

1-1 By: Seliger, et al. S.B. No. 15
 1-2 (In the Senate - Filed February 20, 2013; February 25, 2013,
 1-3 read first time and referred to Committee on Higher Education;
 1-4 April 8, 2013, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 5, Nays 1; April 8, 2013,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8 Seliger	X			
1-9 Watson	X			
1-10 Birdwell		X		
1-11 Duncan	X			
1-12 Patrick			X	
1-13 West	X			
1-14 Zaffirini	X			

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 15 By: Seliger

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the governance of public institutions of higher
 1-20 education in this state.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 51.352, Education Code, is amended by
 1-23 amending Subsections (a), (b), (d), and (e) and adding Subsections
 1-24 (a-1), (a-2), (a-3), (a-4), (a-5), and (a-6) to read as follows:

1-25 (a) It is the policy of this state that the governing boards
 1-26 of institutions of higher education, being composed of lay members,
 1-27 shall exercise the traditional and time-honored role for such
 1-28 boards as their role has evolved in the United States and shall
 1-29 constitute the keystone of the governance structure. In this
 1-30 regard each governing board:

1-31 (1) shall ~~is expected to~~ preserve institutional
 1-32 independence and ~~to~~ defend each institution's ~~its~~ right to
 1-33 manage its own affairs through its chosen administrators and
 1-34 employees;

1-35 (2) shall enhance the public image of each institution
 1-36 under its governance;

1-37 (3) shall interpret the community to the campus and
 1-38 interpret the campus to the community;

1-39 (4) shall nurture each institution under its
 1-40 governance to the end that each institution achieves its full
 1-41 potential within its role and mission; ~~and~~

1-42 (5) shall insist on clarity of focus and mission of
 1-43 each institution under its governance;

1-44 (6) shall develop a balanced governing structure
 1-45 designed to promote institutional integrity, autonomy, and
 1-46 flexibility of operations while maintaining maximum operating
 1-47 efficiency and academic excellence; and

1-48 (7) shall govern institutions with the spirit of
 1-49 integrity in all matters, including operating in a relationship
 1-50 with all parties in an open and honest manner.

1-51 (a-1) The governing board of an institution of higher
 1-52 education shall ensure that the powers and duties of the board are
 1-53 not controlled by a minority of its members or by organizations or
 1-54 interests that are separate from the board in any manner, including
 1-55 through delegation, tradition, or inaction, and must protect each
 1-56 institution under its governance from undue external influence.

1-57 (a-2) The members of the governing board of an institution
 1-58 of higher education must remain free from any contractual,
 1-59 employment, or personal or familial financial interest in the
 1-60 institution or institutions under its governance. This subsection

2-1 does not affect the application of other laws regarding conflicts
2-2 of interest to the members.

2-3 (a-3) Each report, recommendation, or vote of the governing
2-4 board of an institution of higher education or of a committee,
2-5 subcommittee, task force, or similar entity reporting to the
2-6 governing board must be made available to the public on the board's
2-7 Internet website not later than the end of the next business day
2-8 after the date of the report, recommendation, or vote.

2-9 (a-4) A member of the governing board of an institution of
2-10 higher education who has not yet attended a training program that
2-11 includes instruction in ethics, conflict-of-interest law, and the
2-12 role of governing boards in a higher education system is prohibited
2-13 from voting on a budgetary or personnel matter related to system
2-14 administration or institutions of higher education. The governing
2-15 board is responsible for maintaining records of training attended
2-16 as described by this subsection.

2-17 (a-5) The governing board of a university system may
2-18 terminate the employment of an institution's president only after
2-19 receiving a recommendation to that effect under Section
2-20 51.353(b)(7), but the board is not required to act on that
2-21 recommendation.

2-22 (a-6) An appointment to a governing board of a university
2-23 system that occurs when the legislature is not in session is
2-24 prohibited from voting until the appointee has appeared before the
2-25 Senate Committee on Nominations. If the Senate Committee on
2-26 Nominations fails to hold a hearing within 45 days of the date the
2-27 chair of the committee is notified of the appointment by the
2-28 governor's office, the appointee is not prohibited from voting if
2-29 the appointee has otherwise met the requirements to be eligible to
2-30 vote.

2-31 (b) The governing board of an institution of higher
2-32 education shall provide long-term ~~the~~ policy direction for each
2-33 institution of higher education under its governance ~~management~~
2-34 ~~and control~~.

2-35 (d) Notwithstanding ~~[In addition to]~~ powers and duties
2-36 specifically granted by this code or other law, each governing
2-37 board shall:

2-38 (1) after coordinating with the institution's
2-39 president and consulting with the institution's faculty, establish
2-40 and publish, for each institution under its governance, long-term
2-41 ~~[control and management,]~~ goals consistent with the role and
2-42 mission of the institution;

2-43 (2) review and, as necessary, revise those goals at
2-44 least once during each six-year period;

2-45 (3) appoint the chancellor or other chief executive
2-46 officer of the system, if the board governs a university system;

2-47 (4) ~~(3)~~ appoint the president or other chief
2-48 executive officer of each institution under the board's governance
2-49 ~~[control and management and evaluate the chief executive officer of~~
2-50 ~~each component institution and assist the officer in the~~
2-51 ~~achievement of performance goals];~~

