

SUBJECT: Governing boards, system administrators of higher education institutions

COMMITTEE: Higher Education — favorable, without amendment

VOTE: 7 ayes — Branch, Patrick, Alonzo, Clardy, Howard, Martinez, Raney

0 nays

2 absent — Darby, Murphy

SENATE VOTE: On final passage, April 11 — 29 - 2 (Birdwell, Paxton)

WITNESSES: No public hearing

BACKGROUND: Education Code, sec. 51.352 establishes responsibilities for governing boards of institutions of higher education.

DIGEST: SB 15 would add to the management responsibilities of boards of regents of institutions of higher education and would expand the training requirements of individual regents.

**Board oversight of institutional units and presidents.** Under SB 15, to the extent practicable, communication between the board of regents of a university system or between members of the board and the employees of an institution under its governance would be conducted through the system.

The governing board of a university system could terminate the employment of an institution's president only after receiving a recommendation to that effect from the system's administration. A board would not be required to act on such a recommendation. SB 15 would remove the board's responsibility to evaluate the chief executive officer of each component institution and the responsibility to assist the officer in the achievement of performance goals.

**Other responsibilities of governing boards.** SB 15 would charge governing boards with responsibility to:

- preserve institutional independence and defend each institution's right to manage its own affairs through its chosen administrators and employees;
- develop a balanced governing structure designed to promote institutional integrity, autonomy, and flexibility of operations while maintaining maximum operating efficiency and academic excellence;
- govern institutions with the spirit of integrity in all matters, including operating in a relationship with all parties in an open and honest manner;
- ensure that the powers and duties of the board are not controlled by a minority of its members or by organizations or interest that are separate from the board in any manner;
- protect each institution under its governance from undue external influence;
- establish and publish, for each institution under its governance, long-term goals consistent with the role and mission and of the institution, after coordinating with the institution's president and consulting with the institution's faculty; and
- not unreasonably or unduly interfere with the day-to-day operations of the institutions under its governance.

Under SB 15, each report, recommendation, or vote of the governing board or of a committee, subcommittee, task force, or similar entity reporting to the governing board would be made available to the public on the board's website by the end of the next business day after the report, recommendation, or vote.

**Individual board members.** SB 15 would require individual board members to receive training before voting on issues before the board and would impose further rules against conflicts of interest.

*Board member training.* A member of a governing board of a university system appointed when the Legislature was not in session would be prohibited from voting on issues before the board until the appointee had appeared before the Senate Committee on Nominations. If the Nominations Committee failed to hold a hearing within 45 days of the date the chair of the committee was notified of the appointment by the governor's office, the appointee would not be prohibited from voting if the appointee had otherwise met the requirements to be eligible to vote.

Under the bill the Texas Higher Education Coordinating Board would

provide training to newly appointed board members during their first year on the board. SB 15 would make certain topics covered in board member training mandatory, including auditing procedures, governance, and disciplinary and investigative authority. The bill would add ethics and federal laws on student privacy to the topics to be covered in training.

*Conflict of interest.* The governing boards would remain free from any contractual, employment, or personal or familial financial interest in the institution or institutions under its governance. This requirement would not affect other applicable conflict of interest laws.

**Responsibility of system administrators.** SB 15 would move oversight of university presidents from governing boards to system administrators. In consultation with the governing board of the system, system administrators would evaluate the president or other chief executive officer of a component institution in the development of each institution and assist the officer in the development and achievement of performance goals. If necessary, the system administrators would recommend, based on the president's performance, termination of employment.

**Effective date.** This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2013.

**SUPPORTERS  
SAY:**

SB 15 would create a more formal structure for university governance, with authority and accountability more properly placed.

With the growing size of Texas' university systems, disagreements on protocols, command structure, and reporting duties have affected and are affecting several institutions, not just UT-Austin. SB 15 would address a need for clarity by requiring that communication between various parts of a university system occur in a formalized manner. The bill would require various components of a system to move up or down the formalized institutional chain of command. Board of regents' communications to constituent institutions would take place through system administrators and vice versa. Reinforcing a clear chain of reporting would create better systems of communication, coordination, and accountability.

Regents would not lose power under the bill. The bill would not change the actors involved in the governance of institutions of higher education. Instead, it would apply accepted management practices and organization

to this system of governance. If a regent had questions about a constituent institution, the bill simply would require inquiry to take place through the system administration. Under SB 15, a governing board would be able to fire the presidents of constituent institutions on the recommendation of the system's administration. Governing boards would maintain full oversight powers over system administrators, ensuring continued accountability. This would allow regents, as appointees of the elected governor and those confirmed by the elected Senate, to continue to represent the public interest.

SB 15 would improve the system already in place for training regents. Current law already requires the Texas Higher Education Coordinating Board to provide training to newly appointed regents. SB 15 would improve this by requiring that the program include training on ethics and federal laws on student privacy, such as the Family Educational Rights and Privacy Act of 1974.

The bill also would not allow newly appointed regents to vote on matters before the board unless they had completed required training in order to ensure educated votes. This also would encourage regents to complete required training quickly. The training would be designed to provide the regents with the tools needed to examine budgets, interpret statutes and other laws, understand audits and other investigations, and to provide the independent and effective oversight required.

**OPPONENTS  
SAY:**

SB 15 would be too big a fix for the problems it purports to solve. It is an attempt to address conflicts between the UT-System regents and the president and administration of UT-Austin. However, the bill would change the governance of all Texas institutions of higher education, including the ones where no conflict exists.

By requiring boards to channel their communications to component systems through system administrations, the bill would lessen the investigatory powers of boards. This would make them less effective at oversight, the primary charge of governing boards. It also would further remove universities and colleges from oversight by elected officials. Regents are selected by the governor and confirmed by the Senate. Requiring regents to go through system officials, rather than straight to component universities and colleges, would remove these institutions further from oversight by the voters.

SB 15 would create two classes of regents. One class would be able to vote on issues before the board, while the other could not until they had completed mandatory training. There is no need for this voting restriction. The traditional vetting of regents — appointment of able candidates by the governor and a confirmation process by the Senate — is sufficient to ensure quality board members.