

By: Paxton

S.B. No. 1698

A BILL TO BE ENTITLED

AN ACT

relating to a franchise or insurance premium tax credit for contributions made to certain educational assistance organizations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 171, Tax Code, is amended by adding Subchapter N to read as follows:

SUBCHAPTER N. TAX CREDIT FOR CONTRIBUTIONS TO CERTAIN EDUCATIONAL ASSISTANCE ORGANIZATIONS

Sec. 171.701. DEFINITION. In this subchapter, "educational assistance organization" means an organization that:

(1) has the ability according to the organization's charter to award scholarships to or pay educational expenses for eligible students in:

(A) public elementary or secondary schools located in this state; or

(B) nonpublic elementary or secondary schools located in this state:

(i) that meet the requirements of Section 171.704;

(ii) at which a student may fulfill this state's compulsory attendance requirements; and

(iii) that are not in violation of the federal Civil Rights Act of 1964 (42 U.S.C. Section 2000a et seq.);

1 and

2 (2) uses part of its annual revenue for the purpose
3 provided by Subdivision (1).

4 Sec. 171.702. ELIGIBILITY REQUIREMENTS FOR CERTIFICATION
5 OF EDUCATIONAL ASSISTANCE ORGANIZATION. (a) An organization may
6 apply to the comptroller for certification as a certified
7 educational assistance organization.

8 (b) To be eligible for certification, an organization:

9 (1) must:

10 (A) be exempt from federal tax under Section
11 501(a) of the Internal Revenue Code by being listed as an exempt
12 organization in Section 501(c)(3) of that code;

13 (B) be in good standing with the state;

14 (C) be located in the state;

15 (D) agree to allocate at least 90 percent of its
16 annual revenue from contributions that are designated for
17 scholarships or educational expense assistance for eligible
18 students under this subchapter for student scholarships and
19 assistance for educational expenses, including tuition,
20 transportation, textbooks, and other supplies, and for other
21 related educational expense assistance as described by this
22 section;

23 (E) agree to award scholarships and assistance
24 for qualifying educational expenses to eligible students who
25 demonstrate the greatest financial and academic need;

26 (F) agree to provide each donor a receipt for
27 money contributed to the organization that includes the name of the

1 organization, the name of the donor, the amount of the
2 contribution, the information required by Section 171.707(c), and
3 any other information required by the comptroller;

4 (G) demonstrate experience and technical
5 expertise in:

6 (i) accepting, processing, and tracking
7 applications for scholarships or educational expense assistance;
8 and

9 (ii) awarding scholarships to students in
10 primary or secondary schools;

11 (H) agree to be independently audited on an
12 annual basis and file the audit with the comptroller; and

13 (I) agree to disburse within two academic years
14 of receipt contributions received from and designated by entities
15 for scholarships or educational expense assistance under this
16 subchapter; and

17 (2) may not:

18 (A) award all scholarships under this subchapter
19 to students who attend a particular school or pay educational
20 expenses incurred only at a particular school;

21 (B) provide to a student a scholarship in an
22 annual amount that exceeds the amount provided under Section
23 171.708(a) or (b) unless the money used to provide the portion of
24 the scholarship in excess of that amount was contributed by a person
25 other than an entity that provides notice under Section 171.707(c)
26 that the entity may apply for a tax credit for the contribution; and

27 (C) provide to a student educational expense

1 assistance in excess of the amount provided under Section
2 171.708(c), unless the money used to provide the portion of the
3 assistance in excess of that amount was contributed by a person
4 other than an entity that provides notice under Section 171.707(c)
5 that the entity may apply for a tax credit for the contribution,
6 including assistance for:

- 7 (i) facility fees;
- 8 (ii) textbooks;
- 9 (iii) school supplies;
- 10 (iv) tutoring;
- 11 (v) academic after-school programs;
- 12 (vi) school or lab fees;
- 13 (vii) before-school or after-school child

14 care; and

- 15 (viii) transportation expenses, including
- 16 the cost to transfer from one public school to another.

