

By: Morrison

H.B. No. 4351

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the administration and operation of, and the
3 participation of state employees in, the state's programs for
4 prepaying or saving toward the costs of attending an institution of
5 higher education.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Section 54.603, Education Code, is amended to
8 read as follows:

9 Sec. 54.603. SUNSET PROVISION. The Prepaid Higher
10 Education Tuition Board is subject to Chapter 325, Government Code
11 (Texas Sunset Act). Unless continued in existence as provided by
12 that chapter, the board is abolished and the programs established
13 under this subchapter and under Subchapters [~~Subchapter~~] G and H
14 terminate September 1, 2019.

15 SECTION 2. Section 54.702, Education Code, is amended by
16 adding Subsection (h) to read as follows:

17 (h) The board may enter into an interagency contract with
18 the Employees Retirement System of Texas to allow an employee of
19 this state to enroll in the plan during the retirement system's
20 annual enrollment period. The board shall provide information and
21 materials regarding the plan to the retirement system for
22 distribution to state employees during the enrollment period.

23 SECTION 3. Section 54.751, Education Code, is amended by
24 amending Subdivisions (2) and (6) and adding Subdivision (3-a) to

1 read as follows:

2 (2) "Beneficiary" means the person designated under a
3 prepaid tuition contract as the person entitled to apply one or more
4 tuition units purchased under the contract to the payment of the
5 person's undergraduate tuition and required fees at a general
6 academic teaching institution, two-year institution of higher
7 education, private or independent institution of higher education,
8 career school, or accredited out-of-state institution of higher
9 education.

10 (3-a) "Career school" means a career school or college
11 as defined by Section 132.001 that offers a two-year associate
12 degree as approved by the Texas Higher Education Coordinating
13 Board.

14 (6) "Prepaid tuition contract" means a contract under
15 which a person purchases from the board on behalf of a beneficiary
16 one or more tuition units that the beneficiary is entitled to apply
17 to the payment of the beneficiary's undergraduate tuition and
18 required fees at a general academic teaching institution, two-year
19 institution of higher education, private or independent
20 institution of higher education, career school, or accredited
21 out-of-state institution of higher education.

22 SECTION 4. Section 54.752, Education Code, is amended by
23 adding Subsection (d) to read as follows:

24 (d) The board may enter into an interagency contract with
25 the Employees Retirement System of Texas to allow an employee of
26 this state to enroll in the program during the retirement system's
27 annual enrollment period. The board shall provide information and

1 materials regarding the program to the retirement system for
2 distribution to state employees during the enrollment period.

3 SECTION 5. Section 54.7521, Education Code, is amended to
4 read as follows:

5 Sec. 54.7521. TEXAS SAVE AND MATCH PROGRAM. (a) The board
6 by rule shall develop and shall implement the Texas Save and Match
7 program under which money paid by a purchaser under a prepaid
8 tuition contract may be matched with:

9 (1) contributions made by any person to the Texas Save
10 and Match program and used to purchase additional tuition units on
11 behalf of beneficiaries selected as provided by board rule; and

12 (2) money appropriated by the legislature for the
13 Texas Save and Match program and used to purchase additional
14 tuition units on behalf of beneficiaries:

15 (A) whose annual household income is below the
16 state median family income, adjusted for household size;

17 (B) whose enrollment in the program would, as
18 determined by the board, promote the participation goals and
19 targets of the most recent revision of "Closing the Gaps," the
20 state's master plan for higher education; or

21 (C) who meet other criteria established by board
22 rule.

23 (b) Notwithstanding other law, for purposes of Subchapter
24 I, Chapter 659, Government Code:

25 (1) the Texas Save and Match program is considered an
26 eligible charitable organization entitled to participate in a state
27 employee charitable campaign under Subchapter I, Chapter 659,

1 Government Code; and

2 (2) a state employee is entitled to authorize a
3 payroll deduction for contributions to the Texas Save and Match
4 program as a charitable contribution under Section 659.132,
5 Government Code.

6 SECTION 6. Section 54.753(a), Education Code, is amended to
7 read as follows:

8 (a) Under the program, a purchaser may prepay the costs of
9 all or a portion of a beneficiary's undergraduate tuition and
10 required fees at a general academic teaching institution, two-year
11 institution of higher education, private or independent
12 institution of higher education, career school, or accredited
13 out-of-state institution of higher education by entering into a
14 prepaid tuition contract with the board to purchase one or more
15 tuition units of a type described by this section at the applicable
16 price established by the board for that type of unit for the year in
17 which the unit is purchased. The portion of the beneficiary's
18 undergraduate tuition and required fees for which a tuition unit
19 may be redeemed at a particular general academic teaching
20 institution or two-year institution of higher education is assigned
21 to the tuition unit at the time of purchase, and the tuition unit
22 may be redeemed to pay that portion of the tuition and fees at the
23 general academic teaching institution or two-year institution of
24 higher education in any academic year in which the unit is redeemed
25 in accordance with this subchapter. The purchaser may purchase one
26 type of unit or a combination of two or three types of units.

