

BILL ANALYSIS

Senate Research Center
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S.B. 1325
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Higher Education
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The purpose of this legislation is to provide an incentive for low-income families to start saving for their child's college education and to improve the Texas economy by assisting and encouraging Texans to achieve a higher education and therefore a better paying job.

Texas' changing demographics coupled without economic needs create new challenges for the state. Texas currently has a larger percentage of low-income families than most states. The state is growing rapidly and will continue to experience an increase in a population that is low-income, Hispanic, and young. In the last 10 years, the number of children from low-income families has increased by 893,055, surpassing overall enrollment growth during the same period.

Texas' economic future depends on an educated workforce. Today, 80 percent of high-growth high-demand jobs require some education beyond high school. Texas must enroll a minimum of 430,000 additional students in public universities just to keep up in the 21st century, according to the Texas Higher Education Coordinating Board, which is an increase of more than 35 percent. Today's students are facing more obstacles than ever in trying to fund their post-secondary education. Texas students are more reliant on loans when compared to students in other states (61 percent of students in Texas rely on loans, compared to 49 percent of students in other states rely on loans).

Last session, the legislature passed S.B. 1760, which is similar to this legislation. The governor vetoed the bill and, in his veto message, said, "While I fully support this program, the legislation has an inadvertent drafting error that would no longer allow individuals to make tax-deductible donations to the foundation. My office will continue to work with the comptroller over the interim to draft new legislation to be considered by the 82nd Legislature."

As proposed, S.B. 1325 amends current law relating to the administration of the Texas Save and Match Program to assist qualifying beneficiaries under the state's prepaid tuition plans and college savings plans and to the treatment of a beneficiary's assets under prepaid tuition plans and college savings plans in determining eligibility for student financial assistance and other assistance programs.

[**Note:** While statutory references in this bill are to the Texas Department of Human Services (DHS), the following amendments affect the Texas Health and Human Services Commission, as the successor agency to DHS.]

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Prepaid Higher Education Tuition Board in SECTION 1 (Sections 54.802, 54.803, 54.804, and 54.810, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 54, Education Code, by adding Subchapter I, to read as follows:

SUBCHAPTER I. TEXAS SAVE AND MATCH PROGRAM

Sec. 54.801. DEFINITIONS. Defines, in this section, "beneficiary," "board," and "program."

Sec. 54.802. TEXAS SAVE AND MATCH PROGRAM. (a) Requires the Prepaid Higher Education Tuition Board (board) to develop and implement the Texas Save and Match Program (program), under which money contributed to a savings trust account by an account owner under the higher education savings plan under Subchapter G (Higher Education Savings Plan) or paid by a purchaser under a prepaid tuition contract under Subchapter F (Prepaid Higher Education Tuition Program) or H (Prepaid Tuition Unit Undergraduate Education Program: Texas Tomorrow Fund II) on behalf of an eligible beneficiary may be matched with:

(1) contributions made by any person to the program for use in making additional savings trust account contributions under Subchapter G or in prepaying additional tuition and fees or purchasing additional tuition units under prepaid tuition contracts under Subchapters F and H on behalf of eligible beneficiaries selected as provided by board rule; or

(2) money appropriated by the legislature for the program to be used for the purposes described by Subdivision (1).

(b) Provides that, notwithstanding other law, for purposes of Subchapter I (Charitable Contributions), Chapter 659, Government Code:

(1) the program is considered an eligible charitable organization entitled to participate in a state employee charitable campaign under Subchapter I, Chapter 659, Government Code; and

(2) a state employee is entitled to authorize a payroll deduction for contributions to the program as a charitable contribution under Section 659.132 (Deduction Authorized), Government Code.

Sec. 54.803. INITIAL ELIGIBILITY FOR PARTICIPATION IN PROGRAM. (a) Requires a beneficiary, to be initially eligible to participate in the program, at the time a prepaid tuition contract is entered into on the beneficiary's behalf under Subchapter F or H, or a savings trust account is opened on the beneficiary's behalf under Subchapter G, as applicable, to:

(1) be a resident of this state, or be a dependent for purposes of Section 152, Internal Revenue Code of 1986, of a resident of this state; and

(2) have a household adjusted gross income, for the most recently completed tax year, that is not more than 120 percent of the state median household adjusted gross income.

(b) Requires the board, to determine whether a beneficiary is initially eligible to participate in the program, to solicit from the purchaser who enters into a prepaid tuition contract on the beneficiary's behalf under Subchapter F or H or from the individual who opens a savings trust account on the beneficiary's behalf under Subchapter G, as applicable, at the time the purchaser or individual enters into the contract or agreement with the board and in the manner prescribed by board rule, information necessary to determine the beneficiary's eligibility.

Sec. 54.804. LIMITATIONS. (a) Requires the board by rule to prescribe:

(1) the maximum number of years for which a beneficiary is eligible for matching funds under the program; and

(2) the maximum annual amount of contributions to a savings trust account under Subchapter G or of payments under a prepaid tuition

contract under Subchapter F or H that are eligible for a match under the program.

