

1-1 By: Hancock (Senate Sponsor - Van de Putte) H.B. No. 2563
1-2 (In the Senate - Received from the House May 11, 2007;
1-3 May 15, 2007, read first time and referred to Committee on
1-4 Education; May 21, 2007, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;
1-6 May 21, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 2563 By: Van de Putte

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the powers and duties of the boards of trustees and
1-11 superintendents of independent school districts and of regional
1-12 education service centers.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Section 11.051, Education Code, is amended by
1-15 amending Subsection (a) and adding Subsection (a-1) to read as
1-16 follows:

1-17 (a) An independent school district is governed by a board of
1-18 trustees who, as a body corporate, shall:

1-19 (1) oversee the management of the district; and

1-20 (2) ensure that the superintendent implements and
1-21 monitors plans, procedures, programs, and systems to achieve
1-22 appropriate, clearly defined, and desired results in the major
1-23 areas of district operations.

1-24 (a-1) Unless authorized by the board, a member of the board
1-25 may not, individually, act on behalf of the board. The board of
1-26 trustees may act only by majority vote of the members present at a
1-27 meeting held in compliance with Chapter 551, Government Code, at
1-28 which a quorum of the board is present and voting. The board shall
1-29 provide the superintendent an opportunity to present at a meeting
1-30 an oral or written recommendation to the board on any item that is
1-31 voted on by the board at the meeting.

1-32 SECTION 2. Subchapter C, Chapter 11, Education Code, is
1-33 amended by adding Section 11.0621 to read as follows:

1-34 Sec. 11.0621. MEETINGS. The minutes, certified agenda, or
1-35 recording, as applicable, of a regular or special meeting of the
1-36 board of trustees must reflect each member's attendance at or
1-37 absence from the meeting. The minutes or tape recording of an open
1-38 meeting must be accessible to the public in accordance with Section
1-39 551.022, Government Code.

1-40 SECTION 3. Subchapter D, Chapter 11, Education Code, is
1-41 amended by adding Sections 11.1511 and 11.1512 to read as follows:

1-42 Sec. 11.1511. SPECIFIC POWERS AND DUTIES OF BOARD. (a) In
1-43 addition to powers and duties under Section 11.151 or other law, the
1-44 board of trustees of an independent school district has the powers
1-45 and duties provided by Subsection (b).

1-46 (b) The board shall:

1-47 (1) seek to establish working relationships with other
1-48 public entities to make effective use of community resources and to
1-49 serve the needs of public school students in the community;

1-50 (2) adopt a vision statement and comprehensive goals
1-51 for the district and the superintendent and monitor progress toward
1-52 those goals;

1-53 (3) establish performance goals for the district
1-54 concerning:

1-55 (A) the academic and fiscal performance
1-56 indicators under Subchapters C and I, Chapter 39, respectively; and

1-57 (B) any performance indicators adopted by the
1-58 district;

1-59 (4) ensure that the superintendent:

1-60 (A) is accountable for achieving performance
1-61 results;

1-62 (B) recognizes performance accomplishments; and

1-63 (C) takes action as necessary to meet performance

- 2-1 goals;
- 2-2 (5) adopt a policy to establish a district- and
- 2-3 campus-level planning and decision-making process as required
- 2-4 under Section 11.251;
- 2-5 (6) publish an annual educational performance report
- 2-6 as required under Section 39.053;
- 2-7 (7) adopt an annual budget for the district as
- 2-8 required under Section 44.004;
- 2-9 (8) adopt a tax rate each fiscal year as required under
- 2-10 Section 26.05, Tax Code;
- 2-11 (9) monitor district finances to ensure that the
- 2-12 superintendent is properly maintaining the district's financial
- 2-13 procedures and records;
- 2-14 (10) ensure that district fiscal accounts are audited
- 2-15 annually as required under Section 44.008;
- 2-16 (11) publish an end-of-year financial report for
- 2-17 distribution to the community;
- 2-18 (12) conduct elections as required by law;
- 2-19 (13) by rule, adopt a process through which district
- 2-20 personnel, students or the parents or guardians of students, and
- 2-21 members of the public may obtain a hearing from the district
- 2-22 administrators and the board regarding a complaint;
- 2-23 (14) make decisions relating to terminating the
- 2-24 employment of district employees employed under a contract to which
- 2-25 Chapter 21 applies, including terminating or not renewing an
- 2-26 employment contract to which that chapter applies; and
- 2-27 (15) carry out other powers and duties as provided by
- 2-28 this code or other law.

