

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1907
By: Bivins
Education
4-18-97
Committee Report (Substituted)

DIGEST

Currently, Texas public universities are allowed to charge the building use fee in an amount equal to tuition and are also allowed to spend the same fee for the same broad purposes as tuition. The result, for example, is that a fee is no longer a "building use fee," but actually a "tuition fee." This bill would call this fee and others like it what they actually are: tuition fees. S.B. 1907 does not give universities authority to increase total tuition and fees beyond what they are presently charging. This bill also would protect bonds issued under the old buildings use fee.

PURPOSE

As proposed, S.B. 1907 requires certain fees that universities charge students to be redesignated as tuition.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1.01. Amends Section 54.004, Education Code, to provide that amounts collected by an institution of higher education from the portion of resident tuition charged in excess of the minimum resident tuition rate established by Section 54.051(c) and amounts collected from the portion of nonresident tuition charged in excess of the basic nonresident tuition rate established by Section 54.051(d) are institutional funds as defined by Section 51.009 and shall be accounted for as designated funds. Authorizes these funds to be used for any lawful purpose and provides that these funds shall not be accounted for in a general appropriations act in such a way as to reduce the general revenue appropriation to a particular institution. Makes a conforming change.

SECTION 1.02. Amends Section 54.008, Education Code, by amending Subsections (a), (e), and (f), and adding Subsections (g), (h), and (i), to delete text providing that the tuition rates provided by Subchapter B of this chapter are minimum rates. Requires, except as provided by this section, the governing board of each institution of higher education (board) to set tuition for resident students enrolled in graduate programs for that institution at a rate that is at least equal to the minimum rate prescribed by Subchapter B, but that is not more than 1.5 times, rather than twice, the maximum rate prescribed by Subchapter B. Authorizes the board, between the maximum and minimum rates allowed by this section, to set the differential tuition among graduate programs offered by the institution. Requires the board to set tuition for a resident student enrolled in an optometry program or a law school at the institution at a rate that is at least equal to the minimum rate prescribed by Subchapter B but not more than two, rather than three, times the maximum rate prescribed by Subchapter B. Requires the board to set tuition for a resident student enrolled in an undergraduate or graduate pharmacy program at the institution at a rate that is at least equal to the minimum rate prescribed by Subchapter B but not more than 1.5 times, rather than twice, the maximum rate, rather than the rate, prescribed by Subchapter B. Authorizes the board to waive all or part of the tuition charged to a graduate or undergraduate that is in excess of a certain amount under certain conditions. Requires a board to hold a public hearing before increasing resident tuition rates above the minimum rates established by Subchapter B. Requires the board to set tuition for nonresident students enrolled in graduate or pharmacy programs for that institution at a rate at least equal to the rate prescribed by Section 54.051 for a nonresident student at a general academic

teaching institution but that is not more than twice the rate prescribed by that section. Authorizes the board to set a differential tuition rate among graduate programs offered by the institution. Makes conforming and nonsubstantive changes.

SECTION 1.03. Amends Section 51.009(c), Education Code, to require net tuition other than tuition classified as institutional funds by Section 54.004(b), to be accounted for as educational and general funds, among others. Makes a nonsubstantive change.

SECTION 1.04. Amends Section 54.051(i), to provide that the tuition for a resident student registered at law school is \$100, rather than \$75, per semester credit hour. Deletes text providing that tuition for a nonresident student registered at a law school is \$200 per semester credit hour.

SECTION 1.05. Amends Section 54.0512, Education Code, to set forth tuition for the applicable academic years. Deletes existing Subsections (c)-(g). Makes conforming and nonsubstantive changes.

SECTION 1.06. Amends Sections 54.051(c) and (d), Education Code, to provide that unless a different rate is specified by this section, tuition for a resident student at a general academic teaching institution for the 2001-2002 academic year and thereafter is an amount per semester credit hours established by the governing board of the institution, which may not be less than \$40 per semester credit hour or more than \$80 per semester credit hour, rather than tuition for a resident student at a general academic teaching institution is the greater of a certain amount. Sets forth provisions regarding tuition for a nonresident student at a general academic teaching institution.

