

HEF, Texas Constitution

Article VII, Section 17 HEF

(a) In the fiscal year beginning September 1, 1985, and each fiscal year thereafter, there is hereby appropriated out of the first money coming into the state treasury not otherwise appropriated by the constitution \$100 million to be used by eligible agencies and institutions of higher education for the purpose of acquiring land either with or without permanent improvements, constructing and equipping buildings or other permanent improvements, major repair or rehabilitation of buildings or other permanent improvements, acquisition of capital equipment, library books and library materials, and paying for acquiring, constructing, or equipping or for major repair or rehabilitation of buildings, facilities, other permanent improvements, or capital equipment used jointly for educational and general activities and for auxiliary enterprises to the extent of their use for educational and general activities. For the five-year period that begins on September 1, 2000, and for each five-year period that begins after that period, the legislature, during a regular session that is nearest, but preceding, a five-year period, may by two-thirds vote of the membership of each house increase the amount of the constitutional appropriation for the five-year period but may not adjust the appropriation in such a way as to impair any obligation created by the issuance of bonds or notes in accordance with this section.

(b) The funds appropriated under Subsection (a) of this section shall be for the use of the following eligible agencies and institutions of higher education (even though their names may be changed):

1. East Texas State University including East Texas State University at Texarkana;
2. Lamar University including Lamar University at Orange and Lamar University at Port Arthur;
3. Midwestern State University;
4. University of North Texas;
5. The University of Texas-Pan American including The University of Texas at Brownsville;
6. Stephen F. Austin State University;
7. Texas College of Osteopathic Medicine;
8. Texas State University System Administration and the following component institutions:
9. Angelo State University;
10. Sam Houston State University;
11. Southwest Texas State University;
12. Sul Ross State University including Uvalde Study Center;
13. Texas Southern University;
14. Texas Tech University;
15. Texas Tech University Health Sciences Center;
16. Texas Woman's University;
17. University of Houston System Administration and the following component institutions:
18. University of Houston;
19. University of Houston-Victoria
20. University of Houston-Clear Lake;
21. University of Houston-Downtown;
22. Texas A&M University-Corpus Christi;
23. Texas A&M International University;
24. Texas A&M University-Kingsville;
25. West Texas A&M University; and
26. Texas State Technical College System and its campuses, but not its extension centers or programs.

(c) Pursuant to a two-thirds vote of the membership of each house of the legislature, institutions of higher education may be created at a later date by general law, and, when created, such an institution shall be entitled to participate in the funding provided by this section if it is not created as a part of The University of Texas System or The Texas A&M University System. An institution that is entitled to participate in dedicated funding provided by Article VII, Section 18, of this constitution may not be entitled to participate in the funding provided by this section.

(d) In the year 1985 and every 10 years thereafter, the legislature or an agency designated by the legislature no later than August 31 of such year shall allocate by equitable formula the annual appropriations made under Subsection (a) of this section to the governing boards of eligible agencies and institutions of higher education. The legislature shall review, or provide for a review, of the allocation formula at the end of the fifth year of each 10-year allocation period. At that time adjustments may be made in the allocation formula, but no adjustment that will prevent the payment of outstanding bonds and notes, both principal and interest, may be made.

(d-1) Notwithstanding Subsection (d) of this section, the allocation of the annual appropriation to Texas State Technical College System and its campuses may not exceed 2.2 percent of the total appropriation each fiscal year.

