

# Texas Faculty Association Higher Ed Legislative Report

---

April 12, 2023

Affiliated with TSTA/NEA

## Senate Bills on the Move, Accreditation on the Table, Community College Funding Flying

The session is picking up pace, with more bills, longer floor sessions, and later nights. We are still a long way from the May deadlines for consideration of bills, and very far from the Memorial Day end date, but there is now a sense that the clock is ticking.

### LIEUTENANT GOVERNOR PATRICK'S PRIORITY LEGISLATION

- SB 16, the “Critical Race Theory” bill, was passed by the Senate on April 11. The bill was amended by its author, Senator Hughes, to require institutions to fire a faculty member who violates the section, and to establish a complaint filing procedure for alleged violations. Given the continued vagueness regarding what may constitute an “attempt to compel” a student belief, the addition of mandatory penalties is a very serious problem already added to a problematic bill. The votes on both the amendments and the bill itself were 19-12, precisely along party lines, with Republicans voting in favor. The bill will now be “engrossed,” with amendments being added, and sent to the House. SB 16 will likely be referred to the House Higher Education Committee next week. We do not yet know when or if it may be heard by the committee.
- SB 18, eliminating the granting of tenure after September 1, 2023, was reported favorably from the full Senate Education Committee on April 6. The vote was along party lines, with Republicans voting in favor. Senator Birdwell was absent for the vote. Interestingly, it has yet to be placed on the Senate Intent Calendar, which would make it eligible for hearing on the Senate Floor. We can expect placement on the calendar any time now, however.
- SB 17, the Diversity, Equity, and Inclusion bill, was heard in Senate Education Subcommittee on Higher Education on April 6. There were five witnesses in favor, four of whom were invited witnesses affiliated with the Texas Public Policy Foundation and the Heritage Foundation. Several dozen witnesses opposed the bill, mostly students and faculty. Chairman Creighton stated in his layout of the bill that he and the committee were there to learn from the witnesses, and that everyone’s testimony on the subject was important. After four hours of testimony, the vast majority of which was in opposition to the bill from students and faculty who work and study in the DEI space, the committee voted to refer the bill to the full Senate Education Committee 4-1, along party lines. During the debate, the five person committee was joined by Senator Menendez and Senator Miles, who were given the courtesy of questioning witnesses though they did not have a vote. The bill will now be considered by the full committee at a time yet to be determined.

### ACCREDITATION BILLS IN SENATE EDUCATION SUBCOMMITTEE ON HIGHER EDUCATION

On April 13, the Senate Education Subcommittee on Higher Education will hear two bills related to accreditation. SB 1987 by Sparks removes references to the Southern Association of Colleges and Schools from the higher education statute and replaces it with any accreditation entity recognized by the Texas Higher Education Coordinating Board. Under this bill, SACS would not be disqualified as an accrediting entity, but could be, or could be one of several entities.

SB 2335 by Middleton will create the Texas Higher Education Accreditation Commission. The commissioners will be appointed by the Speaker, Governor and Lieutenant Governor. Interestingly, six of the nine commissioners must be from business sectors determined by the Texas Workforce Commission. The Commission will grade and select accrediting agencies based on a rubric provided in the bill, and review grades on an ongoing basis. The rubric includes several factors requiring accrediting agencies to consider economic outcomes in their reviews of institutions, including student debt, income-to-cost ratios, post-graduation employment, and employment in areas of study. The bill provides a curious cause of action for institutions against an accrediting entity for “retaliatory action,” with potentially extremely high damages.

## HB 8, COMMUNITY COLLEGE FUNDING

HB 8 passed the House this week 145 to 1, and has already been received in the Senate. The Senate previously heard the companion, SB 3529, and is holding the bill in committee waiting for HB 8 to catch up. The Senate may then either hear HB 8 in a conventional committee hearing or substitute HB 8 for SB 3529 and vote the bill as pending business. Either way, this bill is moving fast, is broadly supported, and will likely be one of the first major pieces of legislation to be sent to the Governor’s desk.

## WHAT YOU CAN DO

- **WATCH THE HEARING ON SB 17**, or at least the first 90 minutes. Understanding the arguments being made about DEI programs and college governance is vital to anyone who plans to advocate on these issues to their elected officials. The hearing is also very revealing in many other ways about the general view of higher education in the Capitol, especially in the Senate.
- Read the engrossed version of SB 16. Contact House members, especially House Higher Education committee members, and voice your opinion on the bill.
- Contact members of the Senate Education Committee and give them your opinion of SB 17, which has been reported to the committee for further consideration.
- Contact your senator with your opinion regarding SB 18, which is headed for the Senate Floor.
- If you are interested in accreditation, both in terms of the specific process and the potential broader impact on Texas institutions, read SB 1987 and SB 2335. Contact your senators with your opinions on these bills.