17 (c) The comptroller may certify not more than 25 certified
18 educational assistance organizations. The comptroller may certify
19 as a certified educational assistance organization an organization
20 that applies under Subsection (a) if the organization meets the
21 requirements of Subsection (b). The comptroller has broad
22 discretion in determining whether to grant or deny an application
23 for certification.

24 (d) The comptroller shall notify an organization in writing
25 of the comptroller's decision to grant or deny the application
26 under Subsection (a). If the comptroller denies an organization's
27 application, the comptroller shall include in the notice of denial

1 the reasons for the comptroller's decision.

2 (e) If the comptroller denies an organization's application
3 under Subsection (a), the organization may request in writing a
4 reconsideration of the application not later than the 10th day
5 after the date the notice under Subsection (d) is received. If the
6 organization does not request a reconsideration of the application
7 on or before that date, the comptroller's decision is final. An
8 organization may not request reconsideration of an application if
9 the comptroller denied the application because 25 organizations
10 were already certified as certified educational assistance
11 organizations.

12 (f) An organization that requests a reconsideration under
13 Subsection (e) may submit to the comptroller, not later than the
14 30th day after the date the request for reconsideration is
15 submitted, additional information and documents to support the
16 organization's request for reconsideration.

17 (g) The comptroller's reconsideration of an application
18 under this section is not a contested case under Chapter 2001,
19 Government Code. The comptroller's decision on a request for
20 reconsideration of an application is final and is not appealable.

21 (h) This section does not create a cause of action to
22 contest a decision of the comptroller to deny an application for
23 certification as a certified educational assistance organization.

24 Sec. 171.703. ALLOCATION OF MONEY DESIGNATED FOR
25 SCHOLARSHIPS OR EDUCATIONAL EXPENSE ASSISTANCE. Of the amount
26 required to be allocated as provided by Section 171.702(b)(1)(D), a
27 certified educational assistance organization shall use:

1 (1) at least 80 percent to award scholarships as
2 described by Sections 171.708(a) and (b); and

3 (2) not more than 20 percent to award educational
4 expense assistance as described by Section 171.708(c).

5 Sec. 171.704. NONPUBLIC SCHOOL REQUIREMENTS. A certified
6 educational assistance organization may award scholarships to or
7 pay educational expenses for eligible students enrolled in a
8 nonpublic school if the nonpublic school executes a notarized
9 affidavit, with supporting documents, concerning the school's
10 qualification for scholarships and educational expense assistance
11 for eligible students who receive assistance from a certified
12 educational assistance organization, including evidence of:

13 (1) accreditation or of actively being in the process
14 of accreditation by the Texas Education Agency or by an
15 organization recognized by the Texas Private School Accreditation
16 Commission;

17 (2) annual administration of a nationally
18 norm-referenced assessment instrument or the appropriate
19 assessment instrument required under Section 39.023, Education
20 Code;

21 (3) valid certificate of occupancy; and

22 (4) policy statements regarding:

23 (A) admissions;

24 (B) curriculum;

25 (C) safety;

26 (D) food service inspection; and

27 (E) student to teacher ratios.

1 Sec. 171.705. ELIGIBILITY FOR CREDIT. A taxable entity may
2 apply for a credit against the tax imposed under this chapter in the
3 amount and under the conditions provided by this subchapter. The
4 comptroller shall award credits as provided by Section 171.711.

