

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), and (a-5) 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, personal financial, or familial financial interest in
19 the institution or institutions under its governance. This
20 subsection does not affect the application of other laws regarding
21 conflicts 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 is prohibited from voting on a budgetary or
3 personnel matter related to system administration or institutions
4 of higher education until the member attends a training program
5 that provides instruction in ethics, conflict-of-interest law, and
6 the role of a governing board in a higher education institution or
7 system and that is conducted by the Texas Higher Education
8 Coordinating Board, by the system office of a university system, or
9 by the office of a governing board that does not govern a university
10 system. A governing board is responsible for maintaining records
11 of each board member's attendance of a training program described
12 by this subsection.

13 (a-5) The governing board of a university system may
14 terminate the employment of an institution's president only after
15 receiving a recommendation to that effect under Section
16 51.353(b)(7), but the board is not required to act on that
17 recommendation.

18 (b) The governing board of an institution of higher
19 education shall provide long-term ~~[the]~~ policy direction for each
20 institution of higher education under its governance ~~[management~~
21 ~~and control]~~.

22 (d) Notwithstanding ~~[In addition to]~~ powers and duties
23 specifically granted by this code or other law, each governing
24 board shall:

25 (1) after coordinating with the institution's
26 president and, if applicable, the chancellor of the university
27 system and after consulting with the institution's faculty,

1 establish and publish, for each institution under its governance,
2 long-term [~~control and management,~~] goals consistent with the role
3 and mission of the institution;

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

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

8 (4) [~~3~~] appoint the president or other chief
9 executive officer of each institution under the board's governance
10 [~~control and management and evaluate the chief executive officer of~~
11 ~~each component institution and assist the officer in the~~
12 ~~achievement of performance goals]~~;

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

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

24 (7) to the extent practicable, develop and implement
25 policies and procedures that allow the faculty, staff, and students
26 at any institution under the board's governance to be engaged in and
27 informed of meetings of the board or of a committee, subcommittee,

1 task force, or other similar entity reporting to the board; and

2 (8) [~~(5)~~] ensure that its formal position on matters
3 of importance to the institutions under its governance is made
4 clear to the coordinating board when those [~~such~~] matters are under
5 consideration by the coordinating board.

6 (e) Each member of a governing board has the legal
7 responsibilities of a fiduciary in the management of funds under
8 the control of institutions subject to the board's governance
9 [~~control and management~~].

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

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

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

17 (2) approve short-range institutional plans for
18 operations and expenditures;

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

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

23 (5) perform such other duties as may be delegated to it
24 by the governing board of its system;

25 (6) in consultation with the governing board of the
26 system, evaluate the president or other chief executive officer of
27 each component institution and assist the officer in the

1 development and achievement of performance goals; and

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

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

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

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

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

18 (a) The board by rule shall establish a training program for
19 members of the governing boards of institutions of higher
20 education. Each member of a governing board of an institution of
21 higher education shall attend, during the member's first year [~~two~~
22 ~~years~~] of service as a member of a governing board of an institution
23 of higher education, a [~~at least one~~] training program under this
24 section. A member of a governing board who is required to attend a
25 training program under this section may attend additional training
26 programs under this section.

27 (d) The content of the instruction at the training program

1 shall focus on the official role and duties of the members of
2 governing boards and shall provide training in the areas of
3 budgeting, policy development, ethics, and governance. Topics
4 covered by the training program must [~~may~~] include:

5 (1) auditing procedures and recent audits of
6 institutions of higher education;

7 (2) the enabling legislation that creates
8 institutions of higher education;

9 (3) the role of the governing board at institutions of
10 higher education and the relationship between the governing board
11 and an institution's administration, faculty and staff, and
12 students;

13 (4) the mission statements of institutions of higher
14 education;

15 (5) disciplinary and investigative authority of the
16 governing board;

17 (6) the requirements of the open meetings law, Chapter
18 551, Government Code, and the open records law, Chapter 552,
19 Government Code;

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

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

24 (9) the requirements of laws relating to the
25 protection of student information under the Family Educational
26 Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g) or any
27 other federal or state law relating to the privacy of student

1 information; and

2 (10) [~~9~~] any other topic relating to higher
3 education the board considers important.

4 SECTION 5. (a) Section 103.03, Education Code, is amended
5 to read as follows:

6 Sec. 103.03. BOARD MEMBERS: APPOINTMENT, TERMS, OATH.
7 Members of the board shall be appointed by the governor and
8 confirmed by the senate. Members hold office for staggered terms of
9 six years, with the terms of three members expiring on February 1 of
10 each odd-numbered year. Any vacancy that occurs on the board shall
11 be filled for the unexpired term by appointment of the governor.
12 Each member of the board shall take the constitutional oath of
13 office.

14 (b) The change in law made by this section does not apply to
15 a member of the board of regents of Midwestern State University who
16 serves all or part of a full term of office if that full term begins
17 before September 1, 2013. To implement the change in law made by
18 this section to Section 103.03, Education Code, the terms of office
19 of members of the board that begin in 2014 expire on February 1,
20 2019, the terms of office of members of the board that begin in 2016
21 expire on February 1, 2021, and the terms of office of members of
22 the board that begin in 2018 expire on February 1, 2023.

23 SECTION 6. (a) Section 105.052, Education Code, is amended
24 to read as follows:

25 Sec. 105.052. TERM OF OFFICE; REMOVAL; VACANCY. The term of
26 office of each regent is six years, with the terms of three regents
27 expiring on February 1 of each odd-numbered year [~~every two years~~].

1 Members of the board may be removed from office for inefficiency or
2 malfeasance of office. Any vacancy that occurs on the board shall
3 be filled by the governor for the unexpired term.

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

13 SECTION 7. (a) Section 111.12, Education Code, is amended
14 to read as follows:

15 Sec. 111.12. APPOINTMENTS TO BOARD; TERMS. Members of the
16 board are appointed by the governor with the advice and consent of
17 the senate. The term of office of each regent shall be six years,
18 with the terms of three regents expiring on February 1 of each
19 odd-numbered year [~~except that in making the first appointments the~~
20 ~~governor shall appoint three members for six years, three members~~
21 ~~for four years, and three members for two years~~]. Any vacancy that
22 occurs on the board shall be filled for the unexpired term by
23 appointment of the governor.

24 (b) The change in law made by this section does not apply to
25 a member of the board of regents of the University of Houston System
26 who serves all or part of a full term of office if that full term
27 begins before August 26, 2013. To implement the change in law made

1 by this section to Section 111.12, Education Code, the terms of
2 office of members of the board that begin in 2013 expire on February
3 1, 2019, the terms of office of members of the board that begin in
4 2015 expire on February 1, 2021, and the terms of office of members
5 of the board that begin in 2017 expire on February 1, 2023.

6 SECTION 8. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect August 26, 2013.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 15 passed the Senate on April 11, 2013, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 15, 2013, by the following vote: Yeas 29, Nays 2.

Secretary of the Senate

I hereby certify that S.B. No. 15 passed the House, with amendments, on May 14, 2013, by the following vote: Yeas 134, Nays 11, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor