

BILL ANALYSIS

Senate Research Center
82R14207 JRJ-D

C.S.S.B. 32
By: Zaffirini
Higher Education
4/21/2011
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

This bill would consolidate all tuition exemptions and waivers into one chapter of the Texas Education Code.

C.S.S.B. 32 amends current law relating to the consolidation of related higher education programs governing tuition, fee exemptions, and waivers respective to specific target populations.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Higher Education Coordinating Board (THECB) is modified in SECTION 1 (Section 54.231, Education Code) of this bill.

Rulemaking authority is expressly granted to the Department of Assistive and Rehabilitative Services in SECTION 1 (Section 54.364, Education Code) of this bill.

Rulemaking authority previously granted to the Texas Rehabilitation Commission, the Texas Commission for the Blind, and the Texas Commission for the Deaf and Hard of Hearing is rescinded in SECTION 1 (Section 54.364, Education Code) of this bill.

Rulemaking authority previously granted to THECB is rescinded in SECTION 17 (Section 54.208, Education Code) of this bill.

Rulemaking authority is expressly granted to THECB in SECTION 17 (Sections 54.353 and 54.3531, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Transfers Sections 54.070, 54.059, 54.063, 54.064, 54.065, 54.066, 54.073, 54.060, 54.074, 54.058, 54.069, and 54.013, Education Code, to Subchapter D, Chapter 54, Education Code, redesignates them as Sections 54.206, 54.211, 54.212, 54.213, 54.214, 54.222, 54.223, 54.231, 54.232, 54.241, 54.251, and 54.263, Education Code, respectively, and, as indicated, amends them; redesignates Sections 54.201, 54.207, 54.219, 54.209, 54.215, 54.2155, 54.204, 54.2041, 54.221, 54.222, 54.212, 54.213, 54.214, 54.205, 54.210, 54.2111, and 54.224, Education Code, as Sections 54.301, 54.331, 54.342, 54.343, 54.344, 54.345, 54.351, 54.352, 54.355, 54.356, 54.361, 54.362, 54.363, 54.364, 54.365, 54.367, and 54.368, Education Code, respectively, and, as indicated, amends them; reenacts Section 54.203, Education Code, as amended by Chapters 1340 (S.B. 93) and 1369 (S.B. 847), Acts of the 81st Legislature, Regular Session, 2009, redesignates it as Section 54.341, Education Code, and amends it; reenacts Section 54.211, Education Code, as amended by Chapters 45 (S.B. 43) and 1372 (S.B. 939), Acts of the 81st Legislature, Regular Session, 2009, redesignates it as Section 54.366, Education Code, and amends it; transfers Section 615.0225, Government Code, to Subchapter D, Chapter 54, Education Code, redesignates it as Section 54.354, Education Code, and amends it; and amends Subchapter D, Chapter 54, Education Code, by amending the subchapter heading, amending Sections 54.216, 54.217, and 54.218, and adding Sections 54.221, 54.233, 54.261, and 54.262, as follows:

SUBCHAPTER D. WAIVERS, EXEMPTIONS, AND OTHER TUITION AND
FEE BENEFITS

Sec. 54.206. FOREIGN SERVICE OFFICERS. Redesignates existing Section 54.070 as Section 54.206. Makes no further changes to this section.

Sec. 54.211. FACULTY AND DEPENDENTS. Redesignates existing Section 54.059 as Section 54.211. Makes no further changes to this section.

Sec. 54.212. TEACHING OR RESEARCH ASSISTANT. Redesignates existing Section 54.063 as Section 54.212. Makes no further changes to this section.

Sec. 54.213. SCHOLARSHIP STUDENT. Redesignates existing Section 54.064 as Section 54.213. (a)-(d) Makes no changes to these subsections.

Sec. 54.214. BIOMEDICAL RESEARCH PROGRAM; SCHOLARSHIP STUDENT. Redesignates existing Section 54.065 as Section 54.214. Makes no further changes to this section.

Sec. 54.216. New heading: STUDENTS ENROLLED IN COURSE FOR CONCURRENT HIGH SCHOOL AND COLLEGE-LEVEL CREDIT; OPTIONAL WAIVER. Makes no further changes to this section.

Sec. 54.217. New heading: STUDENTS ENROLLED IN FULLY FUNDED COURSES; OPTIONAL WAIVER. Makes no further changes to this section.

Sec. 54.218. New heading: DISTANCE LEARNING OR OFF-CAMPUS COURSES; OPTIONAL WAIVER. Makes no further changes to this section.