5 Sec. 171.706. ELIGIBILITY OF STUDENTS; NOTICE TO CERTAIN
6 PARENTS; INCLUSION IN AVERAGE DAILY ATTENDANCE. (a) To be eligible
7 to apply for assistance from a certified educational assistance
8 organization under this subchapter:

9 (1) a student:

10 (A) must:

11 (i) be in foster care;

12 (ii) be in institutional care; or

13 (iii) reside in a household with income not
14 greater than 250 percent of the income guidelines necessary to
15 qualify for the national free or reduced-price lunch program
16 established under 42 U.S.C. Section 1751 et seq.; and

17 (B) must:

18 (i) have been enrolled in a public school
19 during the preceding school year;

20 (ii) be enrolling in school in this state
21 for the first time;

22 (iii) be the sibling of a child who is
23 eligible to apply under this section; or

24 (iv) if the student attends a nonpublic
25 school:

26 (a) qualify as a student who is not
27 counted toward a public school's average daily attendance during

1 the year in which the student receives the scholarship or
2 educational expense assistance to attend the school, except as
3 provided by Subsection (f); and

4 (b) be located in a county with a
5 population greater than 50,000; or

6 (2) the student must have previously qualified under
7 Subdivision (1).

8 (a-1) Notwithstanding Subsection (a), a school district
9 located in a county described by that subsection may vote at a
10 general election to allow students to participate in the tax credit
11 scholarship program described by this subchapter.

12 (b) In addition to the students eligible under Subsection
13 (a), a student is eligible to apply for assistance from a certified
14 educational assistance organization under this subchapter if the
15 student:

16 (1) is in kindergarten through grade 12 and eligible
17 under Section 29.003, Education Code, to participate in a school
18 district's special education program; and

19 (2) has an individualized education program under
20 Section 29.005, Education Code.

21 (c) A school district shall provide written notice of the
22 availability of assistance under this subchapter to the parent of a
23 student who is eligible to apply for assistance under Subsection
24 (b). The notice under this subsection must inform the parent that a
25 qualifying school is not subject to laws regarding the provision of
26 education services in the same manner as a public school, and a
27 student with disabilities attending a qualifying school may not

1 receive the services a student with disabilities attending a public
2 school is entitled to receive under federal and state law. The
3 notice must provide information regarding rights a student with
4 disabilities is entitled to under federal and state law if the
5 student attends a public school, including:

6 (1) rights provided under the Individuals with
7 Disabilities Education Act (20 U.S.C. Section 1400 et seq.),
8 including:

9 (A) an individualized education program;

10 (B) education services provided in the least
11 restrictive environment;

12 (C) instruction from certified teachers;

13 (D) due process hearings to ensure proper and
14 full implementation of an individualized education program;

15 (E) transition and planning services; and

16 (F) supplementary aids and services;

17 (2) rights provided under Subchapter A, Chapter 29,
18 Education Code; and

19 (3) other rights provided under federal or state law
20 to a student with a disability who attends a public school.

21 (d) A student who establishes eligibility under Subsection
22 (b) may continue to receive assistance under this subchapter until
23 the earlier of the date the student graduates from high school or
24 the student's 22nd birthday.

25 (e) A certified educational assistance organization shall
26 award scholarships and educational expense assistance to eligible
27 students who apply in accordance with this subchapter.

1 (f) A student who receives a scholarship under this
2 subchapter is included in the average daily attendance of the
3 school district the student would otherwise attend for purposes of
4 determining if the district's revenue levels exceed the district's
5 entitlement under Section 48.257, Education Code.

6 Sec. 171.707. CREDIT FOR CONTRIBUTIONS. (a) A taxable
7 entity may apply for a credit under this subchapter only for money
8 contributed to a certified educational assistance organization and
9 designated for scholarships or educational expense assistance for
10 eligible students.

11 (b) A taxable entity may not apply for a credit under this
12 subchapter for a contribution made to a certified educational
13 assistance organization if:

14 (1) the taxable entity requires that the contribution
15 benefit a particular person or school; or

16 (2) the contribution is designated to provide a
17 scholarship or educational expense assistance for a taxable entity
18 employee or for a spouse or dependent of a taxable entity employee.

19 (c) An entity shall notify a certified educational
20 assistance organization in writing when the entity makes a
21 contribution if the entity may apply for a tax credit under this
22 subchapter or Chapter 230, Insurance Code, for the contribution. An
23 entity may not apply for a tax credit for the contribution unless
24 the entity provides the notice at the time the contribution is made.
25 The certified educational assistance organization shall indicate
26 on the receipt provided under Section 171.702(b)(1)(F) that the
27 entity provided notice under this subsection.