27 SECTION 7. Section 54.754(d), Education Code, is amended to

1 read as follows:

2 (d) If a beneficiary redeems fewer tuition units of the type
3 or combination of types necessary to pay the total cost of the
4 beneficiary's tuition and required fees at the general academic
5 teaching institution, two-year institution of higher education,
6 private or independent institution of higher education, career
7 school, or accredited out-of-state institution of higher education
8 at which the beneficiary enrolls, the beneficiary is responsible
9 for paying the amount of the difference between the amount of
10 tuition and required fees for which the beneficiary pays through
11 the redemption of one or more tuition units and the total cost of
12 the beneficiary's tuition and required fees at the institution.

13 SECTION 8. Sections 54.765(a), (b), (c), (f), and (g),
14 Education Code, are amended to read as follows:

15 (a) Except as provided by Subsection (h) [~~(e)~~], the
16 comptroller is the custodian of the assets of the fund.

17 (b) The comptroller shall pay money from the fund [~~on a~~
18 ~~warrant drawn by the comptroller~~] supported only by [~~on~~] a voucher
19 signed by the comptroller or the comptroller's authorized
20 representative. The comptroller may designate the plan manager as
21 the comptroller's authorized representative to pay expenditures or
22 transfer funds under this section and Sections 54.766 and 54.767.

23 (c) When a beneficiary enrolls at a general academic
24 teaching institution or two-year institution of higher education,
25 on written authorization from the purchaser of the tuition unit or
26 units for that beneficiary, the comptroller or the comptroller's
27 authorized representative shall transfer to the institution an

1 amount equal to the lesser of:

2 (1) the sum of:

3 (A) the total purchase price of the tuition unit
4 or units the beneficiary redeems for the semester or other academic
5 term; and

6 (B) the amount determined under Subsection (d);
7 or

8 (2) an amount equal to 101 percent of the amount of
9 tuition and required fees covered by the tuition units being
10 redeemed.

11 (f) When a beneficiary enrolls at a private or independent
12 institution of higher education, career school, or accredited
13 out-of-state institution of higher education, on written
14 authorization from the purchaser of the tuition unit or units for
15 that beneficiary, the comptroller or the comptroller's authorized
16 representative shall transfer to the institution the lesser of:

17 (1) an amount equal to the current cost of the tuition
18 and required fees that would be covered by redemption of the number
19 and type of tuition units the beneficiary is redeeming if the
20 beneficiary were redeeming the unit or units at a general academic
21 teaching institution or two-year institution of higher education as
22 follows:

23 (A) for a Type I unit, at the general academic
24 teaching institution that [~~in the sales year in which the unit was~~
25 ~~purchased,~~] had the highest tuition and required fee cost;

26 (B) for a Type II unit, at a general academic
27 teaching institution that [~~in the sales year in which the unit was~~

1 ~~purchased,~~] had tuition and required fee cost at the weighted
2 average; and

3 (C) for a Type III unit, at a two-year
4 institution of higher education that [~~, in the sales year in which~~
5 ~~the unit was purchased,~~] had tuition and required fee cost at the
6 weighted average; or

7 (2) an amount equal to the total purchase price of the
8 tuition unit or units the beneficiary redeems for the semester or
9 other academic term plus the portion of the total return on assets
10 of the fund attributable to that amount.

11 (g) The comptroller annually shall provide to the board a
12 sworn statement of the amount of the fund's assets in the
13 comptroller's or plan manager's custody. The plan manager shall
14 provide to the comptroller a quarterly report of all funds
15 distributed during the previous quarter. The comptroller may
16 require more frequent reports or may request that the plan manager
17 provide any additional information at any time necessary to ensure
18 that the fund's assets are adequately protected.

19 SECTION 9. Section 54.767, Education Code, is amended to
20 read as follows:

21 Sec. 54.767. USE OF FUND ASSETS. The assets of the fund may
22 be used only to:

23 (1) pay the costs of program administration and
24 operations;

25 (2) make payments to general academic teaching
26 institutions, two-year institutions of higher education, private
27 or independent institutions of higher education, career schools,

1 and accredited out-of-state institutions of higher education on
2 behalf of beneficiaries; and

3 (3) make refunds under prepaid tuition contracts.