- 2-29 (c) The board may:
- 2-30 (1) issue bonds and levy, pledge, assess, and collect
- 2-31 an annual ad valorem tax to pay the principal and interest on the
- 2-32 bonds as authorized under Sections 45.001 and 45.003;
- 2-33 (2) levy, assess, and collect an annual ad valorem tax
- 2-34 for maintenance and operation of the district as authorized under
- 2-35 Sections 45.002 and 45.003;
- 2-36 (3) employ a person to assess or collect the district's
- 2-37 taxes as authorized under Section 45.231; and
- 2-38 (4) enter into contracts as authorized under this code
- 2-39 or other law and delegate contractual authority to the
- 2-40 superintendent as appropriate.

2-41 Sec. 11.1512. COLLABORATION BETWEEN BOARD AND
 2-42 SUPERINTENDENT. (a) In relation to the superintendent of the
 2-43 school district, the board of trustees of the district has the
 2-44 powers and duties specified by Sections 11.1511(b) and (c). The
 2-45 superintendent shall, on a day-to-day basis, ensure the
 2-46 implementation of the policies created by the board.

- 2-47 (b) The board of trustees and the superintendent shall work
- 2-48 together to:
- 2-49 (1) advocate for the high achievement of all district
- 2-50 students;
- 2-51 (2) create and support connections with community
- 2-52 organizations to provide community-wide support for the high
- 2-53 achievement of all district students;
- 2-54 (3) provide educational leadership for the district,
- 2-55 including leadership in developing the district vision statement
- 2-56 and long-range educational plan;
- 2-57 (4) establish district-wide policies and annual goals
- 2-58 that are tied directly to the district's vision statement and
- 2-59 long-range educational plan;
- 2-60 (5) support the professional development of
- 2-61 principals, teachers, and other staff; and
- 2-62 (6) periodically evaluate board and superintendent
- 2-63 leadership, governance, and teamwork.

2-64 SECTION 4. Section 11.163, Education Code, is redesignated
 2-65 as Section 11.1513, Education Code, and amended to read as follows:

2-66 Sec. 11.1513 [~~11.163~~]. EMPLOYMENT POLICY. (a) The board
 2-67 of trustees of each independent school district shall adopt a
 2-68 policy providing for the employment and duties of district
 2-69 personnel. The employment policy must provide that:

3-1 (1) the board employs and evaluates the
 3-2 superintendent;

3-3 (2) the superintendent has sole authority to make
 3-4 recommendations to the board regarding the selection of all
 3-5 personnel other than the superintendent, except that the board may
 3-6 delegate final authority for those decisions to the superintendent;
 3-7 and

3-8 (3) [~~2~~] each principal must approve each teacher or
 3-9 staff appointment to the principal's campus as provided by Section
 3-10 11.202.

3-11 (b) The board of trustees may accept or reject the
 3-12 superintendent's recommendation regarding the selection of
 3-13 district personnel and shall include the board's acceptance or
 3-14 rejection in the minutes of the board's meeting, as required under
 3-15 Section 551.021, Government Code, in the certified agenda or tape
 3-16 recording required under Section 551.103, Government Code, or in
 3-17 the recording required under Section 551.125 or 551.127, Government
 3-18 Code, as applicable. If the board rejects the superintendent's
 3-19 recommendation, the superintendent shall make alternative
 3-20 recommendations until the board accepts a recommendation.

3-21 (c) The employment policy may:

3-22 (1) specify the terms of employment with the district;

3-23 (2) delegate to the superintendent the authority to
 3-24 determine the terms of employment with the district; or

3-25 (3) include a provision for providing each current
 3-26 district employee with an opportunity to participate in a process
 3-27 for transferring to another school in or position with the
 3-28 district.

3-29 (d) The employment policy must provide that not later than
 3-30 the 10th school day before the date on which a district fills a
 3-31 vacant position for which a certificate or license is required as
 3-32 provided by Section 21.003, other than a position that affects the
 3-33 safety and security of students as determined by the board of
 3-34 trustees, the district must provide to each current district
 3-35 employee:

3-36 (1) notice of the position by posting the position on:

3-37 (A) a bulletin board at:

3-38 (i) a place convenient to the public in the
 3-39 district's central administrative office; and

3-40 (ii) the central administrative office of
 3-41 each campus in the district during any time the office is open; and

3-42 (B) the district's Internet website, if the
 3-43 district has a website; and

3-44 (2) a reasonable opportunity to apply for the
 3-45 position.

3-46 (e) If, during the school year, the district must fill a
 3-47 vacant position held by a teacher, as defined by Section 21.201, in
 3-48 less than 10 school days, the district:

3-49 (1) must provide notice of the position in the manner
 3-50 described by Subsection (d)(1) as soon as possible after the
 3-51 vacancy occurs;

3-52 (2) is not required to provide the notice for 10 school
 3-53 days before filling the position; and

3-54 (3) is not required to comply with Subsection (d)(2).

