

BILL ANALYSIS

S.B. 1588
By: Whitmire
Pensions & Investments
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, investments by Texans in Texas' two 529 college savings plans enjoy creditor protection. However, no similar protection exists for Texans investing in the 529 plans of other states. S.B. 1588 provides protection of college savings plans from attachment, execution, and seizure to satisfy debt.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

ANALYSIS

SECTION 1. Amends Chapter 42, Property Code, by adding Section 42.0022, as follows:

Sec. 42.0022. EXEMPTION FOR COLLEGE SAVINGS PLANS. (a) Provides that in addition to the exemption prescribed by Section 42.001, a person's right to the assets held in or to receive payments or benefits under any of the following is exempt from attachment, execution, and seizure for the satisfaction of debts:

- (1) any fund or plan established under Subchapter F, Chapter 54, Education Code, including the person's interest in a prepaid tuition contract;
 - (2) any fund or plan established under Subchapter G, Chapter 54, Education Code, including the person's interest in a savings trust account; or
 - (3) any qualified tuition program of any state meeting the requirements of Section 529, Internal Revenue Code of 1986, as amended.
- (b) Provides that if any portion of this section is held to be invalid or preempted by federal law in whole or in part or in certain circumstances, this section remains in effect in all other respects to the maximum extent permitted by law.

SECTION 2. (a) Effective date: September 1, 2003.

- (b) Provides that the change in law made by this Act applies to a person's right to the assets held in or to receive payments or benefits under any fund, plan, or program described by Section 42.0022, Property Code, as added by this Act, on and after the effective date of this Act without regard to whether any money and other property was contributed to or paid in connection with the fund, plan, or program to establish the person's right to those assets, payments, or benefits before, on, or after the effective date of this Act.

EFFECTIVE DATE

September 1, 2003.