

BILL ANALYSIS

Senate Research Center
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S.B. 1664
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Higher Education
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Prepaid Higher Education Tuition Board (board) administers the Texas Prepaid Higher Education Tuition Program to increase access to higher education for Texas families. The board administers the Texas Tomorrow Funds program (funds program) that includes the following IRS Code Section 529 plans, which are prepaid tuition or college savings contracts that can be paid through a payroll deduction.

S.B. 1664 seeks to improve the board's operations by making several administrative changes. First, it changes the deadline for providing annual account statements to purchasers under the fund program in order to provide the comptroller of public accounts of the State of Texas additional time to post all transactions. It also updates the definition of "qualified higher education expenses" in the fund program to reflect changes in federal law and removes outdated statutory requirements for qualified withdrawals.

S.B. 1664 clarifies that provisions related to the board, such as appointments, training, meetings, ethics, compensation, etc., apply to all other plans and programs administered by the board. S.B. 1664 also requires that Texas public colleges provide tuition and fee information to the fund program in order to set sales prices and redemption values. Finally, it ensures that the fund program tuition units can be redeemed at health science centers.

As proposed, S.B. 1664 amends current law relating to the administration and operation of the state's programs for paying, prepaying, or saving toward the costs of attending an institution of higher education, including the powers and duties of the Prepaid Higher Education Tuition Board.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Prepaid Higher Education Tuition Board (board) is modified in SECTION 4 (Section 54.702, Education Code) of this bill.

Rulemaking authority previously granted to the board is rescinded in SECTION 6 (Section 54.708, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 54.602, Education Code, by adding Subsection (c), as follows:

(c) Provides that, unless otherwise specified, the provisions of this subchapter concerning the following requirements applicable to the Prepaid Higher Education Tuition Board (board) under this subchapter (Prepaid Higher Education Tuition Program) also apply to the board for purposes of Subchapters G (Higher Education Savings Plan), H (Prepaid Tuition Unit Undergraduate Education Program: Texas Tomorrow Fund II), I (Texas Save and Match Program), and J (Texas Achieving a Better Life Experience (ABLE) Program) of this chapter (Tuition and Fees):

- (1) membership;
- (2) appointments of members;

- (3) removal of members;
- (4) ethics policy;
- (5) training;
- (6) board officers;
- (7) compensation;
- (8) meetings;
- (9) public interest information and complaints;
- (10) use of technology;
- (11) program and facility accessibility;
- (12) executive director of the board (executive director); and
- (13) staff.

SECTION 2. Amends Section 54.641(a), Education Code, to require the board, not later than January 31 of each year, rather than not later than January 1 of each year, to furnish without charge to each purchaser certain statements.

SECTION 3. Amends Section 54.701(8), Education Code, as follows:

(8) Defines "qualified higher education expenses" as having the meaning assigned by Section 529, Internal Revenue Code of 1986, as amended, rather than as tuition, fees, or expenses for books, supplies, and equipment required for the enrollment or attendance of an individual at an eligible educational institution, the costs of room and board, and any other higher education expenses that are authorized to be permitted under Section 529, Internal Revenue Code of 1986, as amended.

SECTION 4. Amends Section 54.702(a), Education Code, as follows:

(a) Requires the board to:

- (1) and (2) makes no changes to these subdivisions;
- (3) adopt rules to implement this chapter, rather than adopt rules governing withdrawal of money from a savings trust account and develop policies and penalties for nonqualified withdrawals.

SECTION 5. Amends the heading to Section 54.708, Education Code, to read as follows:

Sec. 54.708. CONTRIBUTIONS AND WITHDRAWALS.

SECTION 6. Amends Section 54.708(b), Education Code, as follows:

(b) Authorizes an account owner to withdraw all or part of the balance of an account on prior notice as authorized by board rules. Deletes existing text requiring the board to adopt rules governing the determination whether a withdrawal is a qualified withdrawal or a nonqualified withdrawal. Deletes existing text authorizing the rules to require an account owner requesting to make a qualified withdrawal to provide a certification of qualified higher education expenses.

SECTION 7. Amends Sections 54.751(2), (6), and (7), Education Code, as follows:

(2) Includes a medical and dental unit among certain other entities in the definition of "beneficiary."

(6) Includes a medical and dental unit among certain other entities in the definition of "prepaid tuition contract."

(7) Includes the definition of "medical and dental unit" among certain other definitions and makes a nonsubstantive change.

