

BILL ANALYSIS

Senate Research Center
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H.B. 3655
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Higher Education
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

It has been noted that, since the creation of the Prepaid Higher Education Tuition Board, the federal definition of "qualified higher education expenses" has changed, which affects the tax-related advantages of qualified tuition plans. H.B. 3655 seeks to update and revise the statutes relating to the board.

H.B. 3655 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 is modified in SECTION 4 (Section 54.702, Education Code) of this bill.

Rulemaking authority previously granted to the Prepaid Higher Education Tuition Board is rescinded in SECTION 6 (Section 54.708, Education Code) of this bill.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 (Prepaid Higher Education Tuition Program) concerning the following requirements applicable to the board under this subchapter 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; and

(13) staff.

SECTION 2. Amends Section 54.641(a), Education Code, to require the Prepaid Higher Education Tuition Board (board), not later than January 31 of each year, rather than January 1 of each year, to furnish without charge to each purchaser a statement with certain information.

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

(8) Redefines "qualified higher education" as having the meaning assigned by Section 529, Internal Revenue Code of 1986, as amended, rather than meaning 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)–(2) makes no changes to these subdivisions; and

(3) adopt rules to implement this subchapter (Higher Education Savings Plan), 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) 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) Redefines "beneficiary."

(6) Defines "prepaid tuition contract."

(7) Makes a nonsubstantive change. Defines "medical and dental unit," "private or independent institution of higher education," "public junior college," "public state college," "public technical institute," and "recognized accrediting agency" as having the meanings assigned by Section 61.003 (Definitions).

SECTION 8. Amends Section 54.753, Education Code, by amending Subsection (a) and adding Subsection (c-1), as follows:

(a) Authorizes a purchaser, under the program, to prepay the costs of all or a portion of a beneficiary's undergraduate tuition and required fees at a general academic teaching institution, two-year institution of higher education, private or independent institution of higher education, medical and dental unit, career school, or accredited out-of-state

institution of higher education by entering into a prepaid tuition contract with SBOE 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.

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

SECTION 9. Amends Sections 54.754(a) and (d), Education Code, as follows:

(a) Requires the board, 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 (Purchaser; Beneficiary) to pay all or the applicable portion of the costs of the beneficiary's tuition and required fees at the general academic teaching institution, two-year institution of higher education, private or independent institution of higher education, medical and dental unit, or accredited out-of-state institution of higher education in which the beneficiary enrolls. Authorizes a beneficiary, subject to Subsection (b)(2) (relating to providing that the number of tuition units to be redeemed to pay for the entire cost of tuition and required fees for an academic year at another general academic teaching institution or two-year institution of higher education may be higher or lower if a more or less valuable type of tuition unit is redeemed) and the other provisions of this section, to redeem any type of tuition unit for attendance at an institution or unit described by this section.

(d) Makes a conforming change.

SECTION 10. Amends Section 54.765(f), Education Code, to make a conforming change.

SECTION 11. Amends Section 54.767, Education Code, as follows:

Sec. 54.767. USE OF FUND ASSETS. Authorizes the assets of the fund to be used only to:

- (1) makes no changes to this subdivision;
- (2) make a conforming change; and
- (3) makes no changes to this subdivision.

SECTION 12. Amends Sections 54.769(b) and (c), Education Code, to make conforming changes.

SECTION 13. Amends Section 54.774(a), Education Code, to make a conforming change.

SECTION 14. Amends Section 54.775(b), Education Code, to make conforming changes.

SECTION 15. 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 January 1 of each year, to without charge to each purchaser a statement that contains certain information.

SECTION 16. Repealer: Section 54.708(c) (relating to requiring an amount equal to 10 percent of the portion of the withdrawal constituting income as determined in accordance with Section 529, Internal Revenue Code of 1986, as amended, to be withheld as a penalty), Education Code.

Repealer: Section 54.708(d) (relating to authorizing an amount of the penalty prescribed by Subsection (c) to be increased if the board determines that the increased penalty is necessary to constitute a greater than de minimis penalty for purposes of qualifying the plan as a qualified state tuition program under Section 529, Internal Revenue Code of 1986, as amended), Education Code.

Repealer: Section 54.708(e) (relating to authorizing the amount of the penalty prescribed by Subsection (c) to be decreased by the board rule if the board makes a certain determination), Education Code.

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

SECTION 17. Effective date: upon passage or September 1, 2019.