

## **BILL ANALYSIS**

C.S.H.B. 2173  
By: Cook, Byron  
Higher Education  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The Prepaid Higher Education Tuition Board oversees the State's two 529 college savings plans. The Texas Guaranteed Tuition Plan allows Texas families to prepay college tuition and is backed by the full faith and credit of the State. The Board temporarily suspended enrollment in the Guaranteed Tuition Plan in 2003 because of the uncertain effects of tuition deregulation. The Guaranteed Tuition Plan Fund currently has assets of about \$1.7 billion. The Board also oversees Tomorrow's College Investment Plan that works much like a 401(k) but with after-tax dollars. This plan helps parents save for college, but is not guaranteed by the State.

Housed at the Comptroller's Office, the Board is supported by 21 staff members and receives no appropriations but instead relies on guaranteed tuition contract payments, investment income, and fees to cover administrative costs and tuition benefits. The Board contracts out administration of Tomorrow's College Investment Plan, and also contracts for investment advice, and advertising and actuarial services.

The Board is subject to the Sunset Act and will be abolished on September 1, 2007, unless continued by the Legislature. As a result of its review of the Board, the Sunset Advisory Commission recommended continuation of the Board and several statutory modifications that are contained in C.S.H.B. 2173.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Prepaid Higher Education Tuition Board in SECTION 8 of this bill.

### **ANALYSIS**

SECTION 1: Section 54.603 of the Education Code is amended to change a termination date from September 1, 2007 to September 1, 2019.

SECTION 2: Sections 54.608 (b), (c), and (f) of the Education code are amended to add additional language and eliminate existing language. A person may not be a member of the board and may not be a board employee employed in a "bona fide executive, administrative, or professional capacity," if the person is an officer, employee, or paid consultant of a Texas trade association in the field of higher education, banking, securities, or investments; or the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of higher education, banking, securities, or investments. Defines "Texas trade association."

SECTION 3: Subchapter F, Chapter 54 of the Education Code is amended by adding language related to the prepaid higher education tuition board ethics policy. Adds an ethics policy for board members and staff that includes general ethical standards, conflicts of interest, the acceptance of gifts and entertainment, and compliance with and enforcement of the ethics policy. Provides that provisions in the ethics policy must apply to board members, the comptroller, and employees of the board.

SECTION 4: Section 54.609 of the Education Code is amended by adding additional language, eliminating existing language and making conforming changes. Provides for grounds of removal from the board if a member is lacking applicable qualifications, is ineligible under the provisions set forth, or if the staff of the board has knowledge of grounds for removal. Provides for the methodology of staff reporting these grounds of removal.

SECTION 5: Section 54.610 of the Education Code is amended by adding additional language and eliminating existing language. A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with the requirements. A person appointed to the board is entitled to reimbursement for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

SECTION 6: Section 54.617 of the Education Code is amended by adding additional language and eliminating existing language. Provides the procedure for how the board shall act on complaints filed with the board and what records the board shall keep on this subject. Also provides that the board shall make this information available and notify complaint parties of the status of the complaint periodically.

SECTION 7: Subchapter F, Chapter 54 of the Education Code is amended by adding additional language requiring the board to make effective use of technology in its delivery services and provision of the ability of the public to interact on the internet with the staff of the board.

SECTION 8: Section 54.619 of the Education Code is amended by adding additional language. If the beneficiary of a prepaid tuition contract entered into after December 31, 2003 enrolls in an institution of higher education, the board shall pay to the institution the tuition and fees required of the institution, and may pay to the purchaser all or part of any amount paid or accrued under the contract that exceeds the tuition and fees required of the institution if the board determines that it may do so in a manner consistent with the actuarial soundness of the program.

The board shall establish criteria and procedures to guide the board in determining when and under what conditions to reopen new enrollment in the program. The procedure must require that, each year in which new enrollment in the program is suspended, the board consider the current structure of the program and determine whether any statutory or administrative changes are needed to enable the board to reopen new enrollment in the program in an actuarially sound manner.

SECTION 9: Subchapter F, Chapter 54, Education Code is amended by adding Section 54.6195 to require the Board to adopt an application for enrollment form that requires an applicant to provide certain demographic and other information in order for the application to be considered.

SECTION 10: Section 54.621 of the Education Code is amended to add additional language, eliminate existing language and make conforming changes. In order to provide sufficient time for program investments to mature in an actuarially sound manner with regard to the amounts prepaid under a contract entered into after December 31, 2003, the board may require a maturity period between the time a purchaser enters into the contract and the time the board must act on its contractual obligation to pay any tuition or fees on behalf of the beneficiary. Makes a change to Section 54.621 (a) to reflect this change.

SECTION 11. Section 54.624 (b) of the Education Code is amended to add additional language to specify that the provision requiring a public senior college or university to accept the lesser of the amount of tuition and required fees charged by the institution or the weighted average amount of tuition and required fees paid by the board applies only to tuition contracts entered into on or before December 31, 2003.

SECTION 12: Section 54.608(e), Education Code is repealed.

SECTION 13: Not later than September 1, 2008, the Prepaid Higher Education Tuition Board shall conduct a study to determine the feasibility of the board and an institution of higher education entering into an agreement under which the institution offers tuition discounts or other benefits to beneficiaries of prepaid tuition contracts who enroll in the institution. The study must include an analysis of the benefits of such an agreement to the board and to institutions of higher education and an evaluation of the level of interest in such agreements on the part of institutions of higher education.

SECTION 14: Effective date.

C.S.H.B. 2173 80(R)

**EFFECTIVE DATE**

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

**COMPARISON OF ORIGINAL TO SUBSTITUTE**

C.S.H.B. 2173 requires the Board to adopt an application for enrollment form that requires an applicant to provide certain demographic and other information in order for the application to be considered. The substitute also repeals an obsolete subsection of a Sunset Commission across-the-board recommendation on board member conflicts of interest relating to affinity or consanguinity.