

## **BILL ANALYSIS**

S.B. 15  
By: Seliger  
Higher Education  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Interested parties note that under current law, appointees to the governing board of an institution of higher education who are appointed in the interim are allowed to serve with full voting authority and that governing board members must go through a training program that focuses on the official role and duties of governing board members, including training in the areas of budgeting, policy development, and governance. S.B. 15 seeks to revise the law relating to the governance of public institutions of higher education in Texas.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

S.B. 15 amends the Education Code to specify that each governing board of an institution of higher education is required to, rather than expected to, preserve institutional independence and defend each institution's right to manage its own affairs through its chosen administrators and employees. The bill requires each governing board to develop a balanced governing structure designed to promote institutional integrity, autonomy, and flexibility of operations while maintaining maximum operating efficiency and academic excellence and to govern institutions with the spirit of integrity in all matters, including operating in a relationship with all parties in an open and honest manner.

S.B. 15 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 and to protect each institution under its governance from undue external influence. The bill requires the members of the governing board to remain free from any contractual, employment, or personal or familial financial interest in the institution or institutions under its governance, but specifies that this requirement does not affect the application of other laws regarding conflicts of interest to the members. The bill requires each report, recommendation, or vote of the governing board or of a committee, subcommittee, task force, or similar entity reporting to the governing board to 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.

S.B. 15 prohibits a member of a governing board who has not yet attended a training program that includes instruction in ethics, conflict-of-interest law, and the role of governing boards in a higher education system from voting on a budgetary or personnel matter related to system administration or institutions of higher education and makes the governing board responsible for maintaining records of training attended. The bill authorizes the governing board of a university system to terminate the employment of an institution's president only after receiving a recommendation from the university system administration to that effect, but exempts the board from being required to act on that recommendation. The bill prohibits an appointment to a

governing board of a university system that occurs when the legislature is not in session from voting until the appointee has appeared before the Senate Committee on Nominations. If the committee fails to hold a hearing within 45 days of the date the chair of the committee is notified of the appointment by the governor's office, the appointee is not prohibited from voting if the appointee has otherwise met the requirements to be eligible to vote. The bill replaces references to institutions under the management and control of the applicable governing board with references to institutions under the governance of the governing board and specifies that the policy direction the governing board of an institution of higher education is required to provide for each institution under that governance is long-term.

S.B. 15 revises and expands certain powers and duties of each governing board by requiring certain consultation with institution faculty and coordinating with institution leadership, publishing goals consistent with the role and mission of each institution under the board's governance, reviewing and revising goals consistent with the role and mission of the institution at least once during each six-year period, and, to the extent practicable, directing 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 and developing and implementing 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.

S.B. 15 requires each university system administration, in consultation with the governing board of the system, to 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, if necessary based on the president's performance, recommend to the governing board the termination of employment of an institution's president.

S.B. 15 establishes that provisions governing the responsibility of governing boards and system administration and institutional responsibility control over any specific provision regarding the powers and duties of a governing board of an institution of higher education and that any similar provision to the contrary has no effect. The bill prohibits a governing board from unreasonably or unduly interfering with the day-to-day operations of the institutions under its governance.

S.B. 15 requires each member of a governing board to attend a training program for such members during the member's first year of service as a member, rather than the first two years of service. The bill adds ethics to the training areas required to be provided by the content of the instruction at the training program; requires, rather than authorizes, certain specified topics to be covered by the training program; and expands the topics to include the requirements of laws relating to the protection of student information under the federal Family Educational Rights and Privacy Act of 1974 or any other federal or state law relating to the privacy of student information.

#### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.