

By: Seliger, et al.

S.B. No. 15

A BILL TO BE ENTITLED

AN ACT

relating to the governance of public institutions of higher education in this state.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 51.352, Education Code, is amended by amending Subsections (a), (b), (d), and (e) and adding Subsections (a-1), (a-2), (a-3), (a-4), (a-5), and (a-6) to read as follows:

(a) It is the policy of this state that the governing boards of institutions of higher education, being composed of lay members, shall exercise the traditional and time-honored role for such boards as their role has evolved in the United States and shall constitute the keystone of the governance structure. In this regard each governing board:

(1) shall [~~is expected to~~] preserve institutional independence and [~~to~~] defend each institution's [~~its~~] right to manage its own affairs through its chosen administrators and employees;

(2) shall enhance the public image of each institution under its governance;

(3) shall interpret the community to the campus and interpret the campus to the community;

(4) shall nurture each institution under its governance to the end that each institution achieves its full potential within its role and mission; [~~and~~]

1 (5) shall insist on clarity of focus and mission of
2 each institution under its governance;

3 (6) shall develop a balanced governing structure
4 designed to promote institutional integrity, autonomy, and
5 flexibility of operations while maintaining maximum operating
6 efficiency and academic excellence; and

7 (7) shall govern institutions with the spirit of
8 integrity in all matters, including operating in a relationship
9 with all parties in an open and honest manner.

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

16 (a-2) The members of the governing board of an institution
17 of higher education must remain free from any contractual,
18 employment, or personal or familial financial interest in the
19 institution or institutions under its governance. This subsection
20 does not affect the application of other laws regarding conflicts
21 of interest to the members.

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

1 (a-4) A member of the governing board of an institution of
2 higher education who has not yet attended a training program that
3 includes instruction in ethics, conflict-of-interest law, and the
4 role of governing boards in a higher education system is prohibited
5 from voting on a budgetary or personnel matter related to system
6 administration or institutions of higher education. The governing
7 board is responsible for maintaining records of training attended
8 as described by this subsection.

9 (a-5) The governing board of a university system may
10 terminate the employment of an institution's president only after
11 receiving a recommendation to that effect under Section
12 51.353(b)(7), but the board is not required to act on that
13 recommendation.

14 (a-6) An appointment to a governing board of a university
15 system that occurs when the legislature is not in session is
16 prohibited from voting until the appointee has appeared before the
17 Senate Committee on Nominations. If the Senate Committee on
18 Nominations fails to hold a hearing within 45 days of the date the
19 chair of the committee is notified of the appointment by the
20 governor's office, the appointee is not prohibited from voting if
21 the appointee has otherwise met the requirements to be eligible to
22 vote.

23 (b) The governing board of an institution of higher
24 education shall provide long-term ~~[the]~~ policy direction for each
25 institution of higher education under its governance ~~[management~~
26 ~~and control]~~.

27 (d) Notwithstanding ~~[In addition to]~~ powers and duties

1 specifically granted by this code or other law, each governing
2 board shall:

3 (1) after coordinating with the institution's
4 president and consulting with the institution's faculty, establish
5 and publish, for each institution under its governance, long-term
6 ~~[control and management,]~~ goals consistent with the role and
7 mission of the institution;

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

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

12 (4) ~~[(3)]~~ appoint the president or other chief
13 executive officer of each institution under the board's governance
14 ~~[control and management and evaluate the chief executive officer of~~
15 ~~each component institution and assist the officer in the~~
16 ~~achievement of performance goals];~~

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

22 (6) after consulting with the institution's faculty
23 and administration, ~~[(4)]~~ set campus admission standards
24 consistent with the role and mission of the institution and
25 considering the admission standards of similar institutions
26 nationwide having a similar role and mission, as determined by the
27 coordinating board;

1 (7) to the extent practicable, develop and implement
2 policies and procedures that allow the faculty, staff, and students
3 at any institution under the board's governance to be engaged in and
4 informed of meetings of the board or of a committee, subcommittee,
5 task force, or other similar entity reporting to the board; and

6 (8) [~~(5)~~] ensure that its formal position on matters
7 of importance to the institutions under its governance is made
8 clear to the coordinating board when those [~~such~~] matters are under
9 consideration by the coordinating board.