SECTION 1.07. Amends Chapter 54D, Education Code, by adding Sections 54.214 and 54.215, as follows:

Sec. 54.214. ADJUSTMENTS TO TUITION AND FEES TO REFLECT EXEMPTIONS. Sets forth provisions applicable if a student at an institution of higher education receives an exemption or waiver from the payment of all or part of tuition and fees prescribed or authorized by this title. Sets forth provisions applicable if a student is granted an exemption or waiver based on exceptional hardship after an institution has made the adjustment described in Subsection (a).

Sec. 54.215. DISTANCE LEARNING OR OFF-CAMPUS COURSES. Authorizes the board of an institution of higher education to waive a fee which it is authorized to charge if the board makes certain determinations.

SECTION 1.08. Amends Section 55.01, Education Code, to redefine "revenue funds" and to define "bonds."

SECTION 1.09. Amends Section 55.16, Education Code, as follows:

Sec. 55.16. New heading: BOARD RESPONSIBILITY. Requires each board to be authorized to fix and collect rentals, rates, and charges, rather than fees, from students and others for the occupancy, services, use, and/or availability of all or any of its property, buildings, structures, activities, operations, or other facilities, in such amounts and in such a manner as may be determined by the board. Sets forth provisions applicable if bonds have been or are issued to pursuant to this title, rather than Section 55.17 of this code, or secured or to be secured by a pledge of part or all of the board's revenue funds, rather than to be secured by a pledge of a limited or unlimited use fee, and if other conditions are present. Deletes text requiring all student use fees to be fixed and collected and prohibiting the student use fees from exceeding certain amounts. Deletes text authorizing the board to make certain waivers. Provides that board is not required to charge students enrolled in different degree programs at the same institution the same rentals, rates, charges, and fees under this section. Deletes existing Subsections (b)-(d). Makes conforming and nonsubstantive changes.

SECTION 1.10. Amends Sections 56.033(a) and (b), to require governing boards of institutions of higher education and the Texas State Technical College System to cause to be set aside certain

percentages of each resident and nonresident student's tuition and hourly tuition. Requires, of the funds set aside under this section by an institution, not less than 95 percent, rather than 90 percent, to be used for Texas Public Educational Grants and not more than five percent, rather than 10 percent, to be used for emergency loans under Subchapter D of this chapter.

SECTION 1.11. Repealer: Section 55.17(d), Education Code (Pledges - Financing Permanent Improvements).

ARTICLE 2. CONFORMING AMENDMENTS

SECTION 2.01. Amends Section 55.13, Education Code, to authorize each board, for certain purposes, to issue its revenue bonds from time to time and in one or more issue or series, to be payable from and secured by liens on and pledges of all or any part of any of the revenue funds of the board and its institution or institutions, or any branch of any of its institutions; rather than of any of the revenues, income, or receipts of the board and its institution or institutions, or any branch or branches, thereof, including, without limitation, any rentals, rates, charges, fees, or other resources, in the manner provided by this subchapter.

SECTION 2.02. Amends Sections 55.17(a), (b), and (c), Education Code, to authorize each board to pledge all or any part of its revenue funds to the payment of the bonds; rather than any part of its revenues, income, or receipts from such rentals, rates, charges, and/or fees, or other resources. Requires the pledged revenue funds to be fixed and collected in amounts that will be at least sufficient to provide for all payments of principal, interest, and any other amounts required; rather than rentals, rates, charges, and/or fees to be fixed and collected in amounts that will be at least sufficient together with any other pledged resources. Authorizes tuition, rentals, rates, and other charges of an institution of higher education authorized by this title to be pledged to the payment of the bonds. Deletes text regarding fees for the use by or availability to the students of all or any property, buildings, structures, activities, services, operations, or other facilities. Authorizes such tuition, rentals, rates, and other charges, to be fixed and collected and pledged to the payment of any issue or series of bonds issued by the board. Makes conforming changes.

