

1-1 By: Cook of Navarro, Quintanilla, Branch H.B. No. 2274
1-2 (Senate Sponsor - Carona)
1-3 (In the Senate - Received from the House April 20, 2005;
1-4 April 21, 2005, read first time and referred to Committee on
1-5 Government Organization; May 4, 2005, reported favorably by the
1-6 following vote: Yeas 7, Nays 0; May 4, 2005, sent to printer.)

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to the continuation and functions of the Texas Guaranteed
1-10 Student Loan Corporation.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 57.12(a), Education Code, is amended to
1-13 read as follows:

1-14 (a) The Texas Guaranteed Student Loan Corporation is
1-15 subject to Chapter 325, Government Code (Texas Sunset Act). Unless
1-16 continued in existence as provided by that chapter, the corporation
1-17 is abolished and this chapter expires September 1, 2017 [2005].

1-18 SECTION 2. Sections 57.13(a), (b), and (c), Education Code,
1-19 are amended to read as follows:

1-20 (a) The corporation is governed by a board of 11 [~~nine~~]
1-21 directors [~~appointed~~] in accordance with this section.

1-22 (b) The governor, with the advice and consent of the senate,
1-23 shall appoint 10 [~~nine~~] members to the board as follows:

1-24 (1) five [~~Four~~] members who must have knowledge of
1-25 or experience in finance, including management of funds or business
1-26 operations;

1-27 (2) one [~~One~~] member who must be a student [~~who is~~]
1-28 enrolled at a postsecondary educational institution for the number
1-29 of credit hours required by the institution to be classified as a
1-30 full-time student of the institution; and

1-31 (3) four [~~Three~~] members who must be members of the
1-32 faculty or administration of an eligible postsecondary educational
1-33 institution, as defined by Section 57.46 [~~of this code~~].

1-34 (c) Appointments to the board shall be made without regard
1-35 to the race, color, disability [~~handicap~~], sex, religion, age, or
1-36 national origin of the appointees.

1-37 SECTION 3. Sections 57.131(a), (b), (c), and (d), Education
1-38 Code, are amended to read as follows:

1-39 (a) In this section, "Texas trade association" means a
1-40 cooperative and voluntarily joined statewide association of
1-41 business or professional competitors in this state designed to
1-42 assist its members and its industry or profession in dealing with
1-43 mutual business or professional problems and in promoting their
1-44 common interest. [An officer, employee, or paid consultant of a
1-45 Texas trade association of institutions that originate or hold
1-46 student loans or a Texas trade association in the field of higher
1-47 education may not be a member of the board or a corporation employee
1-48 who is exempt from the corporation's position classification
1-49 schedule.]

1-50 (b) A person may not be a member of the board and may not be a
1-51 corporation employee employed in a "bona fide executive,
1-52 administrative, or professional capacity," as that phrase is used
1-53 for purposes of establishing an exemption to the overtime
1-54 provisions of the federal Fair Labor Standards Act of 1938 (29
1-55 U.S.C. Section 201 et seq.) if:

1-56 (1) the person is an officer, employee, or paid
1-57 consultant of a Texas trade association of institutions that
1-58 originate or hold student loans or a Texas trade association in the
1-59 field of higher education; or

1-60 (2) the person's spouse is an officer, manager, or paid
1-61 consultant of a Texas trade association of institutions that
1-62 originate or hold student loans or a Texas trade association in the
1-63 field of higher education. [A person who is the spouse of an
1-64 officer, manager, or paid consultant of a Texas trade association

2-1 ~~described by Subsection (a) of this section may not be a member of~~
 2-2 ~~the board and may not be a corporation employee who is exempt from~~
 2-3 ~~the corporation's position classification schedule.]~~

2-4 (c) A person may not be ~~[serve as]~~ a member of the board or
 2-5 act as the general counsel to the board or the corporation if the
 2-6 person is required to register as a lobbyist under Chapter 305,
 2-7 Government Code, because of the person's activities for
 2-8 compensation on behalf of a profession related to the operation of
 2-9 the corporation.