4 SECTION 10. Section 54.7671(b), Education Code, is amended
5 to read as follows:

6 (b) For purposes of a transfer of money from an account
7 under this subchapter, the value of the account at the time of
8 transfer is the lesser of:

9 (1) an amount equal to the cost, at the time of the
10 transfer, of the tuition and required fees that would be covered by
11 redemption of the number and type of tuition units to be transferred
12 from the account if the beneficiary were redeeming the units at a
13 general academic teaching institution or two-year institution of
14 higher education as follows:

15 (A) for a Type I unit, at the general academic
16 teaching institution that [~~in the sales year in which the unit was~~
17 ~~purchased,~~] had the highest tuition and required fee cost;

18 (B) for a Type II unit, at a general academic
19 teaching institution that [~~in the sales year in which the unit was~~
20 ~~purchased,~~] had tuition and required fee cost at the weighted
21 average; and

22 (C) for a Type III unit, at a two-year
23 institution of higher education that [~~in the sales year in which~~
24 ~~the unit was purchased,~~] had tuition and required fee cost at the
25 weighted average; or

26 (2) an amount equal to the total purchase price of the
27 tuition units to be transferred from the account, plus the portion

1 of the total return on assets of the fund attributable to that
2 amount.

3 SECTION 11. Sections 54.769(b) and (c), Education Code, are
4 amended to read as follows:

5 (b) The rights of a purchaser, beneficiary, or successor in
6 interest of a purchaser or beneficiary in and under a prepaid
7 tuition contract and the payment of tuition and required fees for a
8 beneficiary under a prepaid tuition contract to a general academic
9 teaching institution, two-year institution of higher education,
10 private or independent institution of higher education, career
11 school, or accredited out-of-state institution of higher education
12 under this chapter are exempt from attachment, levy, garnishment,
13 execution, and seizure for the satisfaction of any debt, judgment,
14 or claim against a purchaser, beneficiary, or successor in interest
15 of a purchaser or beneficiary.

16 (c) A claim or judgment against a purchaser, beneficiary, or
17 successor in interest of a purchaser or beneficiary does not impair
18 or entitle the claim or judgment holder to assert or enforce a lien
19 against:

20 (1) the rights of a purchaser, beneficiary, or
21 successor in interest of a purchaser or beneficiary in and under a
22 prepaid tuition contract; or

23 (2) the right of a beneficiary to the payment of
24 tuition and required fees to a general academic teaching
25 institution, two-year institution of higher education, private or
26 independent institution of higher education, career school, or
27 accredited out-of-state institution of higher education under a

1 prepaid tuition contract.

2 SECTION 12. Section 54.774(a), Education Code, is amended
3 to read as follows:

4 (a) A prepaid tuition contract remains in effect after the
5 program is terminated if, when the program is terminated, the
6 beneficiary:

7 (1) has been accepted by or is enrolled at a general
8 academic teaching institution, two-year institution of higher
9 education, private or independent institution of higher education,
10 career school, or accredited out-of-state institution of higher
11 education; or

12 (2) is projected to graduate from high school not
13 later than the third anniversary of the date the program is
14 terminated.

15 SECTION 13. Section 54.775(b), Education Code, is amended
16 to read as follows:

17 (b) Notwithstanding Subsection (a), the board may release
18 information described by that subsection to a general academic
19 teaching institution, two-year institution of higher education,
20 private or independent institution of higher education, career
21 school, or accredited out-of-state institution of higher education
22 at which a beneficiary may enroll or is enrolled. The institution
23 shall keep the information confidential.

24 SECTION 14. The Texas Save and Match program is entitled to
25 participate in the state employee charitable campaign conducted
26 during the autumn of 2009 without regard to any limitation on the
27 time during which an organization must apply to participate in the

1 campaign.

2 SECTION 15. (a) If this Act takes effect immediately, a
3 state employee is entitled to enroll in the Texas tomorrow fund II
4 plan during the Employees Retirement System of Texas' annual open
5 enrollment period during the summer of 2009.

6 (b) If this Act takes effect September 1, 2009, it is the
7 legislature's intent that the Employees Retirement System of Texas
8 take the appropriate administrative actions necessary to ensure
9 that state employees be allowed to enroll in the Texas tomorrow fund
10 II plan effective September 1, 2009. Those administrative actions
11 may include allowing state employees to participate in the annual
12 open enrollment period during the summer of 2009.

13 SECTION 16. This Act takes effect immediately if it
14 receives a vote of two-thirds of all the members elected to each
15 house, as provided by Section 39, Article III, Texas Constitution.
16 If this Act does not receive the vote necessary for immediate
17 effect, this Act takes effect September 1, 2009.