

BILL ANALYSIS

Senate Research Center
84R2348 KEL-D

S.B. 177
By: Seliger
Higher Education
3/20/2015
Committee Report (Amended)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 177 amends current law relating to public higher education governance to clarify the duties and responsibilities of university regents, system offices, and institutional administrators and to implement best practices. Specifically, the bill implements best governing practices as recommended by the Association of Governing Boards and the Southern Association of Colleges and Schools, particularly as related to a balanced governing structure, conflicts of interest, mitigating undue influence, transparency, and participation in board meetings.

S.B. 177 also requires regent training to include training on privacy laws and requires regents to undergo training before being allowed to vote on budget or personnel matters.

S.B. 177 amends current law relating to the governance of public institutions of higher education in this state.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

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

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

(1) preserve institutional independence and defend each institution's right to manage its own affairs through its chosen administrators and employees, rather than each governing board is expected to preserve institutional independence and to defend its right to manage its own affairs through its chosen administrators and employees;

(2)-(5) Makes nonsubstantive changes;

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

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

(a-1) Requires the governing board of an institution of higher education to protect each institution under its governance from undue external influence and 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, including through delegation, tradition, or inaction.

(a-2) Requires the members of the governing board of an institution of higher education to remain free from any contractual, employment, or personal or familial financial interest in the institution or institutions under its governance. Provides that this subsection does not affect the application of other laws regarding conflicts of interest to the members.

(a-3) Requires that each report, recommendation, or vote of the governing board of an institution of higher education or of a committee, subcommittee, task force, or similar entity reporting to the governing board 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.

(a-4) Provides that a member of the governing board of an institution of higher education 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 is prohibited from voting on a budgetary or personnel matter related to system administration or institutions of higher education. Provides that the governing board is responsible for maintaining records of training attended as described by this subsection. Authorizes a university system to establish for members of the governing board of the system, for purposes of this subsection, a training program that includes all the elements of instruction described by this subsection.

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

(b) Requires the governing board of an institution of higher education to provide long-term policy direction, rather than the policy direction, for each institution of higher education under its governance, rather than management and control.

(d) Requires each governing board, notwithstanding, rather than in addition to, powers and duties specifically granted by this code or other law, to:

(1) after coordinating with the institution's president or other chief executive officer of the institution and consulting with the institution's faculty, establish and publish, for each institution under its governance, long-term goals consistent with the role and mission of the institution, and makes a conforming change;

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

(3) Creates this subdivision from existing text, and makes no further change to this subdivision;

(4) appoint the president or other chief executive officer of each institution under the board's governance, rather than appoint the president or other chief executive officer of each institution under the board's control and management and evaluate the chief executive officer of each component institution and assist the officer in the achievement of performance goals;

(5) to the extent practicable and to ensure maximum operating efficiency, direct 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;

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

(7) after consulting with the institution's faculty and administration, set campus admission standards consistent with the role and mission of the institution and considering the admission standards of similar institutions nationwide having a similar role and mission, as determined by the coordinating board;

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

(9) Makes a nonsubstantive change.

(e) Changes a reference to control and management to governance.

SECTION 2. Amends Section 51.353(b), Education Code, as follows:

(b) Requires each system administration, in addition to other powers and duties provided by this code or other law, to:

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

(2) and (3) Makes no changes to these subdivisions;

(4) Makes a nonsubstantive change;

(5) perform such other duties as may be delegated to the system administration by the governing board of the system;

(6) in consultation with the governing board of the system, 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

(7) if necessary based on the president's or officer's performance, recommend to the governing board the termination of employment of an institution's president or other chief executive officer.

SECTION 3. Amends Subchapter G, Chapter 51, Education Code, by adding Section 51.3545, as follows:

Sec. 51.3545. EFFECT OF SUBCHAPTER; RELATIONSHIP OF BOARD TO INSTITUTIONS. (a) Provides that Sections 51.352 (Responsibility of Governing Boards), 51.353 (Responsibility of System Administration), and 51.354 (Institutional Responsibility) control over any specific provision regarding the powers and duties of a governing board of an institution of higher education provided by Subtitle C (Local Organization and Governance), D (Educators and School District Employees and Volunteers), E (Students and Parents), F (Curriculum, Programs, and Services), or G (Safe Schools), and any similar provision to the contrary in any of those subtitles has no effect.

(b) Prohibits the governing board of an institution of higher education from unreasonably or unduly interfering with the day-to-day operations of the institutions under its governance.

SECTION 4. Amends Section 51.355(c), Education Code, to provide that the governor is not required to appoint an applicant recommended by the chancellor, but is prohibited from appointing a student regent who did not submit an application to the student government of a general academic teaching institution or medical and dental unit in the system as described by this subsection.

SECTION 5. Amends Section 51.356(d), Education Code, to provide that the governor is not required to appoint an applicant recommended by the president, but is prohibited from appointing a student regent who did not submit an application to the student government of the institution as described by this subsection.

SECTION 6. Amends Sections 61.084(a) and (d), Education Code, as follows:

(a) Requires each member of a governing board of an institution of higher education to attend, during the member's first year, rather than first two years, of service as a member of a governing board of an institution of higher education, a training program, rather than at least one training program, established by the board under this section. Authorizes a member of a governing board who is required to attend a training program under this section to attend additional training programs under this section.

(d) Requires that the content of the instruction at the training program to focus on the official role and duties of the members of governing boards and to provide training in the areas of budgeting, policy development, ethics, and governance. Requires that, rather than authorizes, topics covered by the training program include:

(1)-(8) Makes no change to these subdivisions;

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

(10) Redesignates existing Subdivision (9) as Subdivision (10). Makes no further change to the subdivision.

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

SECTION 8. Effective date: upon passage or September 1, 2015.

SUMMARY OF COMMITTEE CHANGES

Committee Amendment #1

Amends added Section 51.352(a-1), Education Code (page 2, line 13), by striking “by a minority of its members or”.

Committee Amendment #2

(1) Amends the heading to added Section 51.3545, Education Code (page 6, lines 12-13), by striking “; RELATIONSHIP OF BOARD TO INSTITUTIONS”.

(2) Amends added Section 51.3545(a), Education Code (page 6, line 13), by striking “(a)”.

(3) Amends added Section 51.3545, Education Code (page 6, lines 18-20), by striking added Subsection (b).

Committee Amendment #3

Amends proposed Subdivision (4) of amended Section 51.352(d), Education Code (page 4, lines 9-11) by striking “[~~control and management and evaluate the chief executive officer of each component institution and assist the officer in the achievement of performance goals~~]” and substituting “[~~control and management~~] and, if the applicable institution is a component institution of a university system, evaluate, in consultation with the system administration, the president or other chief executive officer of the [~~each component~~] institution and assist the officer in the achievement of performance goals”.