Sec. 54.221. THE UNIVERSITY OF TEXAS SYSTEM; SCIENCE AND TECHNOLOGY DEVELOPMENT, MANAGEMENT, AND TRANSFER. Authorizes a person employed by an entity with whom The University of Texas System enters into an agreement authorized by Section 65.45 (Science and Technology Development, Management, and Transfer), or the person's spouse or child, to pay the tuition and fees charged to residents of this state when enrolled in an institution of The University of Texas System, to the extent provided for in such an agreement.

Sec. 54.222. ECONOMIC DEVELOPMENT AND DIVERSIFICATION. Redesignates existing Section 54.066 as Section 54.222. (a)-(b) Makes no further changes to these subsections.

Sec. 54.223. TUITION RATES FOR OLYMPIC ATHLETES. Redesignates existing Section 54.073 as Section 54.223. (a)-(b) Makes no further changes to these subsections.

Sec. 54.231. RESIDENT OF BORDERING STATE OR NATION OR PARTICIPANT IN STUDENT EXCHANGE PROGRAM: TUITION. Redesignates existing Section 54.060 as Section 54.231. (a)-(b) Makes no changes to these subsections.

(c) Requires a foreign student to whom Subsection (b) applies to pay tuition equal to that charged Texas residents under Section 54.051, rather than under Sections 54.051 and 54.0512.

(d)-(e) Makes no changes to these subsections.

(f) Makes a nonsubstantive change.

(g)-(h) Makes no changes to these subsections.

Sec. 54.232. NATO AGREEMENT. Redesignates existing Section 54.074 as Section 54.232. Makes no further changes to this section.

Sec. 54.233. **ACADEMIC COMMON MARKET.** Requires the governing board of an institution of higher education (governing board) to charge nonresident students participating in the Academic Common Market and enrolled in programs designated under Section 160.07 (Academic Common Market) the same amount charged resident students in such programs.

Sec. 54.241. **MILITARY PERSONNEL AND DEPENDENTS.** Redesignates existing Section 54.058 as Section 54.241. Makes no further changes to this section.

Sec. 54.251. New heading: **REGISTERED NURSES IN POSTGRADUATE NURSING DEGREE PROGRAMS; OPTIONAL WAIVER.** Redesignates existing Section 54.069 as Section 54.251. Makes a nonsubstantive change.

Sec. 54.261. **DESIGNATED TUITION; HARDSHIP; OPTIONAL WAIVER.** Authorizes a governing board to waive all or part of the tuition charged to a student under Section 54.0513 (Designated Tuition) if it finds that the payment of such tuition would cause an undue economic hardship on the student.

Sec. 54.262. **STUDENT SERVICES FEES; OPTIONAL WAIVER.** Authorizes a governing board to waive all or part of any compulsory fee or fees authorized by Section 54.503 (Student Services Fees) in the case of any student for whom the payment of the fee would cause an undue financial hardship, provided the number of the students to whom the waiver is granted for a semester or term does not exceed 10 percent of the institution's total enrollment for that semester or term. Authorizes the governing board to limit accordingly the participation of a student in the activities financed by the fee so waived.

Sec. 54.263. New heading: **STUDENTS 55 YEARS OF AGE OR OLDER; OPTIONAL WAIVER.** Redesignates existing Section 54.013 as Section 54.263. Makes no further changes to this section.

Sec. 54.301. New heading: **HIGHEST RANKING HIGH SCHOOL GRADUATES; OPTIONAL EXEMPTION.** Redesignates existing Section 54.201 as Section 54.301. Makes no further changes to this section.

Sec. 54.331. **STUDENTS FROM OTHER NATIONS OF THE AMERICAN HEMISPHERE.** Redesignates existing Section 54.207 as Section 54.331. (a) Makes no changes to this subsection.

(b) Requires that ten students from each nation, as authorized in Subsection (a)(1) (200 native-born students from the other nations of the American hemisphere), be exempt as provided in this subsection. Authorizes additional students from the other nations to be exempted, subject to the approval of the Texas Higher Education Coordinating Board (THECB), rather than subject to the approval of THECB and the Texas College and University System, and allocation by THECB, in the event any nation fails to have 10 students available and qualified for exemption. Makes nonsubstantive changes.

(c) Makes nonsubstantive changes.

(d) Makes no changes to this subsection.

(e) Makes a nonsubstantive change.

