

BILL ANALYSIS

Senate Research Center

S.B. 93
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Higher Education
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The purpose of the Hazlewood Exemption is to provide an educational benefit to honorably discharged or separated Texas veterans by exempting those veterans from paying tuition and some fees at state colleges. In 2005 and 2006, Texas Attorney General Greg Abbott issued two opinions in which he stated that to receive benefits under Section 54.203 (Veterans, Dependents, Etc.) of the Texas Education Code, an eligible veteran must have been a United States (U.S.) citizen and a Texas citizen at the time he or she entered service. Last year, the attorney general withdrew those opinions, admitting that his interpretation of Hazlewood to exclude legal permanent resident immigrants, thousands of whom have served this country and state in the military, made the Hazlewood Act unconstitutional. The Texas Higher Education Coordinating Board followed the attorney general's withdrawal by adopting temporary rules to provide that veterans are eligible for the Hazlewood Exemption whether they were U.S. citizens or legal residents at the time they entered the military in Texas.

S.B. 93 amends current law relating to tuition and fee exemptions for certain military personnel and their dependents or spouse and permitting those personnel to assign the exemption to a child.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Higher Education Coordinating Board in SECTION 2 (Section 54.203, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Provides that this Act shall be known as the "Hazelwood [sic] Legacy Act."

SECTION 2. Amends Section 54.203, Education Code, by amending Subsections (a), (b), (b-1), (d), (g), and (h) and adding Subsections (a-1), (a-2), (k), (l), and (m), as follows:

(a) Requires the governing board of each institution of higher education to exempt certain persons from the payment of tuition, dues, rather than all dues, fees, and other required charges, including fees for correspondence courses but excluding general deposit fees, student service fees, and any fees or charges for lodging, board, or clothing, provided the person seeking the exemption entered the service at a location in this state, declared this state as the person's home of record in the manner provided by the applicable military or other service, or would have been determined to be a resident of this state for purposes of Subchapter B at the time the person entered the service. Deletes existing text requiring that the persons seeking the exemptions were citizens of Texas at the time they entered the services indicated and have resided in Texas for at least the period of 12 months before the date of registration. Makes conforming and nonsubstantive changes.

(a-1) Provides that a person, who before the 2009-2010 academic year received an exemption as provided by Subsection (a) continues to be eligible for the exemption provided by that subsection as that subsection existed on January 1, 2009, subject to the other provisions of this section other than the requirement of Subsection (a) that the person is required to have entered the service at a location in this state, declared this state as the person's home of record, or would have been determined to be a resident of this state for purposes of Subchapter B at the time the person entered the service.

(a-2) Provides that the exemptions provided for in Subsection (a) also apply to the spouse of:

(1) a member of the armed forces of the United States who was killed in action; who died while in service; who is missing in action; whose death is documented to be directly caused by illness or injury connected with service in the armed forces of the United States; or who became totally disabled for purposes of employability according to the disability ratings of the Department of Veterans Affairs (VA) as a result of a service-related injury; or

(2) a member of the Texas National Guard or the Texas Air National Guard who was killed since January 1, 1946, while on active duty either in the service of this state or the United States or is totally disabled for purposes of employability according to the disability ratings of the VA, regardless of whether the member is eligible to receive disability benefits from the department, as a result of a service-related injury suffered since January 1, 1946, while on active duty either in the service of this state or the United States.

(b) Provides that the exemptions provided for in Subsection (a), rather than of this section, also apply to, rather than apply and inure to the benefit of, the children of certain members of the armed forces of the United States and to the children of certain members of the Texas National Guard and the Texas Air National Guard. Deletes existing text referring to the orphans of members of the Texas National Guard and the Texas Air National Guard.

(b-1) Requires the spouse or child to be classified as a resident under Subchapter B on the date of the spouse's or child's registration, to qualify for an exemption under Subsection (a-2) or (b). Deletes existing text requiring that a person be a citizen of Texas and have resided in the state for at least 12 months immediately preceding the date of the person's registration to qualify for an exemption under Subsection (b).