(b) Authorizes the board by rule, in determining the amount of matching funds to which eligible beneficiaries are entitled under the program, to adopt match ratios under which matching fund amounts are awarded in inverse relation to beneficiaries' household adjusted gross incomes.

(c) Authorizes withdrawals from a matching account for a savings trust account to be used only for qualified higher education expenses as defined by Subchapter G of the eligible beneficiary for whom the matching account is established. Requires funds in the matching account to be disbursed directly to providers of qualified higher education services and prohibits the funds from being disbursed directly to the beneficiary.

(d) Authorizes prepaid tuition and fees or tuition units in a matching account for the beneficiary of a prepaid tuition contract to be redeemed only by the board or by a qualified institution of higher education in the manner prescribed by the board on behalf of the beneficiary.

(e) Requires any unused funds or unused prepaid tuition and fees or tuition units in a matching account that are not withdrawn or redeemed for the beneficiary before the beneficiary's 30th birthday are forfeited, and the applicable matching funds to be returned to the pool of matching funds maintained by the board.

Sec. 54.805. MATCHING ACCOUNT ADMINISTRATION. (a) Requires a matching account established on behalf of a beneficiary under this subchapter to be accounted for separately from the beneficiary's prepaid tuition contract balance or savings trust account balance.

(b) Requires money, prepaid tuition and fees, or tuition units in a beneficiary's matching account, to the extent possible, to be withdrawn or redeemed before money is withdrawn from the beneficiary's savings trust account under Subchapter G or prepaid tuition and fees or tuition units are redeemed from the prepaid tuition contract for the beneficiary under Subchapter F or H.

(c) Provides that information relating to the beneficiary of a matching account, including personally identifiable information regarding the beneficiary, is confidential and not subject to disclosure under Chapter 552 (Public Information), Government Code.

(d) Requires the board, to the extent possible, to provide with any periodic statement for a savings trust account or prepaid tuition contract the balance of the matching account opened under this subchapter on behalf of the beneficiary of the account or contract.

Sec. 54.806. EFFECT OF ACCOUNT BALANCE ON BENEFICIARY'S ELIGIBILITY FOR STUDENT FINANCIAL ASSISTANCE. Prohibits the balance of a beneficiary's matching account under this subchapter from being considered as available to the beneficiary, or otherwise included in the beneficiary's household income or other financial resources, for purposes of determining the beneficiary's eligibility for a TEXAS grant or any other state-funded student financial assistance.

Sec. 54.807. GIFTS, GRANTS, AND DONATIONS. Authorizes the board to solicit and accept gifts, grants, and donations from any public or private source for the purposes of this subchapter.

Sec. 54.808. PILOT PROJECTS UNDER PROGRAM. Authorizes the board, to fulfill the intent of the program, to establish pilot projects under the program in an effort to incentivize participation in the prepaid higher education tuition program under

Subchapter F, the higher education savings program under Subchapter G, and the prepaid tuition unit undergraduate education program under Subchapter H, including projects that incentivize participation by:

- (1) awarding additional matching grants based on a beneficiary's achievement of specified academic goals;
- (2) offering additional seed matching grants on the opening of a savings trust account or the purchase of a prepaid tuition contract;
- (3) providing incentives for employers to contribute matching funds to the program;
- (4) partnering with public school districts and educational agencies to create a program information portal designed to increase program awareness and accessibility among school districts, parents, and students; and
- (5) partnering with financial institutions or prepaid card providers to develop user interface opportunities that increase the ease and efficiency with which contributions or purchases can be made under Subchapter F, G, or H.

Sec. 54.809. PROGRAM PROMOTION AND MARKETING; REPORT. (a) Requires the board to coordinate with community members throughout the state, including members of the medical, educational, nonprofit, and business communities, to promote and market the program to further the goals and targets of the most recent revision of "Closing the Gaps," the state's master plan for higher education.

(b) Requires the board, not later than December 1 of each year, to submit to the governor, lieutenant governor, speaker of the house of representatives, Legislative Budget Board (LBB), Legislative Audit Committee (LAC), state auditor, and Texas Higher Education Coordinating Board (THECB) a report detailing the collaborative promotion and marketing efforts under this section. Authorizes the board to include the report in the report required by Section 54.777 (Reports).

Sec. 54.810. RULES. Requires the board to adopt rules for the administration of this subchapter.

SECTION 2. Amends Section 54.702, Education Code, by adding Subsection (c-1), to require the board to waive the amount of any enrollment fee charged by the board for a new account under this subchapter for any beneficiary whose household adjusted gross income for the most recently completed tax year is not more than 200 percent of the federal poverty level.

SECTION 3. Amends Section 54.777(a), Education Code, to require the board, not later than December 1 of each year, to submit to the governor, lieutenant governor, speaker of the house of representatives, LBB, LAC, state auditor, and THECB a report outlining certain information, including a breakdown of the information relating to purchasers and beneficiaries of prepaid tuition contracts entered into during the preceding fiscal year, including the annual gross household income of purchasers, the highest educational level achieved by purchasers, and the race or ethnicity of beneficiaries.