2-52 (5) to the extent practicable and to ensure maximum
2-53 operating efficiency, direct that communications between the board
2-54 of a university system or members of the board and the employees of
2-55 an institution under its governance be conducted through the
2-56 system;

2-57 (6) after consulting with the institution's faculty
2-58 and administration, ~~(4)~~ set campus admission standards
2-59 consistent with the role and mission of the institution and
2-60 considering the admission standards of similar institutions
2-61 nationwide having a similar role and mission, as determined by the
2-62 coordinating board;

2-63 (7) to the extent practicable, develop and implement
2-64 policies and procedures that allow the faculty, staff, and students
2-65 at any institution under the board's governance to be engaged in and
2-66 informed of meetings of the board or of a committee, subcommittee,
2-67 task force, or other similar entity reporting to the board; and

2-68 (8) ~~(5)~~ ensure that its formal position on matters
2-69 of importance to the institutions under its governance is made

3-1 clear to the coordinating board when those [~~such~~] matters are under
3-2 consideration by the coordinating board.

3-3 (e) Each member of a governing board has the legal
3-4 responsibilities of a fiduciary in the management of funds under
3-5 the control of institutions subject to the board's governance
3-6 [~~control and management~~].

3-7 SECTION 2. Subsection (b), Section 51.353, Education Code,
3-8 is amended to read as follows:

3-9 (b) In addition to other powers and duties provided by this
3-10 code or other law, each system administration shall:

3-11 (1) initiate, monitor, approve, and coordinate
3-12 long-range planning for the system consistent with the goals
3-13 established under Section 51.352(d)(1);

3-14 (2) approve short-range institutional plans for
3-15 operations and expenditures;

3-16 (3) provide to component institutions technical
3-17 assistance such as legal and financial services;

3-18 (4) evaluate each component institution and assist the
3-19 institution in the achievement of performance goals; [~~and~~]

3-20 (5) perform such other duties as may be delegated to it
3-21 by the governing board of its system;

3-22 (6) in consultation with the governing board of the
3-23 system, evaluate the president or other chief executive officer of
3-24 each component institution and assist the officer in the
3-25 development and achievement of performance goals; and

3-26 (7) if necessary based on the president's performance,
3-27 recommend to the governing board the termination of employment of
3-28 an institution's president.

3-29 SECTION 3. Subchapter G, Chapter 51, Education Code, is
3-30 amended by adding Section 51.3545 to read as follows:

3-31 Sec. 51.3545. EFFECT OF SUBCHAPTER; RELATIONSHIP OF BOARD
3-32 TO INSTITUTIONS. (a) Sections 51.352, 51.353, and 51.354 control
3-33 over any specific provision regarding the powers and duties of a
3-34 governing board of an institution of higher education provided by
3-35 Subtitle C, D, E, F, or G, and any similar provision to the contrary
3-36 in any of those subtitles has no effect.

3-37 (b) The governing board of an institution of higher
3-38 education may not unreasonably or unduly interfere with the
3-39 day-to-day operations of the institutions under its governance.

3-40 SECTION 4. Subsections (a) and (d), Section 61.084,
3-41 Education Code, are amended to read as follows:

3-42 (a) The board by rule shall establish a training program for
3-43 members of the governing boards of institutions of higher
3-44 education. Each member of a governing board of an institution of
3-45 higher education shall attend, during the member's first year [~~two~~
3-46 ~~years~~] of service as a member of a governing board of an institution
3-47 of higher education, a [~~at least one~~] training program under this
3-48 section. A member of a governing board who is required to attend a
3-49 training program under this section may attend additional training
3-50 programs under this section.

3-51 (d) The content of the instruction at the training program
3-52 shall focus on the official role and duties of the members of
3-53 governing boards and shall provide training in the areas of
3-54 budgeting, policy development, ethics, and governance. Topics
3-55 covered by the training program must [~~may~~] include:

3-56 (1) auditing procedures and recent audits of
3-57 institutions of higher education;

3-58 (2) the enabling legislation that creates
3-59 institutions of higher education;

3-60 (3) the role of the governing board at institutions of
3-61 higher education and the relationship between the governing board
3-62 and an institution's administration, faculty and staff, and
3-63 students;

3-64 (4) the mission statements of institutions of higher
3-65 education;

3-66 (5) disciplinary and investigative authority of the
3-67 governing board;

3-68 (6) the requirements of the open meetings law, Chapter
3-69 551, Government Code, and the open records law, Chapter 552,

4-1 Government Code;
4-2 (7) the requirements of conflict of interest laws and
4-3 other laws relating to public officials;
4-4 (8) any applicable ethics policies adopted by
4-5 institutions of higher education or the Texas Ethics Commission;
4-6 (9) the requirements of laws relating to the
4-7 protection of student information under the Family Educational
4-8 Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g) or any
4-9 other federal or state law relating to the privacy of student
4-10 information; and
4-11 (10) [~~(9)~~] any other topic relating to higher
4-12 education the board considers important.
4-13 SECTION 5. This Act takes effect immediately if it receives
4-14 a vote of two-thirds of all the members elected to each house, as
4-15 provided by Section 39, Article III, Texas Constitution. If this
4-16 Act does not receive the vote necessary for immediate effect, this
4-17 Act takes effect September 1, 2013.

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