

By: Zaffirini, et al.

S.B. No. 1443

A BILL TO BE ENTITLED

AN ACT

relating to the academic costs charged to resident undergraduate students by general academic teaching institutions, to student financial assistance funded by tuition set-asides, and to certain reports regarding certain costs of those institutions.

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

SECTION 1. Subchapter A, Chapter 54, Education Code, is amended by adding Section 54.016 to read as follows:

Sec. 54.016. LIMITATION ON INCREASE IN TOTAL ACADEMIC COSTS CHARGED TO RESIDENT UNDERGRADUATE STUDENTS. (a) In this section:

(1) "General academic teaching institution" has the meaning assigned by Section 61.003.

(2) "Core operational costs" means those costs as estimated by the Legislative Budget Board under Section 51.973.

(3) "Total academic costs":

(A) includes:

(i) tuition for which the rates are prescribed by this chapter;

(ii) tuition charged by a general academic teaching institution under Section 54.0513 or another law authorizing a general academic teaching institution to establish tuition rates;

(iii) mandatory academic fees; and

(iv) any other academic-related general

1 fees and course fees, including fees for laboratories, field trips,
2 access to Internet or multimedia service, equipment replacement,
3 and instructional technology; and

4 (B) does not include optional fees charged to a
5 student for voluntary services or a fee approved by students of the
6 institution in a referendum held at the institution for that
7 purpose.

8 (b) Subject to the additional limitations provided by
9 Subsections (c) and (d), if for any state fiscal biennium the
10 legislature appropriates to a general academic teaching
11 institution from undedicated general revenue an amount that is less
12 than the amount necessary to fully fund the institution's core
13 operational costs for that biennium, the total academic costs
14 charged by the institution to undergraduate students who are
15 residents of this state for an academic year of that biennium may
16 not exceed the amount that, when added to the amount of undedicated
17 general revenue appropriated to the institution for the
18 corresponding state fiscal year for that purpose, is equal to the
19 institution's core operational costs for that corresponding state
20 fiscal year.

21 (c) This subsection applies only to a general academic
22 teaching institution whose per student total academic costs for the
23 academic years covered by the most recent state fiscal biennium are
24 more than the amount of those per student costs charged by the
25 general academic teaching institution or institutions that are at
26 the median for those costs for those years, according to the list of
27 institutions certified by the Legislative Budget Board under

1 Section 51.973(a)(2). The limitation provided by this subsection
2 is in addition to the limitations provided by Subsections (b) and
3 (d) on the total academic costs that may be charged by a general
4 academic teaching institution. The total academic costs charged by
5 a general academic teaching institution in an academic year to an
6 undergraduate student who is a resident of this state may not exceed
7 the total academic costs that the institution would have charged to
8 a similarly situated student in the preceding academic year, as
9 that amount is adjusted for the current academic year for inflation
10 as provided by this subsection. Not later than January 15 of each
11 year, the Legislative Budget Board shall publish and certify to the
12 governing board of each general academic teaching institution the
13 inflation rate to be used for purposes of this subsection for the
14 next academic year. For purposes of this subsection, the inflation
15 rate is the average of the percentage increase, if any, as expressed
16 in decimal form rounded to the nearest thousandth, in the consumer
17 price index, as defined by Section 341.201, Finance Code, for each
18 of the three most recent preceding calendar years as compared to the
19 consumer price index for the year preceding each of those years. If
20 the average percentage increase for those three years is less than
21 zero, the inflation rate to be used for purposes of this subsection
22 for the next academic year is zero.

23 (d) This subsection applies only to a general academic
24 teaching institution whose per student total academic costs for the
25 academic years covered by the most recent state fiscal biennium are
26 more than the amount of those per student costs charged by the
27 general academic teaching institution or institutions that are at

1 the median for those costs for those years according to the list of
2 institutions certified by the Legislative Budget Board under
3 Section 51.973(a)(2). The limitation provided by this subsection
4 is in addition to the limitations provided by Subsections (b) and
5 (c) on the total academic costs that may be charged by a general
6 academic teaching institution. The total academic costs charged by
7 a general academic teaching institution in an academic year to an
8 undergraduate student who is a resident of this state may not exceed
9 the total academic costs that the institution would have charged to
10 a similarly situated student in the preceding academic year by more
11 than five percent.

12 (e) Notwithstanding Section 54.0513(c), the legislature in
13 an appropriations Act may provide for an adjustment of general
14 revenue appropriated to a general academic teaching institution for
15 a state fiscal year to account for an increase in the amount of
16 total academic costs charged by the institution in that fiscal year
17 to an individual student of the institution to whom this section
18 applies, in excess of an amount specified in the appropriations
19 Act, if the legislature specifies such an amount in that Act.

