

BILL ANALYSIS

Senate Research Center

S.B. 15
By: Seliger et al.
Higher Education
6/28/2013
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, governing board appointees who are appointed in the interim are allowed to serve with full voting authority. This legislation clarifies that all duties not specifically prescribed by law to governing boards or system administration are the responsibilities of the institutions.

Currently, members of governing boards must go through a training program that focuses on the official role and duties of the members of governing boards, including training in the areas of budgeting, policy development, and governance. This legislation requires that training in ethics become part of this training program and that any appointee who has not received the required training is prohibited from voting on any budgetary or personnel matter of the system or institutions.

S.B. 15 amends current law relating to the governance of public institutions of higher education in this state.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 51.352, Education Code, by amending Subsections (a), (b), (d), and (e) and adding Subsections (a-1), (a-2), (a-3), (a-4), and (a-5), as follows:

(a) Requires each governing board of an institution of higher education to, among other requirements, preserve institutional independence and defend each institution's right, rather than is expected to preserve institutional independence and to defend its right, to manage its own affairs through its chosen administrators and employees, develop a balanced governing structure designed to promote institutional integrity, autonomy, and flexibility of operations while maintaining maximum operating efficiency and academic excellence, and govern institutions with the spirit of integrity in all matters, including operating in a relationship with all parties in an open and honest manner. Makes nonsubstantive changes.

(a-1) Requires the governing board of an institution of higher education to ensure that the powers and duties of the board are not controlled by a minority of its members or by organizations or interests that are separate from the board in any manner, including through delegation, tradition, or inaction, and to protect each institution under its governance from undue external influence.

(a-2) Requires the members of the governing board of an institution of higher education to remain free from any contractual, employment, personal financial, or familial financial interest in the institution or institutions under its governance. Provides that this subsection does not affect the application of other laws regarding conflicts of interest to the members.

(a-3) Requires that each report, recommendation, or vote of the governing board of an institution of higher education or of a committee, subcommittee, task force, or similar entity reporting to the governing board be made available to the public on the board's Internet website not later than the end of the next business day after the date of the report, recommendation, or vote.

(a-4) Prohibits a member of the governing board of an institution of higher education from voting on a budgetary or personnel matter related to system administration or institutions of higher education until the member attends a training program that provides instruction in ethics, conflict-of-interest law, and the role of a governing board in a higher education institution or system and that is conducted by the Texas Higher Education Coordinating Board (THECB), by the system office of a university system, or by the office of a governing board that does not govern a university system. Provides that a governing board is responsible for maintaining records of each THECB member's attendance of a training program described by this subsection.

(a-5) Authorizes the governing board on a university system to terminate the employment of an institution's president only after receiving a recommendation to that effect under Section 51.353(b)(7) (relating to requiring that each system administration recommend to the governing board the termination of employment of an institution's president if necessary based on the president's performance), but provides that the board is not required to act on that recommendation.

(b) Requires the governing board of an institution of higher education to provide long-term policy direction for each institution of higher education under its governance, rather than provide the policy direction for each institution of higher education under its management and control.

(d) Requires each governing board, notwithstanding powers and duties, rather than in addition to powers and duties, specifically granted by this code or other law, to:

(1) after coordinating with the institution's president and, if applicable, the chancellor of the university system and after consulting with the institution's faculty, establish and publish, for each institution under its governance, long-term goals consistent with the role and mission of the institution, rather than establish for each institution under its control and management, goals consistent with the role and mission of the institution;

(2) review and, as necessary, revise those goals at least once during each six-year period;

(3) appoint the chancellor or other chief executive officer of the system, if the board governs a university system;

(4) appoint the president or other chief executive officer of each institution under the board's governance, rather than appoint the president or other chief executive officer of each institution under the board's control and management and evaluate the chief executive officer of each component institution and assist the officer in the achievement of performance goals;

(5) to the extent practicable and to ensure maximum operating efficiency, direct that communications between the board of a university system or members of the board and the employees of an institution under its governance be conducted through the system;

(6) after consulting with the institution's faculty and administration, set certain campus admission standards;

(7) to the extent practicable, develop and implement policies and procedures that allow the faculty, staff, and students at any institution under the board's

governance to be engaged in and informed of meetings of the board or of a committee, subcommittee, task force, or other similar entity reporting to the board; and

(8) ensure that its formal position on matters of importance to the institutions under its governance is made clear to THECB when those matters, rather than such matters, are under consideration by THECB.