1 Sec. 171.708. LIMIT ON AMOUNT OF SCHOLARSHIP OR EDUCATIONAL
2 EXPENSE ASSISTANCE. (a) Except as provided by Subsection (b), the
3 maximum scholarship amount a certified educational assistance
4 organization may award to a student under this subchapter using
5 money contributed by an entity that provides notice under Section
6 171.707(c) that the entity may apply for a tax credit for the
7 contribution may not exceed 75 percent of the state average
8 maintenance and operations expenditures per student in average
9 daily attendance.

10 (b) The maximum scholarship amount under Subsection (a) may
11 not exceed 50 percent of the state average maintenance and
12 operations expenditures per student in average daily attendance if
13 the student receiving the scholarship resides in a household with
14 income greater than 175 percent of the income guidelines necessary
15 to qualify for the national free or reduced-price lunch program
16 established under 42 U.S.C. Section 1751 et seq. This subsection
17 does not apply to a student who is eligible for assistance under
18 Section 171.706(b) or (d).

19 (c) The maximum educational expense assistance a certified
20 educational assistance organization may award to a student under
21 this subchapter using money contributed by an entity that provides
22 notice under Section 171.707(c) that the entity may apply for a tax
23 credit for the contribution may not exceed \$500 for the 2022 state
24 fiscal year, increased by five percent each subsequent year.

25 Sec. 171.709. AMOUNTS; LIMITATION ON TOTAL CREDITS. (a)
26 Subject to Subsections (b) and (c), the amount of a taxable entity's
27 credit is equal to the lesser of the amount of the qualifying

1 contributions made by the taxable entity during the period covered
2 by the report or 50 percent of the taxable entity's tax liability
3 under this chapter for the report.

4 (b) For the 2022 state fiscal year, the total amount of tax
5 credits that may be awarded under this subchapter and Chapter 230,
6 Insurance Code, may not exceed \$100 million. For each subsequent
7 state fiscal year, the total amount of tax credits that may be
8 awarded is an amount equal to 110 percent of the total amount of tax
9 credits that may be awarded in the previous state fiscal year.

10 (c) The comptroller by rule shall prescribe procedures by
11 which the comptroller may allocate credits under this subchapter.
12 The procedures must provide that credits are allocated first to
13 taxable entities that received preliminary approval for a credit
14 under Section 171.710 and that apply under Section 171.711. The
15 procedures must provide that any remaining credits are allocated to
16 taxable entities that apply under Section 171.711 on a first-come,
17 first-served basis, based on the date the contribution was
18 initially made.

19 (d) The comptroller may require a taxable entity to notify
20 the comptroller of the amount the taxable entity intends or expects
21 to apply for under this subchapter before the beginning of a state
22 fiscal year or at any other time required by the comptroller.

23 Sec. 171.710. PRELIMINARY APPROVAL FOR CREDIT. (a) Before
24 making a contribution to a certified educational assistance
25 organization, a taxable entity may apply to the comptroller for
26 preliminary approval of a credit under this subchapter for the
27 contribution.

1 (b) A taxable entity must apply for preliminary approval on
2 a form provided by the comptroller that includes the amount the
3 taxable entity expects to contribute and any other information the
4 comptroller requires.

5 (c) The comptroller shall grant preliminary approval for
6 tax credits under this subchapter and Chapter 230, Insurance Code,
7 on a first-come, first-served basis, based on the date the
8 comptroller receives the application for preliminary approval.

9 (d) The comptroller shall grant preliminary approval for a
10 credit under this subchapter for a state fiscal year if the sum of
11 the amount of the credit and the total amount of all other credits
12 preliminarily approved under this subchapter and Chapter 230,
13 Insurance Code, does not exceed the amount provided by Section
14 171.709(b).

15 (e) Final award of credit preliminarily approved under this
16 section remains subject to the limitations under Section 171.709(a)
17 and all other requirements of this subchapter.