20 (e-1) This subsection applies to total academic costs
21 charged to students for the 2009-2010 academic year by a general
22 academic teaching institution other than an institution to which
23 Subsection (e-3) applies. Subsections (b), (c), and (d) do not
24 apply to those costs charged by an institution to which this
25 subsection applies in an academic year to which this subsection
26 applies. In an academic year to which this subsection applies, the
27 total academic costs charged by a general academic teaching

1 institution to an undergraduate student who is a resident of this
2 state may not exceed the total academic costs that the institution
3 would have charged to a similarly situated student in the 2008-2009
4 academic year by more than the greater of:

5 (1) five percent; or

6 (2) \$315.

7 (e-2) This subsection applies to total academic costs
8 charged to students for the 2010-2011 academic year by a general
9 academic teaching institution to which Subsection (e-3) does not
10 apply that did not increase the rate of designated tuition charged
11 to any student under Section 54.0513 in the 2008-2009 academic year
12 from the rate charged by the institution to a similarly situated
13 student under that section in the 2007-2008 academic year. This
14 subsection also applies to total academic costs charged to students
15 for the 2010-2011 academic year by a general academic teaching
16 institution that in the 2008-2009 academic year did not yet operate
17 as an independent general academic teaching institution and at
18 which the rate of designated tuition charged to any student under
19 Section 54.0513 in the 2008-2009 academic year did not exceed the
20 rate charged to a similarly situated student under that section in
21 the 2007-2008 academic year. Subsections (b), (c), and (d) do not
22 apply to those costs charged by an institution to which this
23 subsection applies in an academic year to which this subsection
24 applies. In an academic year to which this subsection applies, the
25 total academic costs charged by a general academic teaching
26 institution to an undergraduate student who is a resident of this
27 state may not exceed the total academic costs that the institution

1 would have charged to a similarly situated student in the preceding
2 academic year by more than the greater of:

3 (1) five percent; or

4 (2) \$315.

5 (e-3) This subsection applies to total academic costs
6 charged to students for the 2009-2010 and 2010-2011 academic years
7 by a general academic teaching institution that before April 15,
8 2009, established rates for total academic costs for the 2009-2010
9 academic year that will result in an amount of total academic costs
10 charged for that academic year to an undergraduate student who is a
11 resident of this state that exceeds the total academic costs that
12 the institution would have charged to a similarly situated student
13 in the preceding academic year by more than five percent.
14 Subsections (b), (c), and (d) do not apply to those costs charged by
15 an institution in an academic year to which this subsection
16 applies. In an academic year to which this subsection applies, the
17 total academic costs charged by a general academic teaching
18 institution to an undergraduate student who is a resident of this
19 state may not exceed the total academic costs that the institution
20 would have charged to a similarly situated student in the 2008-2009
21 academic year by more than \$630.

22 (e-4) This subsection and Subsections (e-1), (e-2), and
23 (e-3) expire September 1, 2011.

24 (f) For purposes of this section, students are similarly
25 situated if they share the same residency status, degree program,
26 course load, course level, tuition exemption status, and other
27 circumstances affecting the total academic costs charged to the

1 student.

2 (g) This section does not ensure that the total academic
3 costs charged to an individual student will not increase by more
4 than the limitation prescribed by Subsection (b) or (c) based on a
5 change in the student's residency status, degree program, course
6 load, course level, tuition exemption status, or other circumstance
7 affecting the total academic costs charged to the student.

8 SECTION 2. Subchapter A, Chapter 54, Education Code, is
9 amended by adding Section 54.017 to read as follows:

10 Sec. 54.017. STABILIZATION OF TOTAL ACADEMIC COSTS; STUDENT
11 OPTION. (a) In this section:

12 (1) "Academic fees":

13 (A) include mandatory academic fees and any other
14 academic-related general fees and course fees, including fees for
15 laboratories, field trips, access to Internet or multimedia
16 service, equipment replacement, and instructional technology; and

17 (B) do not include optional fees charged to a
18 student for voluntary services or a fee approved by students of the
19 institution in a referendum held at the institution for that
20 purpose.

21 (2) "Coordinating board" means the Texas Higher
22 Education Coordinating Board.

23 (3) "General academic teaching institution" has the
24 meaning assigned by Section 61.003.

25 (4) "Tuition" includes:

26 (A) tuition for which the rates are prescribed by
27 this chapter; and

1 (B) tuition charged by a general academic
2 teaching institution under Section 54.0513 or another law
3 authorizing a general academic teaching institution to establish
4 tuition rates.

