

The State Board of Education (SBOE) proposes an amendment to §61.2, concerning nominations of trustees for military reservation school districts and Boys Ranch Independent School District. The proposed amendment would reflect changes made by House Bill (HB) 4210, 88th Texas Legislature, Regular Session, 2023, to the SBOE's process for appointing trustees for military reservation districts and add a definition for the term "commanding officer."

**BACKGROUND INFORMATION AND JUSTIFICATION:** Texas Education Code (TEC), §11.352, requires the SBOE to appoint a board of three or five trustees for each military reservation district established under TEC, §11.351. Enlisted personnel and officers may be appointed to the school board, but a majority of the trustees must be civilians. To be eligible to serve, one must either live or be employed on the military reservation. The trustees are selected from a list of people provided by the commanding officer of the military reservation.

HB 4210, 88th Texas Legislature, Regular Session, 2023, amended TEC, §11.352(b) and (c), to establish that a person who retires from active duty or civilian service while serving as a member of the board of trustees of a military reservation district may continue to serve for the remainder of his or her term. The bill also changed the SBOE's responsibility to adopt rules for the governance of special-purpose districts from permissive to required.

To implement HB 4210, the proposed amendment would add new §61.2(e) to specify that a trustee of a military reservation school district who retires from active duty or civilian service while serving as a member of the board of trustees may continue to serve for the remainder of his or her term.

In addition, the proposal would define "commanding officer" for the purposes of this section.

The SBOE approved the proposed amendment for first reading and filing authorization at its April 12, 2024 meeting.

**FISCAL IMPACT:** Steve Lecholop, deputy commissioner for governance, has determined that for the first five years the proposal is in effect, there are no additional costs to state or local government required to comply with the proposal.

**LOCAL EMPLOYMENT IMPACT:** The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

**SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT:** The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis specified in Texas Government Code, §2006.002, is required.

**COST INCREASE TO REGULATED PERSONS:** The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

**TAKINGS IMPACT ASSESSMENT:** The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

**GOVERNMENT GROWTH IMPACT:** Texas Education Agency (TEA) staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would expand an existing regulation by defining "commanding officer" for the purpose of the rule and adding a provision to allow a trustee to continue serving his or her term upon retirement from active duty or civilian service.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not limit or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

**PUBLIC BENEFIT AND COST TO PERSONS:** Mr. Lecholop has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to update the eligibility of people to serve on military reservation schools districts to conform to HB 4210, provide clarity to the public on who is eligible to serve on a board of trustees of a military reservation school district, and establish a definition for "commanding officer" for the purpose of the rule. There is no anticipated economic cost to persons who are required to comply with the proposal.

**DATA AND REPORTING IMPACT:** The proposal would have no data or reporting impact.

**PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS:** TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

**PUBLIC COMMENTS:** The public comment period on the proposal begins May 17, 2024, and ends at 5:00 p.m. on June 17, 2024. The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in June 2024 in accordance with the SBOE board operating policies and procedures. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the Texas Register on May 17, 2024.

**STATUTORY AUTHORITY.** The amendment is proposed under Texas Education Code, §11.352, as amended by House Bill 4210, 88th Texas Legislature, Regular Session, 2023, which requires the State Board of Education to appoint a board of three or five trustees for each military reservation district.

**CROSS REFERENCE TO STATUTE.** The amendment implements Texas Education Code, §11.352, as amended by House Bill 4210, 88th Texas Legislature, Regular Session, 2023.

<rule>

#### §61.2. Nomination of Trustees for Military Reservation School Districts and Boys Ranch Independent School District.

(a) For purposes of this section, "commanding officer" is defined as the officer who is assigned to serve physically on the installation or military reservation on which the military reservation school district is located and who provides leadership for the functional support of and contingency or emergency coordination for the military reservation school district. (Perez-Diaz/Pickren) Adopted

(b) [(a)] In nominating trustee candidates for military reservation school districts, the commanding officer of the military reservation shall do the following:

- (1) submit a list to the commissioner of education with at least one nominee for each vacancy. A majority of the trustees appointed to the school board must be civilian, and all may be civilian. When two or more vacancies occur simultaneously, a list of at least one nominee for each vacancy shall be submitted. In cases when the commanding officer wishes to reappoint existing board members, a list of at least one nominee for each vacancy must still be submitted. Nominees not selected for existing vacancies may be resubmitted as candidates for subsequent vacancies. The commanding officer may rank in the order of preference the nominees submitted for each vacancy;
- (2) submit a statement that verifies that each of the nominees is qualified under the general school laws of Texas and lives or is employed on the military reservation;
- (3) submit a copy of a current biographical vita (resume) for each nominee, with a signature by the nominee attesting truth to the contents of the biographical vita;

- (4) submit a statement from each nominee that expresses the nominee's willingness to accept appointment and to serve in such a capacity with full adherence to the state-established standards on the duties and responsibilities of school board members;
- (5) submit a signed statement that expresses recognition of the powers of the board of trustees to govern and manage the operations of the military reservation school districts;
- (6) submit a signed statement regarding the governance and management operations of the district that expresses recognition that the role of the commanding officer of the military reservation is limited only to the duty defined by statute in the process for appointing members of the board of trustees; and
- (7) submit a statement that the membership composition of the entire board of trustees is in full compliance with the provisions of the Texas Education Code (TEC), §11.352.

(c) ~~(b)~~ In nominating trustee candidates for the Boys Ranch Independent School District (ISD), the president and chief executive officer of the Cal Farley's Boys Ranch shall do the following:

- (1) submit a name to the commissioner for each vacancy. When two or more vacancies occur simultaneously, a name for each vacancy shall be submitted. In cases when the president and chief executive officer wishes to reappoint existing board members, the name of the existing board member for each vacancy must still be submitted;
- (2) submit a statement that verifies that each of the nominees is qualified under the general school laws of Texas;
- (3) submit a copy of a current biographical vita (resume) for each of the nominees, with a signature by the nominee attesting truth to the contents of the biographical vita;
- (4) submit a statement from each of the nominees that expresses the nominee's willingness to accept appointment and to serve in such a capacity with full adherence to the state-established standards on the duties and responsibilities of school board members;
- (5) submit a signed statement that expresses recognition of the powers of the board of trustees to govern and manage the operations of the Boys Ranch ISD;
- (6) submit a signed statement regarding the governance and management operations of the district that expresses recognition that the role of the superintendent is in full compliance with the provisions of the TEC, §11.201; and
- (7) submit a statement that the membership composition of the entire board of trustees is in full compliance with the provisions of the TEC, §11.352.

(d) ~~(e)~~ A member of a board of trustees appointed under the TEC, §11.352, and this section will serve a term of two years. A member of the board of trustees, who during the period of the term of office resigns from office or experiences a change of status that disqualifies such member for appointment under the provisions of the TEC, shall become ineligible to serve at the time of the change of status. A board vacancy resulting from such resignation or disqualification shall be filled in accordance with the procedures established under the TEC, §11.352, and this section.

(e) Notwithstanding subsection (d) of this section, a trustee of a military reservation school district appointed under this section who retires from active duty or civilian service while serving as a member of the board of trustees may continue to serve for the remainder of his or her term.