

BILL ANALYSIS

Senate Research Center
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S.B. 1163
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Higher Education
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Higher Education Coordinating Board's (THECB) student loan program was initially authorized by the Texas Legislature in 1965. For over 50 years, the student loan program has provided Texas students of higher education a low-cost alternative to help fund their higher education. Over this period, seven constitutional amendments have been approved by voters relating to the issuance of bonds. The Office of the Attorney General (OAG) provides legal support related to loan default. THECB reimburses OAG for the cost of this support.

The issuance of tax exempt state bonds provides the funding for the initial loans to students. The administration of the loan program is funded via excess repayments from borrowers as they pay back their loans. No general revenue or other tax revenue is utilized to support this program under Chapter 52 (Student Loan Program).

THECB currently has \$1.3 billion in outstanding student loans. In fiscal year 2016, approximately \$160 million in student loans were issued.

S.B. 1163 amends Chapter 52, Education Code, related to the Hinson Hazlewood Student Loan program administered by THECB. The proposed revisions will align the statute to the current loan program operations and constitutional provisions, provide clarification in various sections, and repeal statutory sections that are not utilized.

THECB utilizes two accounts within the comptroller of public accounts of the State of Texas—the Texas Opportunity Plan Fund and the Student Loan Auxiliary Fund—to issue student loans under the Hinson Hazlewood Student Loan program. S.B. 1163 modifies statute to insert both accounts where necessary since both accounts are still actively used for the issuance of student loans.

There have been seven voter approved amendments to the Texas Constitution relating to the loan program since 1965 in Sections 50b-1 through 50b-7. Sections 50b, 50b-1, and 50b-3 have been repealed through voter approval. S.B. 1163 removes repealed sections to align with existing practices.

In addition, S.B. 1163 updates the statute to reflect bonds are now issued electronically through the comptroller and are no longer issued in paper form. Further, in 2010, the United States Department of Education made revisions to the federal loan program to only allow federally selected entities to issue federal student loans. Since then, THECB has not been authorized to issue federal loans. S.B. 1163 modifies Section 52.41, Education Code, accordingly.

As proposed, S.B. 1163 amends current law relating to the student loan program administered by the Texas Higher Education Coordinating Board and to the repeal of a related bond program.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 52.11(c), (d), (h), (k), and (n), Education Code, as follows:

- (c) Requires proceeds from the sale of bonds to be placed in the student loan auxiliary fund, rather than the Texas Opportunity Plan Fund.
- (d) Provides that, to assure the orderly and economical marketing of the bonds and the reasonable availability of money in the student loan auxiliary fund, rather than the Texas Opportunity Plan Fund, the bonds may be issued in installments.
- (h) Deletes existing text relating to the execution of bonds on behalf of the Texas Higher Education Coordinating Board (THECB) and requirements that they be signed by certain state officials and the manner in which they are signed.
- (k) Provides that the performance of official duties prescribed by Sections 50b-4, 50b-5, 50b-6, and 50b-7, Article III, Texas Constitution, rather than by Section 50b of the Texas Constitution, in reference to the provision for the payment and the payment of the bonds may be enforced in any court of competent jurisdiction through mandamus or other appropriate proceedings.
- (n) Provides that this section (Issuance of Bonds) applies only to bonds issued under Sections 50b-4, 50b-5, 50b-6, and 50b-7, Article III, Texas Constitution, rather than Article III, Section 50b, of the Texas Constitution.

SECTION 2. Amends Section 52.16, Education Code, as follows:

Sec. 52.16. PROCEEDS FROM BOND SALES. Requires all proceeds for the sale of bonds authorized by Sections 50b-4, 50b-5, 50b-6, and 50b-7, Article III, Texas Constitution, to be deposited in the state treasury in the student loan auxiliary fund, rather than requiring all proceeds from the sale of bonds authorized by Article III, Section 50b, 50b-1, or 50b-2 of the Texas Constitution to be deposited in the state treasury in the Texas Opportunity Plan Fund.

SECTION 3. Amends Section 52.32(a), Education Code, as follows:

- (a) Authorizes THECB to authorize loans from the Texas Opportunity Plan Fund or the student loan auxiliary fund to a qualified applicant who:
 - (1) makes no changes to this subdivision;
 - (2) has been accepted for enrollment at a participating higher educational institution, rather than has been accepted for enrollment at a participating higher educational institution provided that if the institution is a public or private postsecondary educational institution, the institution is required to be approved by an agency of the United States government for the purpose of guaranteeing the maker of such loans against loss due to the death, disability, or default of the borrower; and
 - (3)–(5) makes no changes to these subdivisions.

