

BILL ANALYSIS

Senate Research Center

C.S.S.B. 2243
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Higher Education
4/18/2009
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

This legislation would address the need for more physicians and dentists to treat the Medicaid population and encourage such providers to practice in medically underserved areas. By aligning itself with the Free Loan Repayment Program, the state would expand the reach of current programs and maximize the numbers eligible for loan repayment.

The current Physician Education Loan Repayment and Dental Education Loan Repayment Programs are underutilized and the repayment amounts no longer serve as an adequate incentive for physicians and dentists to serve in medically underserved areas.

C.S.S.B. 2243 amends current law relating to the repayment of certain education loans for licensed physicians and dentists.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Higher Education Coordinating Board (THECB) is rescinded in SECTION 2 (Section 61.532, Education Code), SECTION 7 (Section 61.537, Education Code), and SECTION 10 (Section 61.902, Education Code) of this bill.

Rulemaking authority is expressly granted to THECB in SECTION 7 (Section 61.537, Education Code), SECTION 8 (Section 61.538, Education Code), and SECTION 18 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 61.531, Education Code, by adding Subsection (a-1) to require that preference be given under the physician loan repayment assistance program to primary care physicians and pediatric or geriatric subspecialists.

SECTION 2. Amends Section 61.532, Education Code, as follows:

Sec. 61.532. ELIGIBILITY. (a) Requires a physician, to be eligible to receive repayment assistance, to:

(1) apply to the Texas Higher Education Coordinating Board (THECB). Deletes existing text requiring a physician to have completed at least one year of medical practice in private practice in an economically depressed or rural medically underserved area of the state or for one of certain state agencies or for a certain approved family practice residency program;

(2) at the time of the application have an unrestricted license to practice medicine under Subtitle B (Physicians), Title 3 (Health Professions), Occupations Code; an authorization number that allows the physician to provide services to recipients under the medical assistance program authorized by Chapter 32 (Medical Assistance Program), Human Resources Code; and if the physician is a subspecialist, be certified or eligible for certification by the appropriate subspecialty board approved by the American Board of Medical Specialties or the American Osteopathic Association or approved by TMB by rule; and

(3) enter into a written contract with the state indicating the physician's commitment to fulfill a four-year continuous service obligation; and during each year of the service obligation provide to recipients under the medical assistance program authorized by Chapter 32, Human Resources Code, a targeted amount of services as established jointly under Subsection (b) by THECB and the Health and Human Services Commission (HHSC); or practice in an underserved area, as defined by rule by HHSC, and maintain a policy of providing the targeted amount of services to recipients under the medical assistance program as provided by Subparagraph (i) (relating to services provided under the medical assistance program). Deletes existing text requiring the physician to enter into a written contract with the state indicating the physician's commitment to during each year of the service obligation practice in a medically underserved area and maintain a policy of providing certain services for an approved family practice residency training program established under Subchapter I (Contracts for Medical Residency Programs) as a clinical faculty member and have completed training in an approved family practice residency training program on or after July 1, 1994.

(b) Requires THECB and HHSC to establish jointly for purposes of this subchapter target amounts for the provision of medical services to recipients under the medical assistance program authorized by Chapter 32, Human Resources Code. Requires THECB and HHSC to establish specified target amounts for services provided to children and to adults. Deletes existing text authorizing THECB to by rule provide for repayment assistance on a pro rata basis for physicians practicing part-time for an approved family practice residency training program established under Subchapter I of this chapter or a state agency specified in Subsection (a) of this section.

SECTION 3. Amends Section 61.533, Education Code, to authorize a physician to receive repayment assistance grants for not more than four years, rather than for each of not more than five years.

SECTION 4. Amends Sections 61.534(a) and (b), Education Code, as follows:

(a) Authorizes THECB to provide repayment assistance for the repayment of any student loan for education at a public or accredited private institution of higher education in the United States, rather than an institution of higher education, including loans for undergraduate, graduate, and medical education, received by a physician through any lender.

