

House Bill 2563
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

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

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

(1) oversee the management of the district; and

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

(a-1) Unless authorized by the board, a member of the board may not, individually, act on behalf of the board.

The board of trustees may act only by majority vote of the members present at a meeting held in compliance with Chapter 551, Government Code, at which a quorum of the board is present and voting. The board shall provide the superintendent an opportunity to present at a meeting an oral or written recommendation to the board on any item that is voted on by the board at the meeting.

Same as House version.

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

Sec. 11.0621. MEETINGS. The minutes, certified agenda, or recording, as applicable, of a regular or special meeting of the board of trustees must reflect each member's attendance at or absence from the meeting. The minutes or tape recording of an open meeting must be accessible to the public in accordance with Section

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551.022, Government Code.

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

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

(b) The board shall:

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

(2) adopt a vision statement and comprehensive goals for the district and the superintendent and monitor progress toward those goals;

(3) establish performance goals for the district concerning:

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

(B) any performance indicators adopted by the district;

(4) ensure that the superintendent:

(A) is accountable for achieving performance results;

(B) recognizes performance accomplishments; and

(C) takes action as necessary to meet performance goals;

(5) adopt a policy to establish a district- and campus-level planning and decision-making process as required

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

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

(b) The board shall:

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

(2) adopt a vision statement and comprehensive goals for the district and the superintendent and monitor progress toward those goals;

(3) establish performance goals for the district concerning:

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

(B) any performance indicators adopted by the district;

(4) ensure that the superintendent:

(A) is accountable for achieving performance results;

(B) recognizes performance accomplishments; and

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(5) adopt a policy to establish a district- and campus-level planning and decision-making process as required

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- under Section 11.251:
- (6) publish an annual educational performance report as required under Section 39.053;
 - (7) adopt an annual budget for the district as required under Section 44.004;
 - (8) adopt a tax rate each fiscal year as required under Section 26.05, Tax Code;
 - (9) monitor district finances to ensure that the superintendent is properly maintaining the district's financial procedures and records;
 - (10) ensure that district fiscal accounts are audited annually as required under Section 44.008;
 - (11) publish an end-of-year financial report for distribution to the community;
 - (12) conduct elections as required by law;
 - (13) by rule, adopt a process through which district personnel, students or the parents or guardians of students, and members of the public may obtain a hearing **before** the district administrators and the board regarding a complaint;
 - (14) make decisions relating to terminating the employment of district employees employed under a contract, including terminating or not renewing an employment contract; and
 - (15) carry out other powers and duties as provided by this code or other law.
- (c) The board may:
- (1) issue bonds and levy, pledge, assess, and collect an annual ad valorem tax to pay the principal and interest on

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- under Section 11.251:
- (6) publish an annual educational performance report as required under Section 39.053;
 - (7) adopt an annual budget for the district as required under Section 44.004;
 - (8) adopt a tax rate each fiscal year as required under Section 26.05, Tax Code;
 - (9) monitor district finances to ensure that the superintendent is properly maintaining the district's financial procedures and records;
 - (10) ensure that district fiscal accounts are audited annually as required under Section 44.008;
 - (11) publish an end-of-year financial report for distribution to the community;
 - (12) conduct elections as required by law;
 - (13) by rule, adopt a process through which district personnel, students or the parents or guardians of students, and members of the public may obtain a hearing **from** the district administrators and the board regarding a complaint;
 - (14) make decisions relating to terminating the employment of district employees employed under a contract **to which Chapter 21 applies**, including terminating or not renewing an employment contract **to which that chapter applies**; and
 - (15) carry out other powers and duties as provided by this code or other law.
- (c) The board may:
- (1) issue bonds and levy, pledge, assess, and collect an annual ad valorem tax to pay the principal and interest on

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the bonds as authorized under Sections 45.001 and 45.003;

(2) levy, assess, and collect an annual ad valorem tax for maintenance and operation of the district as authorized under Sections 45.002 and 45.003;

(3) employ a person to assess or collect the district's taxes as authorized under Section 45.231; and

(4) enter into contracts as authorized under this code or other law and delegate contractual authority to the superintendent as appropriate.