Sec. 54.341. New heading: **VETERANS AND OTHER MILITARY PERSONNEL; DEPENDENTS.** Redesignates existing Section 54.203 as Section 54.341. (a)-(f) Makes no changes to these subsections.

(g) Authorizes the governing board of a public junior college, rather than the governing board of a public junior college district, public technical institute, or public state college, as those terms are defined by Section 61.003 (Definitions), to establish a fee for extraordinary costs associated with a specific course or program and to provide that the exemptions provided by this section do not apply to this fee.

(h)-(m) Makes no changes to these subsections.

Sec. 54.342. PRISONERS OF WAR. Redesignates existing Section 54.219 as Section 54.342. Makes no further changes to this section.

Sec. 54.343. CHILDREN OF PRISONERS OF WAR OR PERSONS MISSING IN ACTION. Redesignates existing Section 54.209 as Section 54.343. Makes no further changes to this section.

Sec. 54.344. PARTICIPANTS IN MILITARY FUNERALS. Redesignates existing Section 54.215 as Section 54.344. Makes no further changes to this section.

Sec. 54.345. ASSISTANCE FOR TUITION AND FEES FOR MEMBERS OF STATE MILITARY FORCES. Redesignates existing Section 54.2155 as Section 54.345. Makes no further changes to this section.

Sec. 54.351. CHILDREN OF DISABLED FIREFIGHTERS AND LAW ENFORCEMENT OFFICERS. Redesignates existing Section 54.204 as Section 54.351. Makes a nonsubstantive change.

Sec. 54.352. New heading: DISABLED PEACE OFFICERS; OPTIONAL EXEMPTION. Redesignates existing Section 54.2041 as Section 54.352. Makes no further changes to this section.

Sec. 54.354. EDUCATION BENEFITS FOR CERTAIN SURVIVORS. Redesignates existing Section 615.0225, Government Code, as Section 54.354, Education Code. (a)-(b) Makes conforming changes.

(c)-(d) Makes no changes to these subsections.

(e) Makes a conforming change.

Sec. 54.355. CHILDREN OF PROFESSIONAL NURSING PROGRAM FACULTY. Redesignates existing Section 54.221 as Section 54.355. Makes no further changes to this section.

Sec. 54.356. PRECEPTORS FOR PROFESSIONAL NURSING EDUCATION PROGRAMS. Redesignates existing Section 54.222 as Section 54.356. (a) Provides that, in this section, "child" and "undergraduate professional nursing program" have the meanings assigned by Section 54.355, rather than Section 54.221.

(b)-(b-1) Makes no changes to these subsections.

(c)-(g) Makes no changes to these subsections.

Sec. 54.361. ONE-YEAR EXEMPTION FOR CERTAIN TANF STUDENTS. Redesignates existing Section 54.212 as Section 54.361. Provides that a student is exempt from the payment of tuition and fees authorized by this chapter for the first academic year in which the student enrolls at an institution of higher education if the student meets certain criteria, including if the student successfully completed the attendance requirements under Section 25.085 (Compulsory School Attendance), rather than under Section 21.032 (Definition).

Sec. 54.362. FUNDING OF EXEMPTIONS. Redesignates existing Section 54.213 as Section 54.362. (a)-(b) Makes conforming changes.

Sec. 54.363. EDUCATIONAL AIDES. Redesignates existing Section 54.214 as Section 54.363. Makes no further changes to this section.

Sec. 54.364. BLIND, DEAF STUDENTS. Redesignates existing Section 54.205 as Section 54.364. (a) Makes no changes to this subsection.

(b) Entitles a deaf or blind person who is a resident to exemption from the payment of tuition fees at any institution of higher education utilizing public funds if the person presents:

(1) certification that the person is a "blind person" or a "deaf person" as defined in Subsection (a) by the Department of Assistive and Rehabilitative Services (DARS), rather than by the Texas Rehabilitation Commission (TRC), Texas Commission for the Blind (TCB), or Texas Commission for the Deaf and Hard of Hearing (TCDHH), as appropriate, in a written statement, which certification is considered conclusive;

(2)-(4) Makes no changes to these subdivisions; and

(5) Makes a nonsubstantive change.

Makes nonsubstantive changes.

(c) Authorizes DARS and THECB, rather than TRC, TCB, TCDHH and THECB, to develop any rules and procedures that these agencies determine necessary for the efficient implementation of this section.

(d) Makes nonsubstantive changes.

(e) Makes no changes to this subsection.