(b) Prohibits THECB from providing repayment assistance for a student loan that is in default at the time of the physician's application; consolidated with noneducation loans or with loans held by an entity other than the lender; subject to an existing service obligation or subject to any other state or federal student loan repayment or forgiveness program; or obtained by the physician during the physician's residency period, through the physician's insurance policy or pension plan, or from a person related to the physician within the third degree by consanguinity or the second degree by affinity, as determined under Subchapter B (Relationships by Consanguinity or By Affinity), Chapter 573 (Degrees of Relationship; Nepotism Prohibitions), Government Code. Makes nonsubstantive changes.

SECTION 5. Amends Section 61.535(a), Education Code, to require THECB, after each year of the physician's applicable service, to deliver any repayment made under this subchapter in a lump sum payable to both the physician and the lender or other holder of the affected loan, or directly to the lender or other holder of the loan on the physician's behalf, rather than to the lender and the physician in accordance with federal law. Makes a nonsubstantive change.

SECTION 6. Amends Section 61.536, Education Code, as follows:

Sec. 61.536. **ADVISORY COMMITTEES.** Authorizes THECB to appoint advisory committees from outside THECB's membership to assist THECB in performing its duties under this subchapter. Deletes existing text authorizing THECB to request the assistance of the Family Practice Residency Advisory Committee in performing those duties. Makes nonsubstantive changes.

SECTION 7. Amends Section 61.537, Education Code, as follows:

Sec. 61.537. **RULES.** (a) Requires THECB to adopt rules necessary for the administration of this subchapter, including a rule that sets a maximum amount of repayment assistance that may be received by a physician in one year. Deletes existing text requiring THECB to adopt a rule that authorizes the Family Practice Residency Advisory Committee to establish priorities among eligible physicians for repayment assistance, by taking into account the degree of physician shortage, geographic locations, whether the physician is or will be providing service in a medically underserved area, and other criteria the committee considers appropriate.

(b) Requires THECB to distribute to each medical unit and professional association, rather than each medical unit and appropriate state agency, copies of the rules adopted under this section and pertinent information in this subchapter.

SECTION 8. Amends Section 61.538, Education Code, as follows:

Sec. 61.538. New heading: **TOTAL AMOUNT OF REPAYMENT ASSISTANCE; TARGET NUMBER OF PROGRAM PARTICIPANTS.** (a) Creates this subsection from existing text.

(b) Prohibits the total amount of repayment assistance made under this subchapter to an individual physician from exceeding \$140,000 during the four-year service period.

SECTION 9. Amends Section 61.539(b), Education Code, to require the amount set aside to be transferred to the comptroller of public accounts to be maintained in the state treasury for the sole purpose of repayment of student loans of a physician who satisfies the eligibility requirements provided by this subchapter, rather than a physician serving in a designated state agency or in an area of this state that is economically depressed or that is a medically underserved area or health professional shortage area, as designated by the United States Department of Health and Human Services, that has a current shortage of physicians.

SECTION 10. Amends Section 61.902, Education Code, as follows:

Sec. 61.902. **ELIGIBILITY.** (a) Requires a dentist, to be eligible to receive repayment assistance, to:

(1) apply to THECB;

(2) at the time of application, have an unrestricted license to practice dentistry under Subtitle D (Dentistry), Title 3 (Health Professions), Occupations Code; an authorization number that allows the dentist to provide services to recipients under the medical assistance program authorized by Chapter 32, Human Resources Code; and if the dentist is a subspecialist, be certified or eligible for certification by the appropriate subspecialty board approved by the American Dental Association or approved by the State Board of Dental Examiners by rule; and

(3) enter into a written contract with the state indicating the dentist's commitment to fulfill a four-year continuous service obligation, and during each year of the service obligation meet certain requirements, included practicing in an underserved area, as defined by rule by HHSC, and maintain a policy of providing the targeted amount of services to recipients under the medical assistance program as provided by

Subparagraph (i) (relating to providing to recipients under the medical assistance program a certain targeted amount of services). Deletes existing text requiring a dentist to have completed at least one year of dental practice in an area of the state that is underserved with respect to dental care.