SECTION 8. Amends Section 54.752(b), Education Code, as follows:

(b) Provides that the board, in addition to the board's powers assigned under Subchapters F (Prepaid Higher Education Tuition Program) and G, has the powers necessary or proper to carry out this subchapter (Prepaid Tuition Unit Undergraduate Education Program: Texas Tomorrow Fund II), including the power to:

(1)–(3) makes no changes to these subdivisions;

(4) enter into agreements or other transactions with a medical and dental unit among certain other entities; and

(5)–(12) makes no changes to these subdivisions.

SECTION 9. Amends Sections 54.753(a), (b), (c), (d), and (e), Education Code, as follows:

(a) Includes a medical and dental unit among certain other entities to which a purchaser is authorized, under the prepaid tuition unit undergraduate education program (program), to prepay the costs of all or a portion of by entering into a prepaid tuition contract with the board to purchase one or more tuition units of a type described by this section (Prepaid Tuition Units: Purchase; Assigned Value; Types; Price) at the applicable price established by the board for that type of unit for the year in which the unit is purchased. Provides that the portion of the beneficiary's undergraduate tuition and required fees for which a tuition unit is authorized to be redeemed at a particular general academic teaching institution, medical and dental unit, or two-year institution of higher education, rather than at a particular general academic teaching institution or two-year institution of higher education, is assigned to the tuition unit at the time of purchase, and the tuition unit is authorized to be redeemed to pay that portion of the tuition and fees at the general academic teaching institution, medical and dental unit, or two-year institution of higher education, rather than at the general academic teaching institution or two-year institution of higher education, in any academic year in which the unit is redeemed in accordance with this subchapter.

(b) Provides that the assigned value of a tuition unit, purchased as provided by this section, when used to pay the cost of tuition and required fees at a general academic teaching institution, medical and dental unit, or two-year institution of higher education, rather than at a general academic teaching institution or two-year institution of higher education, is equal to one percent of the amount necessary for the academic year in which the unit is redeemed to cover the applicable cost of undergraduate resident tuition and required fees for one academic year consisting of 30 semester credit hours as follows:

(1) for a Type I tuition unit, the cost of undergraduate resident tuition and required fees charged by the general academic teaching institution or medical and dental unit, as applicable, rather than charged by the general academic teaching institution, with the highest such tuition and fee costs, determined as provided by Subsection (d);

(2) for a Type II tuition unit, the weighted average undergraduate resident tuition and required fees charged by general academic teaching institutions or medical

and dental units, as applicable, rather than charged by the general academic teaching institutions, determined as provided by Subsection (e); and

(3) makes no changes to this subdivision.

(c) Requires each general academic teaching institution, medical and dental unit, and two-year institution of higher education, on or before June 1, to annually provide information for the upcoming fall semester to the board in a format requested by the board, to assist the board in determining tuition unit sales prices for the upcoming sales period and redemption values for the upcoming academic year. Makes conforming changes.

(d) Requires the board to base the purchase price of a Type I tuition unit on one percent of the cost of the undergraduate resident tuition and required fees for the applicable academic year at the general academic teaching institution or medical and dental unit, as applicable, rather than at the general academic teaching institution, with the highest such tuition and fee cost for that academic year.

(e) Requires the board to base the purchase price of a Type II tuition unit on one percent of the cost of the weighted average general academic teaching institution or medical and dental unit, as applicable, undergraduate resident tuition and required fees for the applicable academic year, rather than the weighted average general academic teaching institution undergraduate resident tuition and required fees for the applicable academic year. Provides that the cost is determined by:

(1)–(3) makes conforming changes.

SECTION 10. Amends Sections 54.754(a), (b), (c), and (d), Education Code, as follows:

(a) Includes a medical and dental unit among certain other entities the board is required, in accordance with this subchapter, when a beneficiary under a prepaid tuition contract redeems one or more tuition units to pay costs of tuition and required fees, to apply money in the fund, in the amount provided by Section 54.765 (Comptroller's Duties; Transfers to Institutions on Redemption of Tuition Units) to pay all or the applicable portion of the costs of the beneficiary's tuition and required fees at in which the beneficiary enrolls. Requires a general academic teaching institution, medical and dental unit, or two-year institution of higher education, rather than a general academic teaching institution or two-year institution of higher education, to accept the amount transferred to the institution or unit, rather than the institution, under Section 54.765(c) when the unit or units are redeemed as payment for all or the applicable portion of the beneficiary's tuition and required fees. Makes a conforming change.

(b)-(d) Makes conforming changes.

SECTION 11. Amends Section 54.756(e), Education Code, as follows:

(e) Requires the tuition and required fees charged by a general academic teaching institution, medical and dental unit, or two-year institution of higher education, rather than charged by a general academic teaching institution or two-year institution of higher education, that are paid for with tuition units, to be determined as if the beneficiary of that contract were a resident student.