5 (b) The governing board of a general academic teaching
6 institution may offer an eligible student the option to pay tuition
7 and academic fees as provided by this section.

8 (c) This section applies only to an undergraduate student
9 who:

10 (1) enrolls at a general academic teaching
11 institution;

12 (2) after satisfying the requirement of Subdivision
13 (1), remains continuously enrolled at a general academic teaching
14 institution until graduation, except as provided under rules
15 adopted under Subsection (j);

16 (3) at all times while the student is enrolled at a
17 general academic teaching institution, is a resident of this state
18 for purposes of Subchapter B or is otherwise entitled to pay tuition
19 and fees at the rate provided for residents of this state; and

20 (4) elects to pay tuition and academic fees under this
21 section.

22 (d) Except as provided by Subsection (h) or by rules adopted
23 under Subsection (j), this section applies only to the amount of
24 tuition and academic fees charged under this chapter to a student as
25 follows:

26 (1) for a student enrolled in a four-year degree
27 program, on or before the fourth anniversary of the date the student

1 first enrolls in a general academic teaching institution;

2 (2) for a student enrolled in a degree program of any
3 other length, not later than the end of the standard completion
4 period for that program, as established by the general academic
5 teaching institution awarding the degree; or

6 (3) if the student is a transfer student, not later
7 than the end of the period established by the general academic
8 teaching institution for the completion of the student's degree
9 program based on the academic credit the student receives from the
10 transfer of courses.

11 (e) Notwithstanding any other provision of this chapter but
12 subject to the applicability provisions of this section, a general
13 academic teaching institution may not charge to a student for any
14 course in which the student enrolls after the student's freshman
15 year tuition at a rate that exceeds the rate in effect for that
16 course during the student's freshman year or, for a course that was
17 not offered during the student's freshman year, a rate that exceeds
18 the rate in effect for an equivalent course during the student's
19 freshman year.

20 (f) Notwithstanding any other provision of this chapter but
21 subject to the applicability provisions of this section, if a
22 student transfers to a general academic teaching institution from
23 another institution of higher education and the student has
24 remained continuously enrolled in an institution of higher
25 education beginning with the student's freshman year, the general
26 academic teaching institution to which the student transfers may
27 not charge to the student for any course in which the student

1 enrolls after the student's freshman year tuition at a rate that
2 exceeds the rate in effect for that course at the receiving
3 institution during the student's freshman year or, for a course
4 that was not offered at the receiving institution during the
5 student's freshman year, a rate that exceeds the rate in effect for
6 an equivalent course at the receiving institution during the
7 student's freshman year.

8 (g) Notwithstanding any other provision of this chapter, in
9 any semester or other academic term in which the amount of tuition
10 that a general academic teaching institution may charge a student
11 is limited by Subsection (e) or (f), the institution may not charge
12 the student an academic fee in an amount that exceeds the amount of
13 the fee that the institution would have charged the student in the
14 student's freshman year, regardless of whether the student was
15 enrolled in that institution in the student's freshman year. For an
16 academic fee that was not charged in the student's freshman year,
17 after the fee is initially charged, the institution may not
18 increase the amount of the fee charged to the student in any
19 subsequent semester or other term to which this subsection applies.

20 (h) Notwithstanding any other provision of this chapter,
21 after the period described by Subsection (d), a general academic
22 teaching institution may not charge a student to whom this section
23 applies:

24 (1) tuition for any course at a rate that exceeds the
25 rate the institution charges for the same or a similar course to a
26 student who enrolls as a first-time resident freshman in the same
27 academic year; or

1 (2) an academic fee in an amount that exceeds the
2 amount of the fee the institution charges a first-time resident
3 freshman student enrolled in the same degree program and with the
4 same course load in the same semester or other academic term.

5 (i) In consultation with general academic teaching
6 institutions, the coordinating board shall adopt any rules
7 necessary to administer this section, including:

8 (1) rules relating to the equivalency of courses
9 offered during a student's freshman year and courses in which the
10 student enrolls after the student's freshman year;

11 (2) rules consistent with Subsection (f) that:

12 (A) provide for determining tuition rates for
13 students who transfer between institutions of higher education; and

14 (B) prescribe the types of documentation a
15 transfer student must submit to establish eligibility under that
16 subsection; and

17 (3) rules as described by Subsection (j) to allow
18 students to suspend their enrollment or giving students additional
19 time to complete their degree programs.

