

BILL ANALYSIS

Senate Research Center
81R16405 KSD-F

C.S.S.B. 1760
By: Watson
Higher Education
4/10/2009
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas' economic future depends on an educated workforce. Today, 80 percent of high-growth, high-demand jobs require some education beyond high school. Texas must enroll a minimum of 430,000 additional students in public universities—an increase of more than 35 percent—just to keep up in the 21st century economy, according to the Texas Higher Education Coordinating Board. However, students are facing more obstacles than ever in trying to fund their postsecondary education. Students have become more reliant on loans compared to students in other states (61 percent in Texas rely on loans, compared to 49 percent of students in other states). The cost of higher education has risen dramatically in the last several years while financial aid has declined. Tuition at Texas public universities and colleges rose 112 percent from 2003 to 2007, and the gap between actual college costs and aid received by Texas students rose by 71 percent from 2001 to 2006.

Last session, the 80th Legislature authorized the Prepaid Higher Education Tuition Board to establish by rule a Save and Match program as part of the Texas Tuition Promise Fund (Section 54.7521, Education Code). Currently, the Save and Match program is limited to households below the state household median income (\$44,861). The program was not funded nor have any funds been contributed to the fund by outside sources.

C.S.S.B. 1760 amends current law relating to the administration of the Texas Save and Match Program to assist qualifying beneficiaries under the state's prepaid tuition plans and college savings plans and to the treatment of a beneficiary's assets under prepaid tuition plans and college savings plans in determining eligibility for student financial assistance and other assistance programs.

[**Note:** While the statutory reference in this bill is to the Texas Department of Human Services (TDHS), the following amendments affect the Health and Human Services Commission, as the successor agency to TDHS.]

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Prepaid Higher Education Tuition Board is modified in SECTION 2 (Section 54.7521, Education Code), (Section 54.803, Education Code), and (Section 54.810, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 54, Education Code, by adding Subchapter I, as follows:

SUBCHAPTER I. TEXAS SAVE AND MATCH PROGRAM

Sec. 54.801. DEFINITIONS. Defines "beneficiary," "board," "participating beneficiary," and "program."

Sec. 54.802. TEXAS SAVE AND MATCH PROGRAM. Requires the Prepaid Higher Education Tuition Board (board) to develop and implement the Texas Save and Match Program under which the board:

- (1) opens a matching account for each eligible beneficiary, as determined by Section 54.803; and

(2) matches money paid by a purchaser under a prepaid tuition contract under Subchapter F (Prepaid Higher Education Tuition Program) or H (Prepaid Tuition Unit Undergraduate Education Program: Texas Tomorrow Fund II) on behalf of the beneficiary, or contributed to a savings trust account by an account owner under the Higher Education Savings Plan under Subchapter G (Higher Education Savings Plan) on behalf of the beneficiary with matching contributions or a matching purchase of tuition units, as applicable, using money appropriated by the legislature for the program and any contributions made by any person to the beneficiary's matching account.

Sec. 54.803. INITIAL ELIGIBILITY FOR PARTICIPATION IN PROGRAM.

(a) Requires a beneficiary, to be initially eligible to participate in the program, at the time a prepaid tuition contract is entered into on the beneficiary's behalf under Subchapter F or H, or a savings trust account is opened on the beneficiary's behalf under Subchapter G, as applicable, to be a resident of this state, or a dependent for purposes of Section 152, Internal Revenue Code of 1986, of a resident described by Paragraph A (regarding the requirement of the beneficiary being a resident of the state), be younger than seven years of age, and have a household adjusted gross income, for the most recently completed tax year, that is not more than 400 percent of the federal poverty level.

(b) Requires the board, to determine whether a beneficiary is initially eligible to participate in the program, to solicit from the purchaser who enters into a prepaid tuition contract on the beneficiary's behalf under Subchapter F or H, or the individual who opens a savings trust account on the beneficiary's behalf under Subchapter G, as applicable, at the time the purchaser or individual enters into the contract or agreement with the board and in the manner prescribed by board rule, information necessary to determine the beneficiary's eligibility.

Sec. 54.804. LIMITATIONS. (a) Authorizes an eligible beneficiary to participate in the program for not more than five calendar years if the beneficiary continues to meet the criteria prescribed by Section 54.803(a). Provides that the five-year period is authorized to be either consecutive or non-consecutive. Requires the board to prescribe procedures for verifying a participating beneficiary's continued eligibility under this section.