SECTION 2.03. Amends Section 55.24, Education Code, to set forth a prohibition regarding the repeal or amendment of any provision of this title. Sets forth provisions in furtherance of the provisions of Subsection (b) and in recognition that certain boards have outstanding bonds, notes, and other obligations, secured by various liens on the tuition or a portion of the tuition charged and collected at certain institutions. Makes conforming changes.

SECTION 2.04. Amends Chapter 55, Education Code, by adding Section 55.25, as follows:

Sec. 55.25. **APPLICABILITY OF OTHER LAW; CONFLICTS.** Provides that Articles 717q, 717k-2, 717k-6, and 717k-8, V.T.C.S., apply to all bonds issued pursuant to this chapter; provided, however, that in the event of any conflict between such laws and this chapter, the provisions of this chapter prevail.

ARTICLE 3. VALIDATION AND SAVINGS PROVISIONS; EFFECTIVE DATE; EMERGENCY

SECTION 3.01. (a) Provides that all revenue bonds heretofore approved by the attorney general and registered by the comptroller, which were issued, sold, and delivered by any board, and which are payable from or secured by a pledge of any revenues, income, receipts, or other resources of such board, are hereby validated in all respects, together with all proceedings authorizing the issuance thereof, and said bonds and proceedings shall be valid and binding obligations in accordance with their terms and conditions for all purposes, as though they had been duly and legally issued and authorized originally.

(b) Provides that nothing in this Act limits or impairs any pledge or covenant made by the board with respect to any bond or note issued before the effective date of this Act.

(c) Provides that the provisions of Section 55.24(b), Education Code, as added by Section

2.03 of this Act, regarding the effect of an amendment or a repeal on a pledge or covenant made by the board, apply to any such amendment or repeal made by this Act.

(d) Sets forth provisions regarding any funds to be set aside by an institution of higher education pursuant to Section 56.033, Education Code.

SECTION 3.02. (a) Effective date: August 1, 1997, if this Act may take effect on that date under Section 39, Article III, Texas Constitution. Otherwise, this Act takes effect September 1, 1997.

(b) Provides that the change in law made by this Act applies beginning with tuition and fees charged for the 1997 fall semester.

SECTION 3.03. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.02.

Amends proposed Section 54.008, Education Code, to amend Subsections (e) and (f), in addition to (a), and add Subsection (i), in addition to adding Subsections (g) and (h).

SECTION 1.04.

Adds a new SECTION 1.04 and rennumbers existing SECTIONS. Amends Section 54.051(i), Education Code, regarding tuition for a resident student at a law school.

SECTION 1.05.

Redesignated from proposed SECTION 1.04.

SECTION 1.06.

Redesignated from proposed SECTION 1.05.

SECTION 1.07.

Redesignated from proposed SECTION 1.06. Amends Chapter 54D, Education Code by adding Sections 54.214 and 54.215, rather than Section 54.2001. Redesignates proposed Section 54.2001 as Section 54.214, and adds Subsection (b) regarding an exemption or waiver. Adds Section 54.215 regarding distance learning or off-campus courses.

SECTION 1.08.

Amends Section 55.01, Education Code, by amending Subdivision (3), to define "revenue funds."

SECTION 1.09.

Redesignated from proposed SECTION 1.08.

SECTION 1.10.

Redesignated from proposed SECTION 1.09. Requires the governing boards of higher education and the Texas State Technical College System to cause to be set aside not less than eight and one-half percent, rather than nine percent nor more than 15 percent out of each resident student's tuition charge under Section 54.051 of this code as provided by the General Appropriations Act.

SECTION 1.11.

Redesignated from proposed SECTION 1.10.

SECTION 3.01.

Sets forth provisions regarding the validation of all revenue bonds heretofore approved by the attorney general and registered by the comptroller, or authorized by proceedings approved by the attorney general, which were issued, sold, and delivered or entered into by any board. Sets forth Subsection (d) regarding funds to be set aside by an institution of higher education pursuant to Section 56.033, Education Code.