(d) Requires the governing board of each institution of higher education granting an exemption under this section to require every applicant claiming the exemption to submit satisfactory evidence that the applicant qualifies for the exemption. Deletes existing text requiring an applicant to submit satisfactory evidence relating to necessary citizenship and residency requirements. Makes conforming and nonsubstantive changes.

(g) Authorizes the governing board of a junior college district to establish a fee for extraordinary costs associated with a specific course or program and provide that the exemptions provided by this section, rather than Subsections (a) and (b), do not apply to this fee.

(h) Requires the governing board of each institution of higher education to electronically report to the Texas Higher Education Coordinating Board (THECB) the information required by Section 61.0516 (Electronic System to Monitor Tuition Exemptions for Veterans and Dependents) relating to each individual receiving an exemption from fees and charges under Subsection (a), (a-2), or (b).

(k) Requires THECB by rule to prescribe procedures to allow a person who becomes eligible for an exemption provided by Subsection (a) to waive the person's right to any unused portion of the maximum number of cumulative credit hours for which the person could receive the exemption and assign the exemption for the unused portion of those credit hours to a child of the person. Requires that the procedures provide the manner in which a person may waive the exemption and designate a child to receive the exemption; a procedure permitting the person to designate a different child to receive the exemption if the child previously designated to receive the exemption did not use the exemption under this section for all of the assigned portion of credit hours; and a method of documentation to enable institutions of higher education to determine the eligibility of the designated child to receive the exemption.

(l) Requires the child, to be eligible to receive an exemption under Subsection (k), to meet certain requirements.

(m) Provides that, for purposes of this section, a person is the child of another person if the person is the stepchild or the biological or adopted child of the other person, or the other person claimed the person as a dependent on a federal income tax return filed for the preceding year or will claim the person as a dependent on a federal income tax return for the current year.

SECTION 3. Reenacts and amends Subsections (e) and (e-1), Section 54.203, Education Code, as amended by Chapters 443 (H.B. 125) and 1334 (S.B. 1640), Acts of the 80th Legislature, Regular Session, 2007, as follows:

(e) Provides that the exemption from tuition, fees, and other charges provided for by this section, rather than in Subsection (a), does not apply to a person who at the time of registration is entitled to receive educational benefits under federal legislation that may be used only for the payment of tuition and fees if the value of those benefits received in a semester or other term is equal to or exceeds the value of the exemption for the same semester or other term. Provides that if the value of federal benefits that are authorized to be used only for the payment of tuition and fees and are received in a semester or other term does not equal or exceed the value of the exemption for the same semester or other term, the person is entitled to receive both those federal benefits, rather than the federal benefit, and the exemption in the same semester or other term. Prohibits the combined amount of the federal benefit that is authorized to be used only for the payment of tuition and fees plus the amount of the exemption received in a semester or other term from exceeding the cost of tuition and fees for that semester or other term. Deletes existing text providing that a person is covered by the exemption if the person's right to benefits under federal legislation is extinguished at the time of the person's registration, except that a person is prohibited from receiving an exemption from fees under this section if the person's right to benefits under federal legislation is extinguished because the person is in default of repayment of a loan made to the person under a federal program to provide or guarantee loans for educational purposes.

(e-1) Prohibits a person from receiving an exemption under this section if the person is in default on a loan made or guaranteed for educational purposes by the State of Texas.

SECTION 4. (a) Makes application of Section 54.203, Education Code, as amended by this Act, prospective to the 2009 fall semester. Requires an institution of higher education, if a person who becomes eligible for an exemption in that semester under that section has paid the tuition, dues, fees, and other charges for that semester, to refund to the student the amount of those charges paid by the person in the amount of the exemption.

(b) Requires THECB to prescribe the procedures required by Subsections (k) and (l), Section 54.203, Education Code, as added by this Act, as soon as practicable after the effective date of this Act. Authorizes THECB, for that purpose, to adopt the initial rules prescribing those procedures in the manner provided by law for emergency rules.

SECTION 5. Effective date: upon passage or September 1, 2009.