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

(b) The board of trustees and the superintendent shall work together to:

(1) advocate for the high achievement of all district students;

(2) create and support connections with community organizations to provide community-wide support for the high achievement of all district students;

(3) provide educational leadership for the district, including leadership in developing the district vision statement and long-range educational plan;

(4) establish district-wide policies and annual goals that are tied directly to the district's vision statement and long-range educational plan;

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the bonds as authorized under Sections 45.001 and 45.003;

(2) levy, assess, and collect an annual ad valorem tax for maintenance and operation of the district as authorized under Sections 45.002 and 45.003;

(3) employ a person to assess or collect the district's taxes as authorized under Section 45.231; and

(4) enter into contracts as authorized under this code or other law and delegate contractual authority to the superintendent as appropriate.

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

(b) The board of trustees and the superintendent shall work together to:

(1) advocate for the high achievement of all district students;

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(3) provide educational leadership for the district, including leadership in developing the district vision statement and long-range educational plan;

(4) establish district-wide policies and annual goals that are tied directly to the district's vision statement and long-range educational plan;

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- (5) support the professional development of principals, teachers, and other staff; and
- (6) periodically evaluate board and superintendent leadership, governance, and teamwork.

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

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

- (1) the board employs and evaluates the superintendent;
- (2) the superintendent has sole authority to make recommendations to the board regarding the selection of **and the termination or nonrenewal of the contract of** all personnel other than the superintendent, except that the board may delegate final authority for those decisions to the superintendent; ~~and~~
- (3) the board has final decision-making authority regarding terminating the employment of the superintendent and other district personnel, including terminating or not renewing an employment contract under Chapter 21, except to the extent that the board has delegated the final authority for those decisions to the superintendent with respect to district personnel; and
- (4) [~~2~~] each principal must approve each teacher or staff appointment to the principal's campus as provided

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- (5) support the professional development of principals, teachers, and other staff; and
- (6) periodically evaluate board and superintendent leadership, governance, and teamwork.

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

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

- (1) the board employs and evaluates the superintendent;
- (2) the superintendent has sole authority to make recommendations to the board regarding the selection of all personnel other than the superintendent, except that the board may delegate final authority for those decisions to the superintendent; and
- (3) [~~2~~] each principal must approve each teacher or staff appointment to the principal's campus as provided

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by Section 11.202.

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

(c) The employment policy may:

- (1) specify the terms of employment with the district;
- (2) delegate to the superintendent the authority to determine the terms of employment with the district; or
- (3) include a provision for providing each current district employee with an opportunity to participate in a process for transferring to another school in or position with the district.

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

- (1) notice of the position by posting the position on:
 - (A) a bulletin board at:

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by Section 11.202.

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

(c) The employment policy may:

- (1) specify the terms of employment with the district;
- (2) delegate to the superintendent the authority to determine the terms of employment with the district; or
- (3) include a provision for providing each current district employee with an opportunity to participate in a process for transferring to another school in or position with the district.

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

- (1) notice of the position by posting the position on:
 - (A) a bulletin board at:

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- (i) a place convenient to the public in the district's central administrative office; and
- (ii) the central administrative office of each campus in the district during any time the office is open; and
- (B) the district's Internet website, if the district has a website; and
- (2) a reasonable opportunity to apply for the position.
- (e) If, during the school year, the district must fill a vacant position held by a teacher, as defined by Section 21.201, in less than 10 school days, the district:
 - (1) must provide notice of the position in the manner described by Subsection (d)(1) as soon as possible after the vacancy occurs;
 - (2) is not required to provide the notice for 10 school days before filling the position; and
 - (3) is not required to comply with Subsection (d)(2).
- (f) If, under the employment policy, the board of trustees delegates to the superintendent the final authority to select district personnel:
 - (1) the superintendent is a public official for purposes of Chapter 573, Government Code, only with respect to a decision made under that delegation of authority; and
 - (2) each member of the board of trustees remains subject to Chapter 573, Government Code, with respect to all district employees.
- (g) Subsection (f) does not apply to a school district that is located:
 - (1) wholly in a county with a population of less than 10,000; or
 - (2) in more than one county, if the county in which the