(b) Authorizes a participating beneficiary to receive a matching grant or a purchase of matching tuition units to the beneficiary's matching account in any particular calendar year only if at least \$100 is paid under a prepaid tuition contract under Subchapter F or H or is contributed to the beneficiary's savings trust account under Subchapter G, as applicable, during that year. Provides that contributions or purchases in excess of \$500 in any calendar year are not eligible for a match under the program.

(c) Authorizes withdrawals from a matching account to be used only for qualified higher educational expenses of the participating beneficiary for whom the matching account is established. Requires that funds in a matching account be disbursed directly to providers of qualified higher education services and prohibits them from being disbursed directly to the beneficiary.

(d) Authorizes tuition units in a participating beneficiary's matching account to be redeemed only by the board or by a qualified institution of higher education in the manner prescribed by the board on behalf of the participating beneficiary.

(e) Provides that any funds or unused tuition units in a matching account that are not withdrawn or redeemed by the participating beneficiary before the beneficiary's 30th birthday are forfeited and are required be returned to a pool of matching funds maintained by the board.

Sec. 54.805. MATCH RATIOS. Requires the board to develop a variable formula based on adjusted annual household income to determine the amount of matching funds or

purchases of tuition units to which eligible participating beneficiaries are entitled under the program in a year. Requires the board, depending on the availability of funds, for each dollar contributed to a participating beneficiary's savings trust account under Subchapter G or paid by a purchaser under a prepaid tuition contract on behalf of the beneficiary under Subchapter F or H in a calendar year, to match the contribution or purchase using the following guidelines: \$2, if the beneficiary's household adjusted income for the most recently completed tax year is less than or equal to 200 percent of the federal poverty level; \$1, if the beneficiary's household adjusted income for the most recently completed tax year is more than 200 percent of the federal poverty level but not more than 300 percent of the federal poverty level; or 50 cents, if the beneficiary's household adjusted income for the most recently completed tax year is more than 300 percent of the federal poverty level but not more than 400 percent of the federal poverty level.

Sec. 54.806. **MATCHING ACCOUNT ADMINISTRATION.** (a) Requires that a matching account opened on behalf of a beneficiary under this subchapter be accounted separately from the beneficiary's prepaid tuition contract balance or savings trust account balance.

(b) Requires that, to the extent possible, money or tuition units in a participating beneficiary's matching account be withdrawn or redeemed before money is withdrawn or tuition units are redeemed under Subchapter F, G, or H, as applicable.

(c) Provides that information relating to the beneficiary of a matching account, including personally identifiable information regarding the beneficiary, is confidential and is not subject to disclosure under Chapter 552 (Public Information), Government Code.

(d) Requires the board, to the extent possible, to provide with any periodic statement provided by the board in regard to a beneficiary the balance of the matching account opened on the beneficiary's behalf under this subchapter.

Sec. 54.807. **EFFECT OF ACCOUNT BALANCE ON BENEFICIARY'S ELIGIBILITY FOR STUDENT FINANCIAL ASSISTANCE.** Prohibits money or tuition units in a beneficiary's matching account from being considered as available to the beneficiary, or otherwise included in the beneficiary's household income or financial resources, for purposes of determining the beneficiary's eligibility for a TEXAS grant or any other state-funded student financial assistance.

Sec. 54.808. **SOLICITATION AND ACCEPTANCE OF GIFTS, GRANTS, AND DONATIONS.** Authorizes the board to accept gifts, grants, and donations from any public or private source for the purposes of this subchapter.

Sec. 54.809. **PILOT PROJECTS UNDER PROGRAM.** Authorizes the board, to fulfill the intent of the program, to establish pilot projects under the program in an effort to incentivize participation in the Prepaid Higher Education Tuition Program under Subchapter F, the Higher Education Savings Program under Subchapter G, and the Prepaid Tuition Unit Undergraduate Education Program under Subchapter H, including projects that incentivize participation by:

- (1) awarding additional matching grants based on a beneficiary's achievement of specified academic goals;
- (2) offering additional seed matching grants on the opening of a savings trust account or the purchase of a prepaid tuition contract; and
- (3) providing incentives for employers to contribute matching funds to the program.

Sec. 54.810. RULES. Requires the board to adopt rules for the administration of this section.

SECTION 2. Amends Section 54.702, Education Code, by adding Subsections (c-1), to require the board to waive the amount of any enrollment fee charged by the board for a new account under this subchapter for any beneficiary whose household adjusted gross income for the most recently completed tax year is not more than 200 percent of the federal poverty level.

