

By: Seliger

S.B. No. 177

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), 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 shall:

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

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

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

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. For purposes of this subsection, a
9 university system may establish for members of the governing board
10 of the system a training program that includes all the elements of
11 instruction described by this subsection.

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

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

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

24 (1) after coordinating with the institution's
25 president or other chief executive officer of the institution and
26 consulting with the institution's faculty, establish and publish,
27 for each institution under its governance, long-term ~~[control and~~

1 ~~management,~~] goals consistent with the role and mission of the
2 institution;

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

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

7 (4) ~~[(3)]~~ appoint the president or other chief
8 executive officer of each institution under the board's governance
9 ~~[control and management and evaluate the chief executive officer of~~
10 ~~each component institution and assist the officer in the~~
11 ~~achievement of performance goals]~~;

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

17 (6) direct that, to the extent practicable, the board
18 of a university system or members of the board use only official
19 electronic communication accounts when conducting official
20 business of the system through electronic communications;

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

27 (8) to the extent practicable, develop and implement

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

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

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

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

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

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

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

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

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

26 (5) perform such other duties as may be delegated to
27 the system administration [~~it~~] by the governing board of the [~~its~~]

1 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 or officer's
7 performance, recommend to the governing board the termination of
8 employment of an institution's president or other chief executive
9 officer.

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

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

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

21 SECTION 4. Section 51.355(c), Education Code, is amended to
22 read as follows:

23 (c) Except as provided by Subsection (f), not later than
24 November 1 of each year, the student government of each general
25 academic teaching institution and medical and dental unit in a
26 university system shall solicit applicants for appointment to the
27 next regular term of the position of student regent. Not later than

1 January 1, from among the applications received by the student
2 government, the student government shall select five applicants as
3 the student government's recommendations for the position of
4 student regent and send the applications of those applicants to the
5 chancellor of the university system. From among those applicants,
6 the chancellor shall select two or more applicants as the
7 university system's recommendations for the position of student
8 regent and shall send the applications of those applicants to the
9 governor not later than February 1. The governor may request to
10 review all applications for the position of student regent received
11 by the student governments and may request an applicant to submit
12 additional information to the governor. On June 1, or as soon
13 thereafter as practicable, the governor shall appoint one of the
14 applicants to serve as the student regent for the system for a
15 one-year term expiring on the next May 31. The governor is not
16 required to appoint an applicant recommended by the chancellor, but
17 may not appoint a student regent who did not submit an application
18 to the student government of a general academic teaching
19 institution or medical and dental unit in the system as described by
20 this subsection.

21 SECTION 5. Section 51.356(d), Education Code, is amended to
22 read as follows:

23 (d) Not later than November 1 of each year, the student
24 government of the general academic teaching institution shall
25 solicit applicants for appointment to the next regular term of the
26 position of student regent. Not later than January 1, from among
27 the applications received by the student government, the student

1 government shall select five applicants as the student government's
2 recommendations for the position of student regent and send the
3 applications of those applicants to the president of the
4 institution. From among those applicants, the president shall
5 select two or more applicants as the institution's recommendations
6 for the position of student regent and shall send the applications
7 of those applicants to the governor not later than February 1. The
8 governor may request to review all applications for the position of
9 student regent received by the student government and may request
10 an applicant to submit additional information to the governor. On
11 June 1, or as soon thereafter as practicable, the governor shall
12 appoint one of the applicants to serve as the student regent for the
13 institution for a one-year term expiring on the next May 31. The
14 governor is not required to appoint an applicant recommended by the
15 president, but may not appoint a student regent who did not submit
16 an application to the student government of the institution as
17 described by this subsection.

18 SECTION 6. Sections 61.084(a) and (d), Education Code, are
19 amended to read as follows:

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

1 programs under this section.

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

7 (1) auditing procedures and recent audits of
8 institutions of higher education;

9 (2) the enabling legislation that creates
10 institutions of higher education;

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

15 (4) the mission statements of institutions of higher
16 education;

17 (5) disciplinary and investigative authority of the
18 governing board;

19 (6) the requirements of the open meetings law, Chapter
20 551, Government Code, and the open records law, Chapter 552,
21 Government Code;

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

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

26 (9) the requirements of laws relating to the
27 protection of student information under the Family Educational

1 Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g) or any
2 other federal or state law relating to the privacy of student
3 information; and

4 (10) [~~9~~] any other topic relating to higher
5 education the board considers important.

6 SECTION 7. Sections 51.355(c) and 51.356(d), Education
7 Code, as amended by this Act, are intended only to clarify existing
8 law with respect to the appointment of student members of the board
9 of regents of a state university or state university system.

10 SECTION 8. This Act takes effect immediately if it receives
11 a vote of two-thirds of all the members elected to each house, as
12 provided by Section 39, Article III, Texas Constitution. If this
13 Act does not receive the vote necessary for immediate effect, this
14 Act takes effect September 1, 2015.