SECTION 12. Amends Sections 54.765(c) and (f), Education Code, as follows:

(c) Requires the comptroller of public accounts of the State of Texas (comptroller) or the comptroller's authorized representative, when a beneficiary enrolls at a general academic teaching institution, medical and dental unit, or two-year institution of higher education, rather than enrolls at a general academic teaching institution or two-year institution of higher education, on written authorization from the purchaser of the tuition unit or units

for that beneficiary, to transfer to the institution or unit, rather than the institution, an amount equal to the lesser of certain amounts.

(f) Makes conforming changes.

SECTION 13. Amends Section 54.767, Education Code, to authorize the assets of the fund to be used to make payments on behalf of beneficiaries to medical and dental units among certain other institutions.

SECTION 14. Amends Section 54.7671(b), Education Code, as follows:

(b) Provides that the value of the account at the time of transfer, for purposes of a transfer of money from an account under this subchapter, is the lesser of:

(1) an amount equal to the cost, at the time of the transfer, of the tuition and required fees that would be covered by redemption of the number and type of tuition units to be transferred from the account if the beneficiary were redeeming the units at a general academic teaching institution, medical and dental unit, or two-year institution of higher education, rather than at a general academic teaching institution or two-year institution of higher education, as follows:

(A) for a Type I unit, at the general academic teaching institution or medical and dental unit, as applicable, rather than at the general academic teaching institution, that had the highest tuition and required fee cost;

(B) for a Type II unit, at a general academic teaching institution or medical and dental unit, as applicable, rather than at the general academic teaching institution, that had tuition and required fee cost at the weighted average; and

(C) makes no changes to this paragraph; or

(2) makes no changes to this subdivision.

SECTION 15. Amends Sections 54.769(b) and (c), Education Code, as follows:

(b) Includes the rights of a purchaser, beneficiary, or successor in interest of a purchaser or beneficiary in and under a prepaid tuition contract and the payment of tuition and required fees for a beneficiary under a prepaid tuition contract to a medical and dental unit among those rights that are exempt from attachment, levy, garnishment, execution, and seizure for the satisfaction of any debt, judgment, or claim against a purchaser, beneficiary, or successor in interest of a purchaser or beneficiary under this subsection.

(c) Provides that a claim or judgment against a purchaser, beneficiary, or successor in interest of a purchaser or beneficiary does not impair or entitle the claim or judgment holder to assert or enforce a lien against:

(1) makes no changes to this subdivision; or

(2) the right of a beneficiary to the payment of tuition and required fees to a medical and dental unit, among certain other entities.

SECTION 16. Amends Section 54.774(a), Education Code, as follows:

(a) Provides that a prepaid tuition contract remains in effect after the program is terminated if, when the program is terminated, the beneficiary:

(1) has been accepted by or is enrolled at a medical and dental unit, among certain other entities; or

(2) makes no changes to this subdivision.

SECTION 17. Amends Section 54.775(b), Education Code, as follows:

(b) Includes a medical and dental unit at which a beneficiary is authorized to enroll or is enrolled among those institutions that the board is authorized to release certain information to, notwithstanding Subsection (a) (relating to establishing records in the custody of the board relating to the participation of specific purchasers and beneficiaries in the program as confidential). Requires the institution or unit, rather than the institution, to keep the information confidential.

SECTION 18. Amends Section 54.776, Education Code, as follows:

Sec. 54.776. STATEMENT REGARDING STATUS OF PREPAID TUITION CONTRACT. Requires the board, not later than January 31 of each year, rather than not later than January 1 of each year, to provide without charge to each purchaser a statement of:

(1)–(3) makes no changes to these subdivisions;

(4) includes the value of the purchasers' tuition units if redeemed at a medical and dental unit, among certain other institutions, designated for that year by the purchaser in the time and manner required by the board, not to exceed five institutions or units, rather than not to exceed five institutions; and

(5) makes no changes to this subdivision.

SECTION 19. Repealer: Sections 54.708(c) (relating to requiring, in the case of a nonqualified withdrawal from an account, a certain amount of the withdrawal to be withheld as a penalty), Education Code.

Repealer: Sections 54.708(d) (relating to authorizing the board to increase the amount of the penalty prescribed by Subsection (c) if the board makes a certain determination), Education Code.

Repealer: Sections 54.708(e) (relating to authorizing the board to increase the amount of the penalty prescribed by Subsection (c) if the board makes certain other determinations), Education Code.

Repealer: Sections 54.708(f) (relating to requiring the penalties collected under this subchapter to be used to cover costs of administering this subchapter and requiring any excess to be treated as earnings of the savings trust accounts in the plan), Education Code.

SECTION 20. Effective date: upon passage or September 1, 2019.