SECTION 4. Amends Subchapter C, Chapter 62, Health and Safety Code, by adding Section 62.1012, as follows:

Sec. 62.1012. EXCLUSION OF ASSETS IN PREPAID TUITION PROGRAMS AND HIGHER EDUCATION SAVINGS PLANS. Prohibits the Health and Human Services Commission (HHSC), for purposes of determining whether a child meets family income and resource requirements for eligibility for the child health plan, from considering as income or resources a right to assets held in or a right to receive payments or benefits under:

(1) any fund or plan established under Subchapter F, G, H, or I, Chapter 54, Education Code, including an interest in a savings trust account, prepaid tuition contract, or related matching account; or

(2) any qualified tuition program of any state that meets the requirements of Section 529, Internal Revenue Code of 1986.

SECTION 5. Amends Subchapter A, Chapter 31, Human Resources Code, by adding Section 31.0039, as follows:

Sec. 31.0039. EXCLUSION OF ASSETS IN PREPAID TUITION PROGRAMS AND HIGHER EDUCATION SAVINGS PLANS. Prohibits the Texas Department of Human Services, for purposes of determining the amount of financial assistance granted to an individual under this chapter for the support of dependent children or determining whether the family meets household income and resource requirements for financial assistance under this chapter, from considering the right to assets held in or the right to receive payments or benefits under:

(1) any fund or plan established under Subchapter F, G, H, or I, Chapter 54, Education Code, including an interest in a savings trust account, prepaid tuition contract, or related matching account; or

(2) any qualified tuition program of any state that meets the requirements of Section 529, Internal Revenue Code of 1986.

SECTION 6. Amends Subchapter B, Chapter 32, Human Resources Code, by adding Section 32.02611, as follows:

Sec. 32.02611. EXCLUSION OF ASSETS IN PREPAID TUITION PROGRAMS AND HIGHER EDUCATION SAVINGS PLANS. (a) Prohibits HHSC, except as provided by Subsection (b), in determining eligibility and need for medical assistance, from considering as assets or resources a right to assets held in or a right to receive payments or benefits under:

(1) any fund or plan established under Subchapter F, G, H, or I, Chapter 54, Education Code, including an interest in a savings trust account, prepaid tuition contract, or related matching account; or

(2) any qualified tuition program of any state that meets the requirements of Section 529, Internal Revenue Code of 1986.

(b) Authorizes HHSC, in determining eligibility and need for medical assistance for an applicant who may be eligible on the basis of the applicant's eligibility for medical assistance for the aged, blind, or disabled under 42 U.S.C. Section 1396a(a)(10), to consider as assets or resources a right to assets held in or a right to receive payments or benefits under any fund, plan, or tuition program described by Subsection (a).

(c) Requires HHSC, notwithstanding Subsection (b), to seek a federal waiver authorizing HHSC to exclude, for purposes of determining the eligibility of an applicant described by that subsection, the right to assets held in or a right to receive payments or benefits under any fund, plan, or tuition program described by Subsection (a) if the fund, plan, or tuition program was established before the 21st birthday of the beneficiary of the fund, plan, or tuition program.

SECTION 7. Repealer: Section 54.7521 (Texas Save and Match Program), Education Code.

SECTION 8. Requires the board to adopt the initial rules required by Subchapter I, Chapter 54, Education Code, as added by this Act, not later than November 1, 2011. Authorizes the board,

for that purpose, to adopt the initial rules in the manner provided by law for the adoption of emergency rules.

SECTION 9. Provides that the Texas Save and Match Program established by this Act is an expansion of the Texas Save and Match program created under Section 54.7521, Education Code. Authorizes the 501(c)(3) foundation created under Section 54.7521, Education Code, on and after the effective date of Section 7 of this Act, to provide matching funds under that program, to continue to accept tax-deductible donations for the purpose of providing matching funds under the program established by this Act.

SECTION 10. Provides that Subchapter I, Chapter 54, Education Code, as added by this Act, applies to a prepaid tuition contract purchased for a beneficiary under Subchapter H, Chapter 54, Education Code, regardless of whether the prepaid tuition contract was purchased before, on, or after the effective date of this Act. Provides that Subchapter I, Chapter 54, Education Code, as added by this Act, applies only to a prepaid tuition contract purchased for a beneficiary under Subchapter F, Chapter 54, Education Code, or a savings trust account opened for a beneficiary under Subchapter G, Chapter 54, Education Code, on or after January 1, 2012.

SECTION 11. Requires a state agency, if necessary for implementation of a provision of this Act, to request a waiver or authorization from a federal agency, and authorizes a delay of implementation until such a waiver or authorization is granted.

SECTION 12. Provides that the changes in law made by this Act apply to a person who receives health benefits coverage under Chapter 62, Health and Safety Code, financial assistance under Chapter 31, Human Resources Code, or medical assistance under Chapter 32, Human Resources Code, on or after the effective date of this Act, regardless of the date on which eligibility for coverage or assistance was initially determined.

SECTION 13. (a) Effective date, except as provided by Subsection (b) of this section: September 1, 2011.

(b) Effective date, Section 7: January 1, 2012.