18 Sec. 171.711. APPLICATION FOR CREDIT. (a) A taxable entity
19 must apply for a credit under this subchapter on or with the report
20 covering the period in which the contribution was made.

21 (b) The comptroller shall adopt a form for the application
22 for the credit. A taxable entity must use this form in applying for
23 the credit and submit with the application form each receipt
24 provided under Section 171.702(b)(1)(F) that includes the
25 information required by Section 171.707(c).

26 (c) Subject to Section 171.709(c), the comptroller may
27 award a credit to a taxable entity that applies for the credit under

1 Subsection (a) if the taxable entity is eligible for the credit and
2 the credit is available under Section 171.709(b). The comptroller
3 has broad discretion in determining whether to grant or deny an
4 application for a credit.

5 (d) The comptroller shall notify a taxable entity in writing
6 of the comptroller's decision to grant or deny the application
7 under Subsection (a). If the comptroller denies a taxable entity's
8 application, the comptroller shall include in the notice of denial
9 the reasons for the comptroller's decision.

10 (e) If the comptroller denies a taxable entity's
11 application under Subsection (a), the taxable entity may request in
12 writing a reconsideration of the application not later than the
13 10th day after the date the notice under Subsection (d) is received.
14 If the taxable entity does not request a reconsideration of the
15 application on or before that date, the comptroller's decision is
16 final.

17 (f) A taxable entity that requests a reconsideration under
18 Subsection (e) may submit to the comptroller, not later than the
19 30th day after the date the request for reconsideration is
20 submitted, additional information and documents to support the
21 taxable entity's request for reconsideration.

22 (g) The comptroller's reconsideration of an application
23 under this section is not a contested case under Chapter 2001,
24 Government Code. The comptroller's decision on a request for
25 reconsideration of an application is final and is not appealable.

26 (h) This section does not create a cause of action to
27 contest a decision of the comptroller to deny an application for a

1 credit under this subchapter.

2 Sec. 171.712. RULES; PROCEDURES. (a) The comptroller
3 shall adopt rules and procedures to implement, administer, and
4 enforce this subchapter.

5 (b) A rule adopted under Subsection (a) is binding on an
6 organization that applies for certification as an educational
7 assistance organization, a taxable entity that applies for a
8 credit, and a state or local governmental entity, including a
9 political subdivision, as necessary to implement, administer, and
10 enforce this subchapter.

11 Sec. 171.713. ASSIGNMENT PROHIBITED; EXCEPTION. A taxable
12 entity may not convey, assign, or transfer the credit allowed under
13 this subchapter to another taxable entity unless all assets of the
14 taxable entity are conveyed, assigned, or transferred in the same
15 transaction.

16 Sec. 171.714. REVOCATION. (a) The comptroller shall
17 revoke a certification provided under Section 171.702 if the
18 comptroller finds that a certified educational assistance
19 organization:

20 (1) is no longer eligible under Section 171.702; or
21 (2) intentionally and substantially violates this
22 subchapter.

23 (b) The comptroller has broad discretion in determining
24 whether to revoke a certification under Subsection (a).

25 (c) The comptroller shall notify a certified educational
26 assistance organization in writing of the comptroller's decision to
27 revoke the organization's certification. The comptroller shall

1 include in the notice of revocation the reasons for the proposed
2 revocation.

3 (d) If the comptroller notifies a certified educational
4 assistance organization of the proposed revocation of the
5 organization's certification, the organization may request in
6 writing a reconsideration of the proposed revocation not later than
7 the 10th day after the date the notice under Subsection (c) is
8 received. If the organization does not request reconsideration on
9 or before that date, the revocation is final.

10 (e) An organization that requests a reconsideration under
11 Subsection (d) may submit to the comptroller, not later than the
12 30th day after the date the request for reconsideration is
13 submitted, additional information and documents to support the
14 organization's request for reconsideration.