2-10 (d) A person may not be one of the members of the board
 2-11 required by Section 57.13(b) ~~[of this code]~~ to have knowledge of or
 2-12 experience in finance if the person is a member of the board of
 2-13 directors or an employee of an eligible lender that participates in
 2-14 the guaranteed student loan program.

2-15 SECTION 4. Subchapter B, Chapter 57, Education Code, is
 2-16 amended by adding Section 57.1311 to read as follows:

2-17 Sec. 57.1311. TRAINING PROGRAM. (a) A person who is
 2-18 appointed to and qualifies for office as a member of the board may
 2-19 not vote, deliberate, or be counted as a member in attendance at a
 2-20 meeting of the board until the person completes a training program
 2-21 that complies with this section.

2-22 (b) The training program must provide the person with
 2-23 information regarding:

2-24 (1) the provisions of this chapter and the
 2-25 corporation's programs, functions, rules, and budget;

2-26 (2) the results of the most recent formal audit of the
 2-27 corporation;

2-28 (3) the requirements of laws relating to open
 2-29 meetings, public information, and conflicts of interest; and

2-30 (4) any applicable ethics policies adopted by the
 2-31 corporation or the Texas Ethics Commission.

2-32 SECTION 5. Section 57.14, Education Code, is amended to
 2-33 read as follows:

2-34 Sec. 57.14. DIRECTORS' TERMS OF OFFICE. Members of the
 2-35 board appointed by the governor serve for terms of six years, with
 2-36 the terms of three ~~[two]~~ or four ~~[three]~~ members, as applicable,
 2-37 expiring on January 31 of each odd-numbered year.

2-38 SECTION 6. Section 57.141, Education Code, is amended to
 2-39 read as follows:

2-40 Sec. 57.141. REMOVAL OF BOARD MEMBER. (a) It is a ground
 2-41 for removal of an appointed member from the board that the ~~[if a]~~
 2-42 member:

2-43 (1) does not have at the time of taking office
 2-44 [appointment] the qualifications required by Section 57.13(b) ~~[of~~
 2-45 this code];

2-46 (2) does not maintain during service on the board the
 2-47 qualifications required by Section 57.13(b) ~~[of this code];~~

2-48 (3) is ineligible for membership under ~~[violates a~~
 2-49 prohibition established by] Section 57.131 ~~[of this code];~~

2-50 (4) cannot, because of illness or disability,
 2-51 discharge the member's duties for a substantial part of the member's
 2-52 term ~~[for which the member is appointed because of illness or~~
 2-53 disability]; or

2-54 (5) is absent from more than half of the regularly
 2-55 scheduled board meetings that the member is eligible to attend
 2-56 during a calendar year without an excuse approved ~~[unless the~~
 2-57 absence is excused] by a majority vote of the board.

2-58 (b) The validity of an action of the board is not affected by
 2-59 the fact that it is ~~[was]~~ taken when a ground for removal of a board
 2-60 member exists ~~[existed].~~

2-61 (c) If the president has knowledge that a potential ground
 2-62 for removal exists, the president shall notify the presiding
 2-63 officer ~~[chairman]~~ of the board of the potential ground. The
 2-64 presiding officer ~~[chairman]~~ shall then notify the governor and the
 2-65 attorney general that a potential ground for removal exists. If the
 2-66 potential ground for removal involves the presiding officer, the
 2-67 president shall notify the next highest ranking officer of the
 2-68 board, who shall then notify the governor and the attorney general
 2-69 that a potential ground for removal exists.

