

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 845
By: Van de Putte
Higher Education
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The purpose of the Hazlewood exemption [Section 54.203 (Veterans, Dependents, Etc.), Texas Education Code] is to provide an educational benefit to honorably discharged or separated Texas veterans by exempting those veterans from paying tuition and some fees at public colleges and universities.

Currently, a veteran who is eligible for the Hazlewood exemption is unable to transfer that benefit if he or she does not use the benefit of the exemption. Although Texas is home to 1.7 million veterans, only about 8,000 to 9,000 veterans currently use this exemption.

In 2005 and 2006, Texas Attorney General Greg Abbott issued two opinions in which he stated that to receive benefits under Section 54.203, 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 (THECB) 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. There are many men and women who are legal residents of Texas and who volunteer to enlist and serve in our armed forces; it is only reasonable that veterans who entered the military as legal permanent residents be afforded the same opportunities as those veterans who entered military service as U.S. citizens. We must not forget that it is not just the man or woman wearing the uniform that serves his or her country. Behind many servicemembers there is a family that provides support, sustaining him or her in times of difficulty and stress. We do not just support the soldier, sailor, marine, or airman, but also those who support him or her. As proposed, this legislation would illustrate the state's support of our veterans and their families.

C.S.S.B. 845 authorizes an eligible Hazlewood veteran to transfer the Hazlewood exemption benefits that he or she has not used to a designated child for the child's use of the benefits. C.S.S.B. 845 amends provisions relating to citizenship and legal residency for purposes of educational benefits granted to veterans.

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. Requires that this Act be known as the "Hazlewood Legacy Act."

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

- (a) Requires the governing board of each institution of higher education to exempt the following persons from the payment of tuition, dues, fees, and other required charges, including fees for correspondence courses but excluding general deposit fees, student services 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, rather than provided 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:

(1) makes no changes to this subdivision;

(2) all nurses, members of the Women's Army Auxiliary Corps, members of the Women's Auxiliary Volunteer Emergency Service, and all honorably discharged members of the armed forces of the United State who served during World War II except those who were discharged from service because they were over the age of 38 or because of a personal request on the part of the person that the person, rather than he, be discharged from service;

(3) makes no changes to this subdivision; and

(4) all persons who were honorably discharged from the armed forces of the United State after serving on active military duty, excluding training, for more than 180 days and who served a portion of their active during the Cold War which began on the date of the termination of the national emergency cited in Subdivision (3) (relating to honorably discharged men and women of the armed forces), rather than Subdivision (3) of this subsection.

(a-1) Provides that a person who before the 2009-2010 academic year received an exemption 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.

(b) Deletes existing text providing that the exemptions provided for in Subsection (a) of this section also apply and inure to the benefit of orphans of members of the Texas National Guard and the Texas Air National Guard who were killed since January 1, 1946, while on active duty either in the service of their state or the United States, or are totally disabled for purposes of employability according to the disability ratings of the United States Department of Veterans Affairs, regardless of whether the members are 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-1) Requires a child, to qualify for an exemption under Subsection (b), to be classified as a resident under Subchapter B on the date of the child's registration. Deletes existing text requiring that to qualify for an exemption under Subsection (b), a person must 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.

(d) Provides that the governing board of each institution of higher education granting an exemption under this section must require every applicant claiming the exemption to submit satisfactory evidence that the applicant qualifies for the exemption. Deletes existing text requiring the governing board of each institution of higher education granting exemptions to require every applicant claiming the benefit of an exemption to submit satisfactory evidence that he fulfills the necessary citizenship and residency requirements.

(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 to provide that the exemptions provided by this section, rather than Subsections (a) and (b), do not apply to this fee.

(k) Authorizes the Texas Higher Education Coordinating Board (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. Authorizes the procedures to 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 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 be a student who is classified as a resident under Subchapter B (Tuition Rates) when the child enrolls in an institution of higher education; to make satisfactory academic progress in a degree, certificate, or continuing education program as determined by the institution at which the child is enrolled in accordance with the policy of the institution's financial aid department, except that the institution is prohibited from requiring the child to enroll in a minimum course load; and be 25 years of age or younger on the first day of the semester or other academic term for which the exemption is claimed, except that THECB by rule is required to prescribe procedures by which a child who suffered from a severe illness or other debilitating condition that affected the child's ability to use the exemption before reaching that age may be granted additional time to use the exemption corresponding to the time the child was unable to use the exemption because of the illness or condition.

(m) Provides that for the purposes for 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 Sections 54.203(e) and (e-1), Education Code, as amended by Chapters 443 (H.B. 125) and 1334 (S.B. 1640), Acts of the 80th Legislature, Regular Session, 2007, and amends them, as follows:

(e) Provides that the exemption from fees provided for by this section does not apply to a person who at the time of registration is entitled to receive educational benefits under federal legislation that is authorized to 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. Entitles the person, if the value of federal benefits that may 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, to receive both those federal benefits 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 education programs.

(e-1) Makes no changes to this subsection.

SECTION 4. (a) Provides that Section 54.203, Education Code, as amended by this Act, applies beginning with tuition and other fees charged for the 2009 fall semester. Requires the institution of higher education, if a person who becomes eligible for an exemption in that semester under

that section has paid the tuition and other fees for that semester to which the exemption applies, to refund to the student the amount of the tuition and fees paid by the person in the amount of the exemption. Provides that tuition and other fees charged for an academic period before the 2009 fall semester are covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(b) Requires THECB to prescribe the procedures required by Sections 54.203(k) and (l), 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.