20 (j) The coordinating board shall adopt rules to allow a
21 student to pay tuition at the rates provided by Subsection (e) or
22 (f), as applicable, and to pay academic fees in the amounts provided
23 by Subsection (g) if the student satisfies the other requirements
24 of this section but, solely as a result of a hardship or other good
25 cause shown, is unable to remain continuously enrolled at a general
26 academic teaching institution as required by Subsection (c)(2) or
27 other institution of higher education as required by Subsection

1 (f), or to complete the student's degree program before the
2 applicable date described by Subsection (d). For purposes of this
3 subsection, a hardship or other good cause shown includes a showing
4 of:

5 (1) a severe illness or other debilitating condition
6 that affects the student's ability to satisfy the requirement of
7 Subsection (c)(2), (d), or (f); or

8 (2) the student's responsibility for the care of a
9 sick, injured, or needy person if the provision of care affects the
10 student's ability to satisfy the requirement of Subsection (c)(2),
11 (d), or (f).

12 (k) The limitations on total academic costs that may be
13 charged to a student provided under Sections 54.016(c) and (d) and
14 under Section 54.016(e-1), (e-2), or (e-3), as applicable to the
15 institution, do not apply to a student who elects to pay tuition and
16 academic fees under this section during the period described by
17 Subsection (d) applicable to the student. Beginning with the
18 2010-2011 academic year, the amount of tuition and academic fees
19 charged by an institution to a freshman student under this section
20 for an academic year may not exceed the amount of tuition and
21 academic fees that the institution would have charged to a
22 similarly situated freshman student under this section in the
23 preceding academic year by more than five percent.

24 (l) This section does not apply to a student who enters an
25 institution of higher education for the first time before the 2009
26 fall semester. This subsection expires January 1, 2015.

27 SECTION 3. Section 54.0513, Education Code, is amended by

1 amending Subsection (c) and adding Subsection (g) to read as
2 follows:

3 (c) Amounts collected by an institution of higher education
4 under this section are institutional funds as defined by Section
5 51.009 [~~of this code~~] and shall be accounted for as designated
6 funds. These funds shall not be accounted for in a general
7 appropriations act in such a way as to reduce the general revenue
8 appropriation to a particular institution except as provided by
9 Section 54.016(e).

10 (g) In setting the rate or rates of tuition to be charged
11 under this section for an academic year, the governing board of each
12 institution to which this section applies shall take into account
13 any reduction in the percentage of that tuition that will be
14 required to be set aside for student financial assistance under
15 Subchapter B, Chapter 56, from the percentage required to be set
16 aside in the preceding academic year, and shall ensure that any
17 increase in the rate or rates of tuition charged under this section
18 that the governing board would otherwise have made for that
19 academic year is reduced accordingly.

20 SECTION 4. Section 54.0515, Education Code, is amended by
21 amending Subsections (e) and (f) and adding Subsections (f-1) and
22 (f-2) to read as follows:

23 (e) It is the legislature's intent that each institution of
24 higher education[~~, as a condition to tuition deregulation under~~
25 ~~Section 54.0513,~~] reasonably implement the following:

26 (1) each institution shall make satisfactory progress
27 towards the goals provided in its master plan for higher education

1 and in "Closing the Gaps," the state's master plan for higher
2 education; and

3 (2) each institution shall meet acceptable
4 performance criteria, including measures such as graduation rates,
5 retention rates, enrollment growth, educational quality, efforts
6 to enhance minority participation, opportunities for financial
7 aid, and affordability.

8 (f) The committee shall:

9 (1) meet at the call of either chair;

10 (2) monitor and regularly report to the legislature on
11 each institution of higher education's compliance with the
12 requirements of Subsection (e); and

13 (3) receive and review information concerning the
14 affordability and accessibility of higher education[~~, including~~
15 ~~the impact of tuition deregulation~~].

16 (f-1) The committee shall oversee the Legislative Budget
17 Board's development of:

18 (1) the methodology under Section 51.973(a)(1) used
19 for estimating the core operational costs of general academic
20 teaching institutions under that subdivision; and

21 (2) the list of general academic teaching institutions
22 certified under Section 51.973(a)(2) used for determining the
23 institutions to which Sections 54.016(c) and (d) apply.

24 (f-2) It is the intent of the legislature, not later than
25 the 2014-2015 academic year, to phase out the requirements provided
26 by Subchapter B, Chapter 56, that a portion of tuition charged under
27 Section 54.0513 be set aside for student financial assistance. The

1 committee shall examine and make recommendations for an appropriate
2 timetable and procedures for phasing out the set-aside
3 requirements, including recommendations regarding replacing
4 revenue lost as a result of the phase-out from the general revenue
5 fund or other appropriate sources. For that purpose, the committee
6 shall solicit relevant information and recommendations from
7 affected institutions of higher education, including information
8 regarding the types of financial assistance that are funded from
9 the amounts set aside, and the impact that phasing out the set-aside
10 requirement would have on the financial assistance program of each
11 institution.