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- (i) a place convenient to the public in the district's central administrative office; and
- (ii) the central administrative office of each campus in the district during any time the office is open; and
- (B) the district's Internet website, if the district has a website; and
- (2) a reasonable opportunity to apply for the position.
- (e) If, during the school year, the district must fill a vacant position held by a teacher, as defined by Section 21.201, in less than 10 school days, the district:
 - (1) must provide notice of the position in the manner described by Subsection (d)(1) as soon as possible after the vacancy occurs;
 - (2) is not required to provide the notice for 10 school days before filling the position; and
 - (3) is not required to comply with Subsection (d)(2).
- (f) If, under the employment policy, the board of trustees delegates to the superintendent the final authority to select district personnel:
 - (1) the superintendent is a public official for purposes of Chapter 573, Government Code, only with respect to a decision made under that delegation of authority; and
 - (2) each member of the board of trustees remains subject to Chapter 573, Government Code, with respect to all district employees.
- (g) Subsection (f) does not apply to a school district that is located:
 - (1) wholly in a county with a population of less than 35,000; or
 - (2) in more than one county, if the county in which the

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largest portion of the district territory is located has a population of less than 10,000.

(h) If before the effective date of this section, a noncontract employee of the district was entitled to pursue a grievance to the board relating to the termination of the employee, this section may not be construed to interfere with or infringe on the right of the employee to pursue such a grievance on or after the effective date of this section.

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

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

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largest portion of the district territory is located has a population of less than 35,000.

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

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

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

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

(d) The duties of the superintendent include:

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

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

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

(4) pursuing [initiating] the termination or suspension of an employee or the nonrenewal of an employee's term contract, if appropriate, consistent with Section 11.1513;

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

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

(7) preparing recommendations for policies to be adopted by the board of trustees and overseeing the

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

(d) The duties of the superintendent include:

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

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

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

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

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

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

(7) preparing recommendations for policies to be adopted by the board of trustees and overseeing the

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implementation of adopted policies;
(8) developing or causing to be developed appropriate administrative regulations to implement policies established by the board of trustees;
(9) providing leadership for the attainment and, if necessary, improvement of student performance in the district based on the indicators adopted under Section 39.051 and other indicators adopted by the State Board of Education or the district's board of trustees;
(10) organizing the district's central administration;
~~[and]~~
(11) consulting with the district-level committee as required under Section 11.252(f);
(12) ensuring:
(A) adoption of a student code of conduct as required under Section 37.001 and enforcement of that code of conduct; and
(B) adoption and enforcement of other student disciplinary rules and procedures as necessary;
(13) submitting reports as required by state or federal law, rule, or regulation;
(14) providing joint leadership with the board of trustees to ensure that the responsibilities of the board and superintendent team are carried out; and
(15) performing any other duties assigned by action of the board of trustees.

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

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implementation of adopted policies;
(8) developing or causing to be developed appropriate administrative regulations to implement policies established by the board of trustees;
(9) providing leadership for the attainment and, if necessary, improvement of student performance in the district based on the indicators adopted under Section 39.051 and other indicators adopted by the State Board of Education or the district's board of trustees;
(10) organizing the district's central administration;
~~[and]~~
(11) consulting with the district-level committee as required under Section 11.252(f);
(12) ensuring:
(A) adoption of a student code of conduct as required under Section 37.001 and enforcement of that code of conduct; and
(B) adoption and enforcement of other student disciplinary rules and procedures as necessary;
(13) submitting reports as required by state or federal law, rule, or regulation;
(14) providing joint leadership with the board of trustees to ensure that the responsibilities of the board and superintendent team are carried out; and
(15) performing any other duties assigned by action of the board of trustees.

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

SECTION 8. This Act takes effect September 1, 2007.

Same as House version.