15 (f) The comptroller's reconsideration of a proposed
16 revocation under this section is not a contested case under Chapter
17 2001, Government Code. The comptroller's decision on a request for
18 reconsideration of a proposed revocation is final and is not
19 appealable.

20 (g) This section does not create a cause of action to
21 contest a decision of the comptroller to revoke a certified
22 educational assistance organization's certification under this
23 subchapter.

24 (h) Revocation of a certification under this section does
25 not affect the validity of a tax credit relating to a contribution
26 made before the date of revocation.

27 Sec. 171.715. REPORT OF NET SAVINGS TO PUBLIC EDUCATION.

1 (a) In this section, "net savings" means any positive difference in
2 a state fiscal year between:

3 (1) the amount by which state spending on public
4 education for that year is reduced as a result of students receiving
5 scholarships and educational expense assistance from certified
6 educational assistance organizations under this subchapter; and

7 (2) the amount by which state revenue derived from
8 this chapter and Chapter 230, Insurance Code, is reduced as a result
9 of tax credits under this subchapter and Chapter 230, Insurance
10 Code.

11 (b) Not later than December 31 of each even-numbered year,
12 the comptroller shall determine the amount of net savings for the
13 previous state fiscal biennium and make available to the public a
14 report of that amount of savings.

15 Sec. 171.716. NOTICE OF AVAILABILITY OF CREDIT. The
16 comptroller shall provide notice of the availability of the credit
17 under this subchapter on the comptroller's Internet website, in the
18 instructions for franchise tax report forms, and in any notice sent
19 to a taxable entity concerning the requirement to file a franchise
20 tax report.

21 SECTION 2. Subtitle B, Title 3, Insurance Code, is amended
22 by adding Chapter 230 to read as follows:

23 CHAPTER 230. CREDIT AGAINST PREMIUM TAXES FOR CERTAIN

24 CONTRIBUTIONS

25 SUBCHAPTER A. GENERAL PROVISIONS

26 Sec. 230.001. DEFINITIONS. In this chapter:

27 (1) "Educational assistance organization" has the

1 meaning assigned by Section 171.701, Tax Code.

2 (2) "State premium tax liability" means any liability
3 incurred by an entity under Chapters 221 through 226.

4 SUBCHAPTER B. CREDIT

5 Sec. 230.051. CREDIT. An entity may apply for a credit
6 against the entity's state premium tax liability in the amount and
7 under the conditions provided by this chapter. The comptroller
8 shall award credits as provided by Section 230.053.

9 Sec. 230.052. AMOUNTS; LIMITATION ON TOTAL CREDITS. (a)
10 Subject to Subsections (b) and (c), the amount of an entity's credit
11 is equal to the lesser of the amount of the qualifying contributions
12 made to a certified educational assistance organization during the
13 period covered by the tax report or 50 percent of the entity's state
14 premium tax liability for the report if the contributions and the
15 organizations that received the contributions meet the
16 requirements prescribed by Subchapter N, Chapter 171, Tax Code.

17 (b) For the 2022 state fiscal year, the total amount of tax
18 credits that may be awarded under this chapter and Subchapter N,
19 Chapter 171, Tax Code, may not exceed \$100 million. For each
20 subsequent state fiscal year, the total amount of tax credits that
21 may be awarded is an amount equal to 110 percent of the total amount
22 of tax credits that may be awarded in the previous state fiscal
23 year.

24 (c) The comptroller by rule shall prescribe procedures by
25 which the comptroller may allocate credits under this chapter. The
26 procedures must provide that credits are allocated first to
27 entities that received preliminary approval for a credit under

1 Section 230.0525 and that apply under Section 230.053. The
2 procedures must provide that any remaining credits are allocated to
3 entities that apply under Section 230.053 on a first-come,
4 first-served basis, based on the date the contribution was
5 initially made.

6 (d) The comptroller may require an entity to notify the
7 comptroller of the amount the entity intends or expects to apply for
8 under this chapter before the beginning of a state fiscal year or at
9 any other time required by the comptroller.