Sec. 54.365. New heading: SENIOR CITIZENS; OPTIONAL BENEFIT. Redesignates existing Section 54.210 as Section 54.365. Makes no further changes to this section.

Sec. 54.366. EXEMPTIONS FOR STUDENTS UNDER CONSERVATORSHIP OF DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES. Redesignates existing Section 54.211 as Section 54.366. (a) Redesignates existing second Subsection (a)(1)(D) as (a)(1)(E). Makes no further changes.

(b) Makes no changes to this subsection.

Sec. 54.367. EXEMPTIONS FOR ADOPTED STUDENTS FORMERLY IN FOSTER OR OTHER RESIDENTIAL CARE. Redesignates existing Section 54.2111 as Section 54.367. Makes no further changes to this section.

Sec. 54.368. New heading: INTERINSTITUTIONAL ACADEMIC PROGRAMS; OPTIONAL EXEMPTION. Redesignates existing Section 54.224 as Section 54.368. Makes no further changes to this section.

SECTION 2. Amends Section 21.050(c), Education Code, to make a conforming change.

SECTION 3. Amends Section 54.011, Education Code, to require that the student's tuition charges be determined in a certain manner as set forth when a student registers at more than one public institution of higher education at the same time. Makes conforming and nonsubstantive changes.

SECTION 4. Amends Section 54.545(c), Education Code, to make conforming changes.

SECTION 5. Amends Section 56.455, Education Code, to make a conforming change.

SECTION 6. Amends Section 61.0516, Education Code, to make conforming changes.

SECTION 7. Amends Section 61.073, Education Code, as follows:

Sec. 61.073. ALLOCATION OF FUNDS FOR TUITION AND FEE EXEMPTIONS. Requires that funds be appropriated to THECB for allocation to each junior college, rather than to each junior and community college, in an amount equal to the total of all tuition and fees, rather than tuition and laboratory fees, forgone each semester as a result of the tuition and fee exemptions required by law in Sections 54.301, 54.331, 54.341, 54.343, 54.351, 54.352, 54.353, 54.3531, and 54.364. Makes conforming and nonsubstantive changes

SECTION 8. Amends Section 61.9751(2), Education Code, to make a conforming change.

SECTION 9. Amends Section 76.07(c), Education Code, to make a conforming change.

SECTION 10. Amends Section 131.005(a), Education Code, to make a conforming change.

SECTION 11. Amends Section 162.304(i), Family Code, to make a conforming change.

SECTION 12. Amends Section 431.090(i), Government Code, to make a conforming change.

SECTION 13. Amends Section 434.0072(b), Government Code, to make a conforming change.

SECTION 14. Reenacts Section 824.602(a), Government Code, as amended by Chapters 674 (S.B. 132) and 1359 (S.B. 1691), Acts of the 79th Legislature, Regular Session, 2005, and amends it to make a conforming change.

SECTION 15. Amends Section 2306.562(a)(1-b), Government Code, to make a conforming change.

SECTION 16. Repealer: Section 54.0513(d) (relating to authorizing a governing board to waive all or part of the tuition charged if it would cause an undue economic hardship on the student), Education Code.

Repealer: Section 54.503(e) (relating to authorizing the governing board of an institution to waive fees for students if their payment would cause an undue financial hardship, provided the number of students does not exceed 10 percent of the total enrollment, and authorizing the board to limit student participation in certain activities if the fee is waived), Education Code.

Repealer: Section 65.45(d) (relating to authorizing a person employed by entities with whom The University of Texas System (system) has entered into an agreement, or the person's spouse or child to pay the tuition and fees charged to residents of this state when enrolled in a system institution), Education Code.

Repealer: Section 160.07(c) (relating to charging nonresident students from states participating in the Academic Common Market enrolled in certain programs the same amount charged resident students in such programs), Education Code.

SECTION 17. (a) Repealer: Section 54.208 (Firefighters and Peace Officers Enrolled in Certain Courses), Education Code, as amended by Chapters 1285 (H.B. 2013) and 1299 (H.B. 2347), Acts of the 81st Legislature, Regular Session, 2009.

(b) Amends Subchapter D, Chapter 54, Education Code, by adding Sections 54.353 and 54.3531, as follows:

Sec. 54.353. FIREFIGHTERS AND PEACE OFFICERS ENROLLED IN CERTAIN COURSES. (a) Requires the governing board to exempt from the payment of tuition and laboratory fees any student who is employed as a firefighter by a political subdivision of this state and who enrolls in a course or courses offered as part of a fire science curriculum.