(e) Each governing board authorized to participate in the distribution of money under this section is authorized to expend all money distributed to it for any of the purposes enumerated in Subsection (a). In addition, such governing board may issue bonds and notes for the purposes of refunding bonds or notes issued under this section or prior law, acquiring land

either with or without permanent improvements, constructing and equipping buildings or other permanent improvements, acquiring capital equipment, library books, and library materials, paying for acquiring, constructing, or equipping or for major repair or rehabilitation of buildings, facilities, other permanent improvements, or capital equipment used jointly for educational and general activities and for auxiliary enterprises to the extent of their use for educational and general activities, and for major repair and rehabilitation of buildings or other permanent improvements, and may pledge up to 50 percent of the money allocated to such governing board pursuant to this section to secure the payment of the principal and interest of such bonds or notes. Proceeds from the issuance of bonds or notes under this subsection shall be maintained in a local depository selected by the governing board issuing the bonds or notes. The bonds and notes issued under this subsection shall be payable solely out of the money appropriated by this section and shall mature serially or otherwise in not more than 10 years from their respective dates. All bonds issued under this section shall be sold only through competitive bidding and are subject to approval by the attorney general. Bonds approved by the attorney general shall be incontestable. The permanent university fund may be invested in the bonds and notes issued under this section.

(f) The funds appropriated by this section may not be used for the purpose of constructing, equipping, repairing, or rehabilitating buildings or other permanent improvements that are to be used only for student housing, intercollegiate athletics, or auxiliary enterprises.

(g) The comptroller of public accounts shall make annual transfers of the funds allocated pursuant to Subsection (d) directly to the governing boards of the eligible institutions.

(h) To assure efficient use of construction funds and the orderly development of physical plants to accommodate the state's real need, the legislature may provide for the approval or disapproval of all new construction projects at the eligible agencies and institutions entitled to participate in the funding provided by this section.

(i) The legislature by general law may dedicate portions of the state's revenues to the creation of a dedicated fund ("the higher education ") for the purposes expressed in Subsection (a) of this section. The legislature shall provide for administration of the fund, which shall be invested in the manner provided for investment of the permanent university fund. The income from the investment of the higher education fund shall be credited to the higher education fund until such time as the fund totals \$2 billion. The principal of the higher education fund shall never be expended. At the beginning of the fiscal year after the fund reaches \$2 billion, as certified by the comptroller of public accounts, the dedication of general revenue funds provided for in Subsection (a) of this section shall cease. At the beginning of the fiscal year after the fund reaches \$2 billion, and each year thereafter, 10 percent of the interest, dividends, and other income accruing from the investments of the higher education fund during the previous fiscal year shall be deposited and become part of the principal of the fund, and out of the remainder of the annual income from the investment of the principal of the fund there shall be appropriated an annual sum sufficient to pay the principal and interest due on the bonds and notes issued under this section and the balance of the income shall be allocated, distributed, and expended as provided for the appropriations made under Subsection (a).

(j) The state systems and institutions of higher education designated in this section may not receive any additional funds from the general revenue of the state for acquiring land with or without permanent improvements, for constructing or equipping buildings or other permanent improvements, or for major repair and rehabilitation of buildings or other permanent improvements except that:

1. in the case of fire or natural disaster the legislature may appropriate from the general revenue an amount sufficient to replace the uninsured loss of any building or other permanent improvement; and
2. the legislature, by two-thirds vote of each house, may, in cases of demonstrated need, which need must be clearly expressed in the body of the act, appropriate additional general revenue funds for acquiring land with or without permanent improvements, for constructing or equipping buildings or other permanent improvements, or for major repair and rehabilitation of buildings or other permanent improvements.

This subsection does not apply to legislative appropriations made prior to the adoption of this amendment.

(k) Without the prior approval of the legislature, appropriations under this section may not be expended for acquiring land with or without permanent improvements, or for constructing and equipping buildings or other permanent improvements, for a branch of campus or educational center that is not a separate degree-granting institution created by general law.

(l) This section is self-enacting upon the issuance of the governor's proclamation declaring the adoption of the amendment, and the state comptroller of public accounts and the state treasurer shall do all things necessary to effectuate this section. This section does not impair any obligation created by the issuance of any bonds and notes in accordance with prior law, and all outstanding bonds and notes shall be paid in full, both principal and interest in accordance with their terms. If the provisions of this section conflict with any other provisions of this constitution, then the provisions of this section shall prevail, notwithstanding all such conflicting provisions.