

**APPROVED  
DECEMBER 13, 2016**

Item #V-3  
December 13, 2016

## **PROPOSED EXECUTIVE COMMITTEE CHARTER**

- Submitted for:** Approval.
- Summary:** This agenda item presents a recommendation by Burke Burns and Pinelli, Ltd. (“BBP”) to establish a new Executive Committee to enhance the Board’s decision-making timetable.
- Action Requested:** That the Illinois Board of Higher Education approve the establishment of an Executive Committee consistent with the framework and restrictions provided in the enabling Executive Committee Charter. Counsel also recommends that the Board authorize BBP to work with IBHE Staff to prepare JCAR provisions consistent with the construction of the Executive Committee.



STATE OF ILLINOIS  
BOARD OF HIGHER EDUCATION

**PROPOSED EXECUTIVE COMMITTEE CHARTER**

This agenda item presents a recommendation to establish a new Executive Committee to enhance the Board's decision-making timetable.

**Background**

Given the fast moving environment in Illinois with respect to higher education, there is great organizational value in the Board's ability to enhance its decision-making timetable through the establishment of an Executive Committee. The Illinois Higher Education Act (the "Act") provides that the IBHE make "[m]ake rules and regulations for its meetings, procedures and the execution of the powers and duties delegated to it by this Act." 110 ILCS 205/9.05. This enabling provision of the Act grants the Board with the authority to create an Executive Committee to delegate certain duties in relation to matters that may arise between regularly scheduled meetings of the Board or when it is not practical or feasible for the full Board to meet.

All substantive matters in the ordinary course of business should be brought before the full Board for action. However, there are instances in which actions must be taken on substantive matters in between regular Board meetings in which a special meeting of the Board is either impractical or unwarranted. The Executive Committee traditionally has the full authority and power of the full Board. However, a "best practice" utilized in forming an Executive Committee includes developing certain restrictions on the Committee's authority and power. For instance, the Executive Committee should possess all of the powers of the Board except that the Executive Committee may not overrule, revise or modify any previous act of the Board. In addition, the Executive Committee should never have the authority to invade any jurisdiction of any permanent or special committee of the Board. It is important to note that while the Act does not prevent the Board from establishing an Executive Committee, the Act does specifically require the full Board to vote on the approval of a new unit of instruction, research, or public service for a public institution of higher education and further requires that a majority of the Board approve plans for capital improvements of non-instructional facilities for state universities. As such, the Board cannot delegate its authority to vote on the approval of a new unit of instruction, research or public service for a public institution of higher education nor can it delegate the authority to approve plans for capital improvements of non-instructional facilities for state universities. Accordingly, the Executive Committee would not have jurisdiction over the foregoing matters.

The composition of a "typical" Executive Committee consists of the Board Chairperson, the Vice Chairperson and three other members of the Board selected by the Chairperson. A quorum is established by three members of the Executive Committee. If a vacancy was to occur on the Executive Committee for any reason, the vacancy would be filled by a majority vote of the Board. Other specifics relating to the formation of the Executive Committee may be found in the proposed Executive Committee Charter, attached and incorporated to this memorandum as Appendix A.

Consistent with the rules and regulations of the full Board, meetings of the Executive Committee are subject to the Open Meetings Act (5 ILCS 120/1 et seq.), the Freedom of Information Act (5 ILCS 140/1 et seq.), the Illinois Higher Education Act and applicable provisions of the Illinois Administrative Code (“JCAR”) (2 Ill. Admin. Code pt. 5050). The JCAR provisions specific to the Board do not limit the Board’s ability to form an Executive Committee consisting of Board Members and it is not necessary for the Board to revise any portion of JCAR in order to form an Executive Committee. JCAR does, however, specifically delineate five standing advisory committees of the Board: the Faculty Advisory Council, the Independent College and University Advisory Committee, the Proprietary Advisory Committee, the Student Advisory Committee, and the Council of Community College Presidents (2 Ill. Admin. Code pt. 5050.200(b)). In addition, JCAR reiterates the Board’s meeting requirements, including quorum provisions and other procedures found in the Board’s enabling Act. While it is unnecessary for the Board to revise JCAR in order to form an Executive Committee, it is recommended that the Board consider adding a short JCAR provision setting forth the existence of the Executive Committee and other meeting requirements of the Executive Committee, similar to the JCAR provision detailing the Board’s advisory committees.

