

## **BILL ANALYSIS**

Senate Research Center  
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C.S.H.B. 29  
By: Branch et al. (Seliger)  
Higher Education  
5/15/2013  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

C.S.H.B. 29 amends current law relating to the governance of public institutions of higher education.

### **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), (a-5), and (a-6), as follows:

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

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

(2)-(3) Makes no change to these subdivisions;

(4)-(5) Makes nonsubstantive changes;

(6) is required to 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) is required to govern institutions with the spirit of integrity in all matters, including operating in a relationship with all parties in an open and honest manner.

(a-1) Requires the governing board of an institution of higher education to 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, and is required to protect each institution under its governance from undue external influence.

(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, for purposes of this subsection, to establish for members of the governing board of the system 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 only after receiving a recommendation to that effect under Section 51.353(b)(7), but the board is not required to act on that recommendation.

(a-6) Provides that a member of the governing board of a university system who is appointed to the board when the legislature is not in session is prohibited from voting until the appointee has appeared before the Senate Committee on Nominations. Provides that, if the Senate Committee on Nominations fails to hold a hearing before the 20th day after the date the chair of the committee is notified of the appointment by the governor's office, the appointee is not prohibited from voting if the appointee has otherwise met the requirements necessary to be eligible to vote.

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

(d) Provides that, notwithstanding powers and duties specifically granted by this code or other law, each governing body is required to:

(1) after coordinating with the institution's president 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;

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

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

(4) appoint the president or other chief executive officer of each institution under the board's governance;

(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) 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;

(7) 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

(8) ensure that its formal position on matters of importance to the institutions under its governance is made clear to the coordinating board when those matters are under consideration by the coordinating board.

(e) Provides that each member of a governing board has the legal responsibilities of a fiduciary in the management of funds under the control of institutions subject to the board's governance, rather than the board's control and management.

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)-(3) Makes no change to these subdivisions;

(4)-(5) Makes nonsubstantive changes;

(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 performance, recommend to the governing board the termination of employment of an institution's president.

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 (The University of Texas System), D (The Texas A&M University System), E (The Texas State University System), F (Other Colleges and Universities), or G (Non-Baccalaureate System), 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 Subchapter A, Chapter 54, Education Code, by adding Section 54.017, as follows:

Sec. 54.017. FIXED TUITION PRICE PLAN FOR UNDERGRADUATE STUDENTS AT CERTAIN GENERAL ACADEMIC TEACHING INSTITUTIONS. Requires the governing board of each general academic teaching institution other than a public state college to offer entering undergraduate students the opportunity to participate in a fixed tuition price plan under which the institution agrees not to increase tuition charges per semester credit hour for a participating student for at least the first 12 consecutive semesters that occur after the date of the student's initial enrollment at the institution in

those semesters, and subject to any restrictions or qualifications adopted by the governing board. Provides that, for purposes of this section, one or more summer terms occurring in the same summer is considered a semester.

SECTION 5. 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 of service as a member of a governing board of an institution of higher education, a training program under this section (Training For Members of Governing Boards), rather than during the member's first two years of service as a member of a governing board of an institution of higher education, at least one training program under this section.

(d) Requires that the content of the instruction at the training program focus on the official role and duties of the members of governing boards and provide training in the areas of budgeting, policy development, ethics, and governance. Requires that the topics, rather than authorizes the 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) and makes no further change.

SECTION 6. Provides that Section 54.017, Education Code, as added by this Act, applies beginning with the 2014 fall semester.

SECTION 7. Effective date: upon passage or September 1, 2013.