3-1 SECTION 7. Sections 57.19(f) and (i), Education Code, are
3-2 amended to read as follows:

3-3 (f) The president or the president's designee shall prepare
3-4 and maintain a written policy statement to assure implementation of
3-5 a program of equal employment opportunity under which all personnel
3-6 transactions are made without regard to race, color, disability
3-7 [~~handicap~~], sex, religion, age, or national origin. The policy
3-8 statement must include:

3-9 (1) personnel policies, including policies relating
3-10 to recruitment, evaluation, selection, appointment, training, and
3-11 promotion of personnel;

3-12 (2) a comprehensive analysis of the corporation's work
3-13 force that meets federal and state guidelines;

3-14 (3) procedures by which a determination can be made of
3-15 significant underuse in the corporation's work force of all persons
3-16 for whom federal or state guidelines encourage a more equitable
3-17 balance; and

3-18 (4) reasonable methods to appropriately address those
3-19 areas of significant underuse.

3-20 (i) The board shall develop and implement [~~adopt~~] policies
3-21 that clearly separate [~~define~~] the polycymaking [~~respective~~]
3-22 responsibilities of the board [~~governing body of the corporation~~]
3-23 and the management responsibilities of the president and the staff
3-24 of the corporation.

3-25 SECTION 8. Sections 57.20(a), (b), and (c), Education Code,
3-26 are amended to read as follows:

3-27 (a) The corporation shall maintain a system to promptly and
3-28 efficiently act on complaints filed with the corporation. The
3-29 corporation shall maintain information about parties to the
3-30 complaint, the subject matter of the complaint, a summary of the
3-31 results of the review or investigation of the complaint, and its
3-32 disposition [~~board shall prepare information of public interest~~
3-33 ~~describing the functions of the board and corporation and the~~
3-34 ~~procedures by which complaints are filed with and resolved by the~~
3-35 ~~board. The corporation shall make the information available to the~~
3-36 ~~public and appropriate state agencies].~~

3-37 (b) The corporation shall make information available
3-38 describing its procedures for complaint investigation and
3-39 resolution [~~board shall establish methods by which consumers and~~
3-40 ~~service recipients are notified of the name, mailing address, and~~
3-41 ~~telephone number of the corporation for the purpose of directing~~
3-42 ~~complaints to the board or corporation].~~

3-43 (c) The corporation shall periodically notify the complaint
3-44 parties of the status of the complaint until final disposition
3-45 [~~keep an information file about each complaint filed with the~~
3-46 ~~corporation that the corporation has authority to resolve].~~

3-47 SECTION 9. Section 57.21, Education Code, is amended by
3-48 adding Subsections (c) and (d) to read as follows:

3-49 (c) Each state agency that conducts higher education and
3-50 financial aid outreach activities shall enter into a memorandum of
3-51 understanding with the corporation. The memorandum of
3-52 understanding must outline how the corporation and the state agency
3-53 will coordinate outreach activities to maximize resources and avoid
3-54 duplication.

3-55 (d) The corporation shall report to the legislature not
3-56 later than December 1 of each even-numbered year regarding the
3-57 level of demand for student financial aid for postsecondary
3-58 education in this state.

3-59 SECTION 10. Subchapter B, Chapter 57, Education Code, is
3-60 amended by adding Section 57.2105 to read as follows:

3-61 Sec. 57.2105. TECHNOLOGY POLICY. The board shall implement
3-62 a policy requiring the corporation to use appropriate technological
3-63 solutions to improve the corporation's ability to perform its
3-64 functions. The policy must ensure that the public is able to
3-65 interact with the corporation on the Internet.

3-66 SECTION 11. Sections 57.491(c), (e), and (h), Education
3-67 Code, are amended to read as follows:

3-68 (c) Annually, each licensing agency shall prepare a list of
3-69 the agency's licensees and submit the list to the corporation in

4-1 hard copy or electronic form. Using the submitted lists, the [The]
 4-2 corporation periodically shall:

4-3 (1) identify the persons who are in default on loans
 4-4 guaranteed by the corporation; and

4-5 (2) provide a ~~[written]~~ list of the names of those
 4-6 persons to the appropriate licensing agencies in hard copy or
 4-7 electronic form.