12 SECTION 5. Subchapter Z, Chapter 51, Education Code, is
13 amended by adding Section 51.973 to read as follows:

14 Sec. 51.973. BIENNIAL REPORT BY LEGISLATIVE BUDGET BOARD
15 REGARDING CERTAIN UNIVERSITY COSTS. (a) Not later than September
16 1 of each even-numbered year, the Legislative Budget Board shall
17 submit to the Senate Finance Committee, the House Appropriations
18 Committee, and the standing committee of each house with primary
19 jurisdiction over higher education:

20 (1) for consideration by the members of those
21 committees in determining the amount of general revenue
22 appropriations to general academic teaching institutions and
23 tuition rates at those institutions, the Legislative Budget Board's
24 estimate of the core operational costs for the next state fiscal
25 biennium for each general academic teaching institution, based on a
26 methodology that:

27 (A) projects for each year of the next biennium:

1 (i) changes in student enrollment for each
2 institution; and

3 (ii) a rate of inflation; and

4 (B) uses data from each institution's annual
5 financial report regarding costs for instruction, academic
6 support, institutional support, operations and maintenance of
7 physical plants, and student services; and

8 (2) for purposes of determining the general academic
9 teaching institutions to which Sections 54.016(c) and (d) apply, a
10 certified list of all general academic teaching institutions ranked
11 according to the amount of total academic costs charged per student
12 in the academic years covered by the current state fiscal biennium,
13 including an indication of the institutions to which Sections
14 54.016(c) and (d) apply.

15 (b) Beginning in 2013, the Legislative Budget Board shall
16 submit with its estimate under Subsection (a)(1) a comparison of
17 each institution's actual core operational costs for the preceding
18 state fiscal biennium to the board's previous estimate of the
19 institution's core operational costs for that biennium.

20 SECTION 6. Subsection (a), Section 56.011, Education Code,
21 is amended to read as follows:

22 (a) The governing board of each institution of higher
23 education shall cause to be set aside not less than 15 [~~20~~] percent
24 of any amount of tuition charged to a resident undergraduate
25 student under Section 54.0513 in excess of \$46 per semester credit
26 hour. The funds set aside under this section by an institution
27 shall be used to provide financial assistance for resident

1 undergraduate students enrolled in the institution.

2 SECTION 7. Section 56.465, Education Code, is repealed.

3 SECTION 8. Not later than September 1, 2010, each general
4 academic teaching institution shall submit to the Legislative
5 Budget Board, the Senate Committee on Finance, the House
6 Appropriations Committee, and the standing committee of each house
7 with primary jurisdiction over higher education a detailed plan for
8 reducing the institution's operational costs by at least five
9 percent.

10 SECTION 9. The Texas Higher Education Coordinating Board
11 shall adopt the rules required by Section 54.017, Education Code,
12 as added by this Act, as soon as practicable after this Act takes
13 effect. For that purpose, the coordinating board may adopt the
14 initial rules in the manner provided by law for emergency rules.

15 SECTION 10. (a) The changes in law made by this Act to
16 Subsection (a), Section 56.011, Education Code, apply beginning
17 with tuition charged for the 2010-2011 academic year.

18 (b) The repeal by this Act of Section 56.465, Education
19 Code, applies beginning with tuition charged for the 2010-2011
20 academic year.

21 SECTION 11. This Act does not make an appropriation. This
22 Act takes effect only if a specific appropriation for the
23 implementation of the Act is provided in a general appropriations
24 act of the 81st Legislature.

25 SECTION 12. (a) Except as provided by Section 11 of this
26 Act and by Subsection (b) of this section, this Act takes effect
27 immediately if it receives a vote of two-thirds of all the members

1 elected to each house, as provided by Section 39, Article III, Texas
2 Constitution. If this Act does not receive the vote necessary for
3 immediate effect, this Act takes effect September 1, 2009, except
4 as provided by Section 11 of this Act and by Subsection (b) of this
5 section.

6 (b) Sections 6, 7, and 10 of this Act take effect August 1,
7 2010, but only if the 81st Legislature, in an appropriations act
8 enacted on or before that date, appropriates state revenue to the
9 institutions of higher education to which Section 56.465, Education
10 Code, applies for the express purpose of providing additional
11 revenue for the Texas B-On-time loan program to replace the portion
12 of tuition set aside for that program under Section 54.465,
13 Education Code.