3-55 (f) If, under the employment policy, the board of trustees
 3-56 delegates to the superintendent the final authority to select
 3-57 district personnel:

3-58 (1) the superintendent is a public official for
 3-59 purposes of Chapter 573, Government Code, only with respect to a
 3-60 decision made under that delegation of authority; and

3-61 (2) each member of the board of trustees remains
 3-62 subject to Chapter 573, Government Code, with respect to all
 3-63 district employees.

3-64 (g) Subsection (f) does not apply to a school district that
 3-65 is located:

3-66 (1) wholly in a county with a population of less than
 3-67 35,000; or

3-68 (2) in more than one county, if the county in which the
 3-69 largest portion of the district territory is located has a

4-1 population of less than 35,000.

4-2 (h) For purposes of Subsection (f), a person hired by a
 4-3 school district before September 1, 2007, is considered to have
 4-4 been in continuous employment as provided by Section 573.062(a),
 4-5 Government Code, and is not prohibited from continuing employment
 4-6 with the district subject to the restrictions of Section
 4-7 573.062(b), Government Code.

4-8 (i) If before September 1, 2007, a noncontract employee of
 4-9 the district was entitled to pursue a grievance to the board
 4-10 relating to the termination of the employee, this section may not be
 4-11 construed to interfere with or infringe on the right of the employee
 4-12 to pursue such a grievance on or after that date.

4-13 (j) The employment policy must provide each school district
 4-14 employee with the right to present grievances to the district board
 4-15 of trustees.

4-16 SECTION 5. Section 11.159(b), Education Code, is amended to
 4-17 read as follows:

4-18 (b) A trustee must complete any training required by the
 4-19 State Board of Education. The minutes of the last regular meeting
 4-20 of the board of trustees held during a calendar year must reflect
 4-21 whether each trustee has met or is delinquent in meeting the
 4-22 training required to be completed as of the date of the meeting.

4-23 SECTION 6. Section 11.201(d), Education Code, is amended to
 4-24 read as follows:

4-25 (d) The duties of the superintendent include:

4-26 (1) assuming administrative responsibility and
 4-27 leadership for the planning, organization, operation, supervision,
 4-28 and evaluation of the education programs, services, and facilities
 4-29 of the district and for the annual performance appraisal of the
 4-30 district's staff;

4-31 (2) except as provided by Section 11.202, assuming
 4-32 administrative authority and responsibility for the assignment,
 4-33 supervision, and evaluation of all personnel of the district other
 4-34 than the superintendent;

4-35 (3) overseeing compliance with the standards for
 4-36 school facilities established by the commissioner under Section
 4-37 46.008 [making recommendations regarding the selection of
 4-38 personnel of the district other than the superintendent, as
 4-39 provided by Section 11.163];

4-40 (4) initiating the termination or suspension of an
 4-41 employee or the nonrenewal of an employee's term contract;

4-42 (5) managing the day-to-day operations of the district
 4-43 as its administrative manager, including implementing and
 4-44 monitoring plans, procedures, programs, and systems to achieve
 4-45 clearly defined and desired results in major areas of district
 4-46 operations;

4-47 (6) preparing and submitting to the board of trustees
 4-48 a proposed budget as provided by Section 44.002 and rules adopted
 4-49 under that section, and administering the budget;

4-50 (7) preparing recommendations for policies to be
 4-51 adopted by the board of trustees and overseeing the implementation
 4-52 of adopted policies;

4-53 (8) developing or causing to be developed appropriate
 4-54 administrative regulations to implement policies established by
 4-55 the board of trustees;

4-56 (9) providing leadership for the attainment and, if
 4-57 necessary, improvement of student performance in the district based
 4-58 on the indicators adopted under Section 39.051 and other indicators
 4-59 adopted by the State Board of Education or the district's board of
 4-60 trustees;

4-61 (10) organizing the district's central
 4-62 administration; ~~and~~

4-63 (11) consulting with the district-level committee as
 4-64 required under Section 11.252(f);

4-65 (12) ensuring:

4-66 (A) adoption of a student code of conduct as
 4-67 required under Section 37.001 and enforcement of that code of
 4-68 conduct; and

4-69 (B) adoption and enforcement of other student

5-1 disciplinary rules and procedures as necessary;
5-2 (13) submitting reports as required by state or
5-3 federal law, rule, or regulation;
5-4 (14) providing joint leadership with the board of
5-5 trustees to ensure that the responsibilities of the board and
5-6 superintendent team are carried out; and
5-7 (15) performing any other duties assigned by action of
5-8 the board of trustees.

5-9 SECTION 7. Subchapter A, Chapter 8, Education Code, is
5-10 amended by adding Section 8.011 to read as follows:

5-11 Sec. 8.011. NEPOTISM PROHIBITION. For purposes of all
5-12 employees of each regional education service center, the executive
5-13 director and each member of the board of directors are public
5-14 officials subject to Chapter 573, Government Code.

5-15 SECTION 8. This Act takes effect September 1, 2007.

5-16 * * * * *