4-8 (e) A licensing agency shall not renew the license of a
 4-9 licensee whose name is on the list provided by the corporation under
 4-10 Subsection (c) ~~[of this section]~~ unless~~[-~~

4-11 ~~[(1) the renewal is the first renewal following the~~
 4-12 ~~agency's receipt of the list including the licensee's name among~~
 4-13 ~~those in default; or~~

4-14 ~~[(2)]~~ the licensee presents to the agency a
 4-15 certificate issued by the corporation certifying that:

4-16 (1) ~~[(A)]~~ the licensee has entered a repayment
 4-17 agreement on the defaulted loan; or

4-18 (2) ~~[(B)]~~ the licensee is not in default on a loan
 4-19 guaranteed by the corporation.

4-20 (h) A licensing agency shall provide written notice of the
 4-21 nonrenewal policies established under Subsections (e) ~~[(f)]~~ and
 4-22 (g) ~~[of this section]~~ to each applicant for a license or for renewal
 4-23 of a license. The corporation shall provide written notice of those
 4-24 same policies on each loan application form provided by the
 4-25 corporation and on each promissory note signed by a borrower.
 4-26 Failure to provide the notice required by this subsection does not
 4-27 affect the default status of a borrower or the prohibitions on
 4-28 renewal of a license held by a person in default.

4-29 SECTION 12. Sections 57.761(a), (b), and (c), Education
 4-30 Code, are amended to read as follows:

4-31 (a) The board ~~[president]~~ shall appoint an internal auditor
 4-32 for the corporation. The internal auditor serves at the will of the
 4-33 board, and the internal auditor's budget, audit plans, and staffing
 4-34 levels ~~[appointment of an internal auditor]~~ must be approved by the
 4-35 board.

4-36 (b) The internal auditor shall report to the board or a
 4-37 board committee designated by the board ~~[president]~~. The board may
 4-38 require the internal auditor to submit ~~[directly]~~ to the board
 4-39 certain reports specified by the board.

4-40 (c) The internal auditor shall consult with the board or [a]
 4-41 board committee ~~[, as designated by the board, shall meet with the~~
 4-42 internal auditor] on a regular basis at board or committee
 4-43 meetings. At the meetings, the internal auditor shall provide to
 4-44 the board or committee information regarding the progress and
 4-45 results of the internal auditor's audits under this section.

4-46 SECTION 13. The following laws are repealed:

4-47 (1) Section 57.131(e), Education Code;

4-48 (2) Section 57.20(d), Education Code; and

4-49 (3) Section 57.491(f), Education Code.

4-50 SECTION 14. As soon as possible on or after the effective
 4-51 date of this Act, the governor shall appoint one additional member
 4-52 to the board of directors of the Texas Guaranteed Student Loan
 4-53 Corporation for a term expiring January 31, 2011, to ensure that the
 4-54 composition of the board complies with Section 57.13(b), Education
 4-55 Code, as amended by this Act.

4-56 SECTION 15. The changes in law made by this Act to Section
 4-57 57.131, Education Code, apply only to a member of the board of
 4-58 directors of the Texas Guaranteed Student Loan Corporation or an
 4-59 employee of the Texas Guaranteed Student Loan Corporation appointed
 4-60 or employed after the effective date of this Act. A member of the
 4-61 board who is serving on the effective date of this Act is governed
 4-62 by the law as it existed immediately before the effective date for
 4-63 the remainder of the member's term of office, and the former law is
 4-64 continued in effect for that purpose. An employee of the Texas
 4-65 Guaranteed Student Loan Corporation who is employed on the
 4-66 effective date of this Act is governed by the law in effect
 4-67 immediately before the effective date as long as the person remains
 4-68 continuously employed by the corporation, and the former law is
 4-69 continued in effect for that purpose.

5-1 SECTION 16. This Act takes effect September 1, 2005.

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