10 (e) Each member of a governing board has the legal
11 responsibilities of a fiduciary in the management of funds under
12 the control of institutions subject to the board's governance
13 [~~control and management~~].

14 SECTION 2. Subsection (b), Section 51.353, Education Code,
15 is amended to read as follows:

16 (b) In addition to other powers and duties provided by this
17 code or other law, each system administration shall:

18 (1) initiate, monitor, approve, and coordinate
19 long-range planning for the system consistent with the goals
20 established under Section 51.352(d)(1);

21 (2) approve short-range institutional plans for
22 operations and expenditures;

23 (3) provide to component institutions technical
24 assistance such as legal and financial services;

25 (4) evaluate each component institution and assist the
26 institution in the achievement of performance goals; [~~and~~]

27 (5) perform such other duties as may be delegated to it

1 by the governing board of its system;

2 (6) in consultation with the governing board of the
3 system, evaluate the president or other chief executive officer of
4 each component institution and assist the officer in the
5 development and achievement of performance goals; and

6 (7) if necessary based on the president's performance,
7 recommend to the governing board the termination of employment of
8 an institution's president.

9 SECTION 3. Subchapter G, Chapter 51, Education Code, is
10 amended by adding Section 51.3545 to read as follows:

11 Sec. 51.3545. EFFECT OF SUBCHAPTER; RELATIONSHIP OF BOARD
12 TO INSTITUTIONS. (a) Sections 51.352, 51.353, and 51.354 control
13 over any specific provision regarding the powers and duties of a
14 governing board of an institution of higher education provided by
15 Subtitle C, D, E, F, or G, and any similar provision to the contrary
16 in any of those subtitles has no effect.

17 (b) The governing board of an institution of higher
18 education may not unreasonably or unduly interfere with the
19 day-to-day operations of the institutions under its governance.

20 SECTION 4. Subsections (a) and (d), Section 61.084,
21 Education Code, are amended to read as follows:

22 (a) The board by rule shall establish a training program for
23 members of the governing boards of institutions of higher
24 education. Each member of a governing board of an institution of
25 higher education shall attend, during the member's first year [~~two~~
26 ~~years~~] of service as a member of a governing board of an institution
27 of higher education, a [~~at least one~~] training program under this

1 section. A member of a governing board who is required to attend a
2 training program under this section may attend additional training
3 programs under this section.

4 (d) The content of the instruction at the training program
5 shall focus on the official role and duties of the members of
6 governing boards and shall provide training in the areas of
7 budgeting, policy development, ethics, and governance. Topics
8 covered by the training program must [~~may~~] include:

9 (1) auditing procedures and recent audits of
10 institutions of higher education;

11 (2) the enabling legislation that creates
12 institutions of higher education;

13 (3) the role of the governing board at institutions of
14 higher education and the relationship between the governing board
15 and an institution's administration, faculty and staff, and
16 students;

17 (4) the mission statements of institutions of higher
18 education;

19 (5) disciplinary and investigative authority of the
20 governing board;

21 (6) the requirements of the open meetings law, Chapter
22 551, Government Code, and the open records law, Chapter 552,
23 Government Code;

24 (7) the requirements of conflict of interest laws and
25 other laws relating to public officials;

26 (8) any applicable ethics policies adopted by
27 institutions of higher education or the Texas Ethics Commission;

1 (9) the requirements of laws relating to the
2 protection of student information under the Family Educational
3 Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g) or any
4 other federal or state law relating to the privacy of student
5 information; and

6 (10) [~~9~~] any other topic relating to higher
7 education the board considers important.

8 SECTION 5. This Act takes effect immediately if it receives
9 a vote of two-thirds of all the members elected to each house, as
10 provided by Section 39, Article III, Texas Constitution. If this
11 Act does not receive the vote necessary for immediate effect, this
12 Act takes effect September 1, 2013.