10 Sec. 230.0525. PRELIMINARY APPROVAL FOR CREDIT. (a) Before
11 making a contribution to a certified educational assistance
12 organization, an entity may apply to the comptroller for
13 preliminary approval of a credit under this chapter for the
14 contribution.

15 (b) An entity must apply for preliminary approval on a form
16 provided by the comptroller that includes the amount the entity
17 expects to contribute and any other information the comptroller
18 requires.

19 (c) The comptroller shall grant preliminary approval for
20 tax credits under this chapter and Subchapter N, Chapter 171, Tax
21 Code, on a first-come, first-served basis, based on the date the
22 comptroller receives the application for preliminary approval.

23 (d) The comptroller shall grant preliminary approval for a
24 credit under this chapter for a state fiscal year if the sum of the
25 amount of the credit and the total amount of all other tax credits
26 preliminarily approved under this chapter and Subchapter N, Chapter
27 171, Tax Code, does not exceed the amount provided by Section

1 230.052(b).

2 (e) Final award of a credit preliminarily approved under
3 this section remains subject to the limitations under Section
4 230.052(a) and all other requirements of this chapter.

5 Sec. 230.053. APPLICATION FOR CREDIT. (a) An entity must
6 apply for a credit under this chapter on or with the tax report
7 covering the period in which the contribution was made.

8 (b) The comptroller shall adopt a form for the application
9 for the credit. An entity must use this form in applying for the
10 credit and submit with the application form each receipt provided
11 under Section 171.702(b)(1)(F), Tax Code, that includes the
12 information required by Section 171.707(c), Tax Code.

13 (c) Subject to Section 230.052(c), the comptroller may
14 award a credit to an entity that applies for the credit under
15 Subsection (a) if the entity is eligible for the credit and the
16 credit is available under Section 230.052(b). The comptroller has
17 broad discretion in determining whether to grant or deny an
18 application for a credit.

19 (d) The comptroller shall notify an entity in writing of the
20 comptroller's decision to grant or deny the application under
21 Subsection (a). If the comptroller denies an entity's application,
22 the comptroller shall include in the notice of denial the reasons
23 for the comptroller's decision.

24 (e) If the comptroller denies an entity's application under
25 Subsection (a), the entity may request in writing a reconsideration
26 of the application not later than the 10th day after the date the
27 notice under Subsection (d) is received. If the entity does not

1 request a reconsideration of the application on or before that
2 date, the comptroller's decision is final.

3 (f) An entity that requests a reconsideration under
4 Subsection (e) may submit to the comptroller, not later than the
5 30th day after the date the request for reconsideration is
6 submitted, additional information and documents to support the
7 entity's request for reconsideration.

8 (g) The comptroller's reconsideration of an application
9 under this section is not a contested case under Chapter 2001,
10 Government Code. The comptroller's decision on a request for
11 reconsideration of an application is final and is not appealable.

12 (h) This section does not create a cause of action to
13 contest a decision of the comptroller to deny an application for a
14 credit under this chapter.

15 Sec. 230.054. RULES; PROCEDURES. (a) The comptroller
16 shall adopt rules and procedures to implement, administer, and
17 enforce this chapter.

18 (b) A rule adopted under Subsection (a) is binding on an
19 organization that applies for certification as an educational
20 assistance organization, an entity that applies for a credit, and a
21 state or local governmental entity, including a political
22 subdivision, as necessary to implement, administer, and enforce
23 this chapter.

24 Sec. 230.055. ASSIGNMENT PROHIBITED; EXCEPTION. An entity
25 may not convey, assign, or transfer the credit allowed under this
26 chapter to another entity unless all of the assets of the entity are
27 conveyed, assigned, or transferred in the same transaction.

1 Sec. 230.056. NOTICE OF AVAILABILITY OF CREDIT. The
2 comptroller shall provide notice of the availability of the credit
3 under this chapter on the comptroller's Internet website, in the
4 instructions for insurance premium tax report forms, and in any
5 notice sent to an entity concerning the requirement to file an
6 insurance premium tax report.