(b) Requires the governing board to exempt from the payment of tuition and laboratory fees charged by the institution for a criminal justice or law enforcement course or courses an undergraduate student who:

(1) is employed as a peace officer by this state or by a political subdivision of this state;

(2) is enrolled in a criminal justice or law enforcement-related degree program at the institution;

(3) is making satisfactory academic progress toward the student's degree as determined by the institution; and

(4) applies for the exemption at least one week before the last date of the institution's regular registration period for the applicable semester or other term.

(c) Provides that, notwithstanding Subsection (b), a student is prohibited from receiving an exemption under that subsection for any course if the student has previously attempted a number of semester credit hours for courses taken at any institution of higher education while classified as a resident student for tuition purposes in excess of the maximum number of those hours specified by Section 61.0595(a) (relating to funding for certain excess undergraduate credit hours) as eligible for funding under the formulas established under Section 61.059 (Appropriations).

(d) Prohibits the governing board, notwithstanding Subsection (b), from providing exemptions under that subsection to students enrolled in a specific class in a number that exceeds 20 percent of the maximum student enrollment designated by the institution for that class.

(e) Provides that an exemption provided under this section does not apply to deposits that may be required in the nature of security for the return or proper care of property loaned for the use of students.

(f) Requires THECB to adopt:

(1) rules governing the granting or denial of an exemption under this section, including rules relating to the determination of a student's eligibility for an exemption; and

(2) a uniform listing of degree programs covered by the exemption under this section.

(g) Requires the governing board to report to the Senate Finance Committee and the House Appropriations Committee the cost to the institution of complying with this section for that semester if the legislature does not specifically appropriate funds to the institution of higher education in an amount sufficient to pay the institution's costs in complying with this section for a semester.

Sec. 54.3531. FIREFIGHTERS ENROLLED IN FIRE SCIENCE COURSES. (a) Requires the governing board to exempt from the payment of tuition and

laboratory fees any student enrolled in one or more courses offered as part of a fire science curriculum who:

(1) is employed as a firefighter by a political subdivision of this state; or

(2) is currently, and has been for at least one year, an active member of an organized volunteer fire department in this state, as defined by the fire fighters' pension commissioner, who holds:

(A) an Accredited Advanced level of certification, or an equivalent successor certification, under the State Firemen's and Fire Marshals' Association of Texas volunteer certification program; or

(B) Phase V (Firefighter II) certification, or an equivalent successor certification, under the Texas Commission on Fire Protection's voluntary certification program under Section 419.071 (Voluntary Certification Program for Volunteer Fire Fighters and Fire Departments), Government Code.

(b) Provides that an exemption provided under this section does not apply to deposits that may be required in the nature of security for the return or proper care of property loaned for the use of students.

(c) Authorizes a student who for a semester or term at an institution of higher education receives an exemption under this section to continue to receive the exemption for a subsequent semester or term at any institution only if the student makes satisfactory academic progress toward a degree or certificate at that institution as determined by the institution for purposes of financial aid, notwithstanding Subsection (a).

(d) Provides that, notwithstanding Subsection (a), the exemption provided under this section does not apply to any amount of additional tuition the institution elects to charge a resident undergraduate student under Section 54.014(a) (relating to tuition for repeated or excessive undergraduate hours) or (f) (relating to tuition for repeated or excessive undergraduate hours).

(e) Provides that, notwithstanding Subsection (a), the exemption provided under this section does not apply to any amount of tuition the institution charges a graduate student in excess of the amount of tuition charged to similarly situated graduate students because the student has a number of semester credit hours of doctoral work in excess of the applicable number provided by Section 61.059(l)(1) (relating to prohibiting THECB from including in any formula under this section funding based on the number of doctoral students who have a total of 100 or more semester credit hours of doctoral work at an institution of higher learning) or (2) (relating to authorizing the board, notwithstanding Subdivision (1), to approve formula funding for semester credit hours in excess of 100, not to exceed 130 total semester credit hours, for a doctoral student if the institution fulfills certain requirements).

(f) Requires THECB to adopt:

(1) rules governing the granting or denial of an exemption under this section, including rules relating to the determination of a student's eligibility for an exemption; and

(2) a uniform listing of degree programs covered by the exemption under this section.

SECTION 18. Makes application of this Act prospective to the 2012-2013 academic year.

SECTION 19. Effective date: January 1, 2012.