SECTION 4. Amends Section 52.33, Education Code, as follows:

Sec. 52.33. AMOUNT OF LOAN. Requires the amount of the loan to any qualified applicant to be limited to the difference between the financial resources available to the applicant, including the applicant's scholarships, gifts, grants, and other financial aid, and the amount necessary to pay the applicant's reasonable expenses as a student at the participating institution of higher education where the applicant has been accepted for enrollment, under the rules and regulations adopted by the board, rather than requiring

the amount of the loan to any qualified applicant to be limited to the difference between the financial resources available to the applicant, including but not limited to the applicant's income from parents and other sources, scholarships, gifts, grants, other financial aid, and the amount the applicant can reasonably be expected to earn, and the amount necessary to pay the applicant's reasonable expenses as a student at the participating institution of higher education where the applicant has been accepted for enrollment, under the rules and regulations adopted by THECB.

SECTION 5. Amends Sections 52.34(a) and (f), Education Code, as follows:

(a) Prohibits payment from being made to any student until the student has executed a note payable to the Texas Opportunity Plan Fund or the student loan auxiliary fund for the full amount of the authorized loan plus interest.

(f) Requires THECB to distribute money to a participating institution through the current statewide accounting system, rather than requiring THECB to distribute money to a participating institution through the electronic funds transfer system maintained by the Texas Guaranteed Student Loan Corporation for disbursing loan funds from commercial lenders participating in the guaranteed student loan program under Chapter 57 (Guaranteed Student Loans), except that at the request of a participating institution THECB is authorized to distribute the money through other means. Deletes existing text requiring THECB to enter into a contract with the corporation for the use of the system, and requiring the corporation to make the system available to THECB as necessary to carry out this subsection.

SECTION 6. Amends Section 52.38, Education Code, as follows:

Sec. 52.38. REPAYMENT OF LOANS. Requires repayment of any loan and interest authorized under this chapter to be made monthly and to begin not later than nine months after the date the student borrower is last enrolled in a participating institution or any other institution of higher education, rather than requiring repayment of any loan and interest authorized under this chapter to be made monthly and to begin not later than nine months after the date the student borrower is last enrolled in a participating institution or any other institution of higher education and in no event later than five years from the date the first note evidencing a loan under this chapter is executed. Requires repayment to be made directly to THECB pursuant to a contract executed by THECB in accordance with its rules and regulations, rather than requiring repayment to be made directly to THECB or to a participating institution pursuant to a contract executed by THECB in accordance with its rules and regulations.

SECTION 7. Amends the heading to Section 52.41, Education Code, to read as follows:

Sec. 52.41. SERVICING OF CERTAIN FEDERALLY INSURED STUDENT LOANS.

SECTION 8. Amends Section 52.41(b), Education Code, to authorize THECB to service any outstanding student loans issued by THECB under the Federal Family Education Loan Program authorized under Part B, Title IV, of the Higher Education Act of 1965 (20 U.S.C. Section 1071 et seq.).

SECTION 9. Amends Section 52.53, Education Code, to require THECB to deposit gifts, grants, or donations of money in the student loan auxiliary fund, rather than in the Texas Opportunity Plan Fund or in the student loan auxiliary fund, and to separately account for and expend the funds in accordance with the specific purpose for which given under such conditions as are imposed by the donor and as provided by law.

SECTION 10. Amends Section 52.541(a), Education Code, as follows:

(a) Requires THECB to establish separate accounting within the Texas Opportunity Plan Fund and the student loan auxiliary fund for each of its existing loan programs, rather than requiring THECB to establish separate accounting within the Texas Opportunity

Plan Fund and the student loan auxiliary fund for each of its existing loan programs including accounting for the federally insured loans that are insured by the United States Department of Education, the federally insured loans that are insured by the United States Department of Health and Human Services, and each loan program that consists of loans insured by the State of Texas.

SECTION 11. Repealer: Section 52.32(a-1) (relating to a requirement that certain applicants provide evidence that the applicants are unable to obtain a guaranteed student loan from a commercial lender), Education Code.

Repealer: Section 52.32(b) (relating to providing that certain applicants are not required to provide evidence that the applicants are unable to obtain a guaranteed student loan from a commercial lender), Education Code.

Repealer: Section 52.40 (Cancellation of Certain Loan Repayments), Education Code.

Repealer: Section 52.41(a) (relating to authorizing THECB to issue a student loan only to a borrower who has been issued a student loan under another student loan program administered by THECB), Education Code.

Repealer: Section 52.41(c) (relating to authorizing THECB to issue student loans to borrowers if the commissioner of higher education determines that market conditions warrant the issuance of those loans), Education Code.

Repealer: Subchapter E (College Savings Bonds), Chapter 52, Education Code.

SECTION 12. Effective date: September 1, 2019.