7 SECTION 3. (a) The constitutionality and other validity
8 under the state or federal constitution of all or any part of
9 Subchapter N, Chapter 171, Tax Code, or Chapter 230, Insurance
10 Code, as added by this Act, may be determined in an action for
11 declaratory judgment in a district court in Travis County under
12 Chapter 37, Civil Practice and Remedies Code, except that this
13 section does not authorize an award of attorney's fees against this
14 state and Section 37.009, Civil Practice and Remedies Code, does
15 not apply to an action filed under this section. This section does
16 not authorize a taxpayer suit to contest the denial of a tax credit
17 by the comptroller of public accounts.

18 (b) An appeal of a declaratory judgment or order, however
19 characterized, of a district court, including an appeal of the
20 judgment of an appellate court, holding or otherwise determining
21 that all or any part of Subchapter N, Chapter 171, Tax Code, or
22 Chapter 230, Insurance Code, as added by this Act, is
23 constitutional or unconstitutional, or otherwise valid or invalid,
24 under the state or federal constitution is an accelerated appeal.

25 (c) If the judgment or order is interlocutory, an
26 interlocutory appeal may be taken from the judgment or order and is
27 an accelerated appeal.

1 (d) A district court in Travis County may grant or deny a
2 temporary or otherwise interlocutory injunction or a permanent
3 injunction on the grounds of the constitutionality or
4 unconstitutionality, or other validity or invalidity, under the
5 state or federal constitution of all or any part of Subchapter N,
6 Chapter 171, Tax Code, or Chapter 230, Insurance Code, as added by
7 this Act.

8 (e) There is a direct appeal to the Texas Supreme Court from
9 an order, however characterized, of a trial court granting or
10 denying a temporary or otherwise interlocutory injunction or a
11 permanent injunction on the grounds of the constitutionality or
12 unconstitutionality, or other validity or invalidity, under the
13 state or federal constitution of all or any part of Subchapter N,
14 Chapter 171, Tax Code, or Chapter 230, Insurance Code, as added by
15 this Act.

16 (f) The direct appeal is an accelerated appeal.

17 (g) This section exercises the authority granted by Section
18 3-b, Article V, Texas Constitution.

19 (h) The filing of a direct appeal under this section will
20 automatically stay any temporary or otherwise interlocutory
21 injunction or permanent injunction granted in accordance with this
22 section pending final determination by the Texas Supreme Court,
23 unless the supreme court makes specific findings that the applicant
24 seeking such injunctive relief has pleaded and proved that:

25 (1) the applicant has a probable right to the relief it
26 seeks on final hearing; and

27 (2) the applicant will suffer a probable injury that

1 is imminent and irreparable, and that the applicant has no other
2 adequate legal remedy.

3 (i) An appeal under this section, including an
4 interlocutory, accelerated, or direct appeal, is governed, as
5 applicable, by the Texas Rules of Appellate Procedure, including
6 Rules 25.1(d)(6), 26.1(b), 28.1, 28.3, 32.1(g), 37.3(a)(1),
7 38.6(a) and (b), 40.1(b), and 49.4.

8 SECTION 4. An entity may apply for a credit under Subchapter
9 N, Chapter 171, Tax Code, or Chapter 230, Insurance Code, as added
10 by this Act, only for an expenditure made on or after the effective
11 date of this Act.

12 SECTION 5. Not later than February 15, 2022, the
13 comptroller of public accounts shall adopt rules as provided by
14 Section 171.712(a), Tax Code, and Section 230.054(a), Insurance
15 Code, as added by this Act.

16 SECTION 6. The comptroller of public accounts shall make
17 the initial determination of net savings and report regarding that
18 savings as required by Section 171.715, Tax Code, as added by this
19 Act, not later than December 31, 2024, based on the state fiscal
20 biennium ending August 31, 2023.

21 SECTION 7. This Act applies only to a report originally due
22 on or after the effective date of this Act.

23 SECTION 8. This Act takes effect January 1, 2022.