(e) Provides that each member of a governing board has the legal responsibilities of a fiduciary in the management of funds under the control of institutions subject to the board's governance, rather than the board's control and management.

SECTION 2. Amends Section 51.353(b), Education Code, as follows:

(b) Requires that each system administration, in addition to other powers and duties provided by this code or other law, initiate, monitor, approve, and coordinate long-range planning for the system consistent with the goals established under Section 51.352(d)(1); in consultation with the governing board of the system, evaluate the president or other chief executive officer of each component institution and assist the officer in the development and achievement of performance goals; and recommend to the governing board the termination of employment of an institution's president if necessary based on the president's performance.

SECTION 3. Amends Subchapter G, Chapter 51, Education Code, by adding Section 51.3545, as follows:

Sec. 51.3545. EFFECT OF SUBCHAPTER; RELATIONSHIP OF BOARD TO INSTITUTIONS. (a) Provides that Sections 51.352, 51.353, and 51.354 (Institutional Responsibility) control over any specific provision regarding the powers and duties of a governing board of an institution of higher education provided by Subtitle C (The University of Texas System), D (The Texas A&M University System), E (The Texas State University System), F (Other Colleges and Universities), or G (Non-Baccalaureate System), and any similar provision to the contrary in any of those subtitles has no effect.

(b) Prohibits the governing board of an institution of higher education from unreasonably or unduly interfering with the day-to-day operations of the institutions under its governance.

SECTION 4. Amends Sections 61.084(a) and (d), Education Code, as follows:

(a) Requires THECB by rule to establish a training program for members of the governing boards of institutions of higher education. Requires each member of a governing board of an institution of higher education to attend, during the member's first year, rather than first two years, of service as a member, a training program, rather than at least one training program, under this section.

(d) Requires that the content of the instruction at the training program focus on the official role and duties of the members of governing boards and provide training in the areas of budgeting, policy development, ethics, and governance. Requires, rather than authorizes, that the training program include certain topics, including the requirements of laws relating to the protection of student information under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g) or any other federal or state law relating to the privacy of student information. Makes a nonsubstantive change.

SECTION 5. (a) Amends Section 103.03, Education Code, to provide that members of the board of regents (board) hold office for staggered terms of six years, with the terms of three members expiring on February 1 of each odd-numbered year.

(b) Provides that the change in law made by this does not apply to a member of the board of Midwestern State University who serves all or part of a full term of office if that full

term begins before September 1, 2013. Provides that to implement the change in law made by this section to Section 103.03, Education Code, the terms of office of members of the board that begin in 2014 expire on February 1, 2019, the terms of office of members of the board that begin in 2016 expire on February 1, 2021, and the terms of office of members of the board that begin in 2018 expire on February 1, 2023.

SECTION 6. (a) Amends Section 105.052, Education Code, to provide that the term of office of each regent is six years, with the terms of three regents expiring on February 1 of each odd-numbered year, rather than expiring every two years.

(b) Provides that the change in law made by this section does not apply to a member of the board of regents (board) of the University of North Texas System who serves all or part of a full term of office if that full term begins before September 1, 2013. Provides that to implement the change in law made by this section to Section 105.052, Education Code, the terms of office of members of the board that begin in 2015 expire on February 1, 2021, the terms of office of members of the board that begin in 2017 expire on February 1, 2023, and the terms of office of members of the board that begin in 2019 expire on February 1, 2025.

SECTION 7. (a) Amends Section 111.12, Education Code, to require that the term of office of each regent be six years, with the terms of three regents expiring on February 1 of each odd-numbered year, rather than requiring that the term of office of each regent be six years, except that in making the first appointments the governor is required to appoint three members for six years, three members for four years, and three members for two years.

(b) Provides that the change in law made by this section does not apply to a member of the board of regents (board) of the University of Houston System who serves all or part of a full term of office if that full term begins before August 26, 2013. Provides that to implement the change in law made by this section to Section 111.12, Education Code, the terms of office of members of the board that begin in 2013 expire on February 1, 2019, the terms of office of members of the board that begin in 2015 expire on February 1, 2021, and the terms of office of members of the board that begin in 2017 expire on February 1, 2023.

SECTION 8. Effective date: upon passage or August 26, 2013.