SECTION 3. Amends Subchapter C, Chapter 62, Health and Safety Code, by adding Section 62.1012, as follows:

Sec. 62.1012. EXCLUSION OF ASSETS IN PREPAID TUITION PROGRAMS AND HIGHER EDUCATION SAVINGS PLANS. Prohibits the Health and Human Services Commission, for purposes of determining whether a child meets family income and resource requirements for eligibility for the child health plan, from considering as income or resources a right to assets held in or a right to receive payments or benefits under any fund or plan established under Subchapters F, G, H, or I, Chapter 54 (Tuition and Fees), Education Code, including an interest in a savings trust account, prepaid tuition contract, or related matching account; or any qualified tuition program of any state that meets the requirements of Section 529, Internal Revenue Code of 1986.

SECTION 4. Amends Subchapter A, Chapter 31, Human Resources Code, by adding Section 31.0039, as follows:

Sec. 31.0039. EXCLUSION OF ASSETS IN PREPAID TUITION PROGRAMS AND HIGHER EDUCATION SAVINGS PLANS. Prohibits the Texas Department of Human Services (TDHS), for purposes of determining the amount of financial assistance granted to an individual under this chapter for the support of dependent children or determining whether the family meets household income and resource requirements for financial assistance under this chapter, from considering the right to assets held in or the right to receive payments or benefits under any fund or plan established under Subchapters F, G, H, or I, Chapter 54, Education Code, including an interest in a savings trust account, prepaid tuition contract, or related matching account; or any qualified tuition program for any state that meets the requirements of Section 529, Internal Revenue Code of 1986.

SECTION 5. Amends Subchapter B, Chapter 32, Human Resources Code, by adding Section 32.02611, as follows:

Sec. 32.02611. EXCLUSION OF ASSETS IN PREPAID TUITION PROGRAMS AND HIGHER EDUCATION SAVINGS PLANS. (a) Prohibits TDHS, except as provided by Subsection (b), in determining eligibility and need for medical assistance, from considering as assets or resources a right to assets held in or a right to receive payments or benefits under any fund or plan established under Subchapters F, G, H, or I, Chapter 54, Education Code, including an interest in a savings trust account, prepaid tuition contract, or related matching account; or any qualified tuition program of any state that meets the requirements of Section 529, Internal Revenue Code of 1986.

(b) Authorizes TDHS, in determining eligibility and need for medical assistance for an applicant who may be eligible on the basis of the applicant's eligibility for medical assistance for the aged, blind, or disabled under 42 U.S.C. Section 1396a(10), as amended, to consider as assets or resources a right to assets held in or a right to receive payments or benefits under any fund, plan, or tuition program described by Subsection (a).

(c) Requires TDHS, notwithstanding Subsection (b), to seek a federal waiver authorizing TDHS to exclude, for purposes of determining the eligibility of an applicant described by that subsection, the right to assets held in or a right to receive payments or benefits under any fund, plan, or tuition program described by Subsection (a) if the fund, plan, or tuition program was established before the 21st birthday of the beneficiary of the fund, plan, or tuition program.

SECTION 6. Repealer: Section 54.7521 (Texas Save and Match Program), Education Code.

SECTION 7. Requires the board to adopt rules as required by Subchapter I, Chapter 54, Education Code, as added by this Act, not later than November 1, 2009.

SECTION 8. Provides that Subchapter I, Chapter 54, Education Code, as added by this Act, applies only to a prepaid tuition contract purchased for a beneficiary under Subchapter F or H, Chapter 54, Education Code, or a savings trust account opened for a beneficiary under Subchapter G, Chapter 54, Education Code, on or after January 1, 2010.

SECTION 9. Requires a state agency affected by a provision, if before implementing any provision of this Act, the agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, to request a waiver or authorization and authorizes the agency to delay implementing the provision until the waiver or authorization is granted.

SECTION 10. Provides that the changes in law made by this Act apply to a person who receives health benefits coverage under Chapter 62 (Child Health Plan for Certain Low-Income Children), Health and Safety Code, financial assistance under Chapter 31 (Financial Assistance and Service Programs), Human Resources Code, or medical assistance under Chapter 32 (Medical Assistance Program), Human Resources Code, on or after the effective date of this Act, regardless of the date on which eligibility for coverage or assistance was initially determined.

SECTION 11. Effective date: September 1, 2009.