Rules under Title 2 of the Illinois Administrative Code do not require a public notice period but the Joint Committee on Administrative Rules (JCAR) will review the internal rules. The proposed revisions contained in this item will become effective upon the filing of the required materials with the Secretary of State.

### **Recommendation**

Burke Burns & Pinelli, Ltd (“**BBP**”) recommends that the Board approve the establishment of an Executive Committee consistent with the framework and restrictions provided in the enabling Executive Committee Charter (attached as Appendix A). BBP also recommends that the Board authorize BBP to work with IBHE Staff to prepare JCAR provisions consistent with the construction of the Executive Committee.

*The Illinois Board of Higher Education hereby:*

*(1) Approves the establishment of an Executive Committee consistent with the framework and restrictions provided in the enabling Executive Committee Charter as detailed in Appendix A; and*

*(2) Authorizes Burke Burns & Pinelli to work with IBHE staff to prepare JCAR provisions consistent with the construction of the Executive Committee.*

## APPENDIX A

### THE ILLINOIS BOARD OF HIGHER EDUCATION EXECUTIVE COMMITTEE CHARTER

#### I. PURPOSE

The Executive Committee ("Committee") shall exercise the powers of the Board of Trustees (the "Board") of the Illinois Board of Higher Education ("IBHE") in relation to matters that arise between regularly scheduled meetings of the Board or when it is not practical or feasible for the Board to meet. The Committee is delegated the authority to act as the full Board when exercising the powers and authorities under this charter, subject to the limitations listed below in Section V.

It is the general intention that all substantive matters in the ordinary course of business be brought before the full Board for action, but the Board recognizes the need for flexibility to act on substantive matters where action may be necessary between Board meetings which, in the opinion of the Chairperson of the Board, should not be postponed until the next previously scheduled meeting and where, in the opinion of the Chairperson, a special meeting is unwarranted.

#### II. MEMBERSHIP

The Committee shall consist of the Chairperson, the Vice-Chairperson and three other members of the Board selected by the Chairperson.

#### III. MEETINGS AND QUORUM

The Committee shall meet upon the call of the Chairperson, or any three members thereof. Meetings of the Committee are subject to the Open Meetings Act, 5 ILCS 120/1 *et seq.*, and, consistent with the requirements of the Open Meetings Act, may be held by means of conference telephone or other communications equipment, by means of which all persons participating in the meeting can hear and speak to each other. The act of a majority of the Committee members present at a meeting at which a quorum is present shall be the act of the Committee.

#### IV. AUTHORITY

In discharging its role, the Committee is empowered to inquire into any matter it considers appropriate to carry out its responsibilities, with access to all books, records, facilities and personnel of IBHE. The Committee has the power to retain outside advisors, subject to IBHE's procurement rules, to assist it in carrying out its activities. IBHE shall provide adequate resources to support the Committee's activities, including compensation of the Committee's advisors. The Committee shall have the authority, subject to Board approval, and IBHE's procurement rules to retain, compensate, direct, oversee and terminate such other advisors hired to assist the Committee, who shall be accountable to the Committee.

#### V. KEY RESPONSIBILITIES

The Committee shall undertake the following responsibilities, which are set forth as a guide. The Committee is authorized to carry out these activities and other actions reasonably related to the Committee's purposes or assigned by the Board from time to time. To fulfill its purposes, the Committee shall:

1. Possess all the powers of the Board on matters that arise between scheduled Board meetings or when it is not practical or feasible for the Board to meet. However the Committee shall not have the authority to act on behalf of the board with respect to the following matters:
  - a. approval of a new unit of instruction, research, or public service for a public institution of higher education;
  - b. approval of a plan for capital improvements of non-instructional facilities of a state university;
  - c. overrule, revise, or modify any previous acts of the Board;
  - d. invade the jurisdiction of any permanent or special committee of the Board;
2. Have the authority to call Special Meetings whenever deemed necessary or prudent;
3. Submit to the Board at its next regular meeting a written report of all actions taken by the Executive Committee since the previous meeting of the Board. Such record shall thereupon be incorporated into the Minutes of the Board as an integral part thereof; and
4. Conduct annually a self-assessment regarding its performance against its stated responsibilities and share the results of such assessment with the Board