-year period.

“(d) No adjustment shall be made in the allocation formula that will prevent payment of both the principal and interest on outstanding bonds and notes sold pursuant to Section 17(e), Article VII, Texas Constitution.

“(e) Prior to the convening of the regular session of the Texas Legislature in 1995, the Coordinating Board, Texas College and University System, will conduct, with the full participation of the eligible institutions, a study and present recommendations to the Legislative Budget Board and to the Texas House and Texas Senate standing committees having cognizance over legislation related to higher education as to the allocation of the funds appropriated by Section 17(a), Article VII, Texas Constitution, for the 10-year period beginning September 1, 1995.

“Section 62.023. **SEVERABILITY.** If any provision of this chapter or the application thereof under any circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.”

**SECTION 2.** Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.075 to read as follows:

“Section 61.075. **POWERS UNAFFECTED BY CERTAIN CONSTITUTIONAL AMENDMENT.** The powers of the board and the legislature, including the powers granted under Section 61.058 of this code, are not limited by the constitutional amendments proposed by H.J.R. No. 19, 68th Legislature, Regular Session, 1983, and adopted by the voters except to the extent those powers are specifically limited by those constitutional provisions.”

**SECTION 3.** Notwithstanding the failure of H.B. 1147, Acts of the 69th Legislature, Regular Session, to receive the necessary number of votes required by Article III, Section 39, of the Texas Constitution, concerning the effective date of laws, for that bill to have immediate effect, H.B. 1147 applies beginning with the 1985-1986 academic school year to tuition for medical, dental, and veterinary medicine students, as provided in each institution's catalogue, and applies beginning with the fall semester, 1985, to tuition collected from all other students.

**SECTION 4.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on April 24, 1985, by the following vote: Yeas 29, Nays 0; May 25, 1985, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 27, 1985, House granted request of the Senate; May 27, 1985, Senate adopted Conference Committee Report by a viva-voce vote; passed the House, with amendments, on May 25, 1985, by the following vote: Yeas 142, Nays 0, one present not voting; May 27, 1985, House granted request of the Senate for appointment of Conference Committee; May 27, 1985, House adopted Conference Committee Report by the following vote: Yeas 141, Nays 1, one present not voting.

Approved: June 3, 1985

Effective: Immediately