(b) Requires THECB and HHSC to establish jointly for purposes of this subchapter target amounts for the provision of dental services to recipients under the medical assistance program authorized by Chapter 32, Human Resources Code. Requires THECB and HHSC to establish specified target amounts for services provided to children and to adults. Deletes existing text authorizing THECB by rule to provide for repayment assistance on a pro rata basis for dentists in part-time practice described by Subsection (a).

SECTION 11. Amends Subchapter V, Chapter 61, Education Code, by adding Section 61.9035, as follows:

Sec. 61.9035. **LIMITATION.** Prohibits a dentist from receiving repayment assistance grants for more than four years.

SECTION 12. Amends Sections 61.904(a) and (b), Education Code, as follows:

(a) Authorizes THECB to provide repayment assistance for the repayment of any student loan for education at a public or accredited private institution of higher education in the United States, including loans for undergraduate, graduate, and professional dental education, received by a dentist through any lender.

(b) Prohibits THECB from providing repayment assistance, rather than authorizing the board to withhold repayment assistance, for a student loan that is in default at the time of the dentist's application; consolidated with noneducation loans or with loans held by an entity other than the lender; subject to an existing service obligation or subject to any other state or federal student loan repayment or forgiveness program; or obtained by the dentist during the dentist's residency period, through the dentist's insurance policy or pension plan, or from a person related to the dentist within the third degree by consanguinity or the second degree by affinity, as determined under Subchapter B, Chapter 573, Government Code.

SECTION 13. Amends Section 61.905(a), Education Code, to require THECB, after each year of the dentist's applicable service, to deliver any repayment made under this subchapter in a lump sum payable to both the dentist and the lender or holder of the affected loan, or directly to the lender or other holder of the loan on behalf of the dentist, rather than the lender and the dentist, in accordance with any applicable federal law.

SECTION 14. Amends Section 61.906, Education Code, as follows:

Sec. 61.906. **ADVISORY COMMITTEES.** Deletes existing text authorizing THECB to request the assistance of the Oral Health Services Advisory Committee in performing certain duties. Makes nonsubstantive changes.

SECTION 15. Amends Section 61.908, Education Code, as follows:

Sec. 61.908. **RULES.** (a) Deletes existing text authorizing THECB to consult with the Oral Health Services Advisory Committee to assist THECB in establishing priorities among eligible dentists for repayment assistance, taking into account the degree of an area's shortage of dental services, geographic locations, whether the dentist is or will be providing service in an underserved area with respect to dental services, and other criteria THECB considers appropriate.

(b) Requires THECB to distribute to each dental school in this state and professional associations, rather than to each dental school in this state and to

appropriate state agencies, copies of the rules adopted under this section and other pertinent information relating to this subchapter.

SECTION 16. Amends Section 61.909, Education Code, as follows:

Sec. 61.909. TOTAL AMOUNT OF REPAYMENT ASSISTANCE. (a) Creates this subsection from existing text.

(b) Prohibits the total amount of repayment assistance made under this subchapter to an individual dentist from exceeding \$140,000 during the four-year service period.

SECTION 17. Repealers: Sections 61.531(b) (relating to the provision that not more than 20 percent of the physicians receiving repayment assistance under this subchapter be employed by state agencies listed in Section 61.532(a)(2) (relating to certain state agencies)) and (c) (relating to the prohibition of a physician who receives repayment assistance not receiving assistance under Subchapter E, Chapter 106, Health and Safety Code).

SECTION 18. Requires THECB, as soon as practicable after the effective date of this Act, to adopt rules necessary to administer Subchapters J (Repayment of Certain Physician Education Loans) and V, Chapter 61, Education Code, as amended by this Act.

SECTION 19. Provides that this Act does not make an appropriation. Provides that this Act takes effect only if a specific appropriation for the implementation of the Act is provided in a general appropriations act of the 81st Legislature.

SECTION 20. Effective date: upon passage or September 1, 2009.