

AN ACT

relating to the administration and operation of the state's programs for prepaying or saving toward the costs of attending an institution of higher education.

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

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

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

SECTION 2. Section 54.751, Education Code, is amended by amending Subdivisions (2) and (6) and adding Subdivision (3-a) to read as follows:

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

1 (3-a) "Career school" means a career school or college
2 as defined by Section 132.001 that offers a two-year associate
3 degree as approved by the Texas Higher Education Coordinating
4 Board.

5 (6) "Prepaid tuition contract" means a contract under
6 which a person purchases from the board on behalf of a beneficiary
7 one or more tuition units that the beneficiary is entitled to apply
8 to the payment of the beneficiary's undergraduate tuition and
9 required fees at a general academic teaching institution, two-year
10 institution of higher education, private or independent
11 institution of higher education, career school, or accredited
12 out-of-state institution of higher education.

13 SECTION 3. Section 54.7521, Education Code, is amended to
14 read as follows:

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

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

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

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

27 (B) whose enrollment in the program would, as

1 determined by the board, promote the participation goals and
2 targets of the most recent revision of "Closing the Gaps," the
3 state's master plan for higher education; or

4 (C) who meet other criteria established by board
5 rule.

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

8 (1) the Texas Save and Match program is considered an
9 eligible charitable organization entitled to participate in a state
10 employee charitable campaign under Subchapter I, Chapter 659,
11 Government Code; and

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

16 SECTION 4. Subsection (a), Section 54.753, Education Code,
17 is amended to read as follows:

18 (a) Under the program, a purchaser may prepay the costs of
19 all or a portion of a beneficiary's undergraduate tuition and
20 required fees at a general academic teaching institution, two-year
21 institution of higher education, private or independent
22 institution of higher education, career school, or accredited
23 out-of-state institution of higher education by entering into a
24 prepaid tuition contract with the board to purchase one or more
25 tuition units of a type described by this section at the applicable
26 price established by the board for that type of unit for the year in
27 which the unit is purchased. The portion of the beneficiary's

1 undergraduate tuition and required fees for which a tuition unit
2 may be redeemed at a particular general academic teaching
3 institution or two-year institution of higher education is assigned
4 to the tuition unit at the time of purchase, and the tuition unit
5 may be redeemed to pay that portion of the tuition and fees at the
6 general academic teaching institution or two-year institution of
7 higher education in any academic year in which the unit is redeemed
8 in accordance with this subchapter. The purchaser may purchase one
9 type of unit or a combination of two or three types of units.

10 SECTION 5. Subsection (d), Section 54.754, Education Code,
11 is amended to read as follows:

12 (d) If a beneficiary redeems fewer tuition units of the type
13 or combination of types necessary to pay the total cost of the
14 beneficiary's tuition and required fees at the general academic
15 teaching institution, two-year institution of higher education,
16 private or independent institution of higher education, career
17 school, or accredited out-of-state institution of higher education
18 at which the beneficiary enrolls, the beneficiary is responsible
19 for paying the amount of the difference between the amount of
20 tuition and required fees for which the beneficiary pays through
21 the redemption of one or more tuition units and the total cost of
22 the beneficiary's tuition and required fees at the institution.

23 SECTION 6. Subsections (a), (b), (c), (f), and (g), Section
24 54.765, Education Code, are amended to read as follows:

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

27 (b) The comptroller shall pay money from the fund [~~on a~~

1 ~~warrant drawn by the comptroller]~~ supported only by ~~[on]~~ a voucher
2 signed by the comptroller or the comptroller's authorized
3 representative. The comptroller may designate the plan manager as
4 the comptroller's authorized representative to pay expenditures or
5 transfer funds under this section and Sections 54.766 and 54.767.

6 (c) When a beneficiary enrolls at a general academic
7 teaching institution or two-year institution of higher education,
8 on written authorization from the purchaser of the tuition unit or
9 units for that beneficiary, the comptroller or the comptroller's
10 authorized representative shall transfer to the institution an
11 amount equal to the lesser of:

12 (1) the sum of:

13 (A) the total purchase price of the tuition unit
14 or units the beneficiary redeems for the semester or other academic
15 term; and

16 (B) the amount determined under Subsection (d);
17 or

18 (2) an amount equal to 101 percent of the amount of
19 tuition and required fees covered by the tuition units being
20 redeemed.

21 (f) When a beneficiary enrolls at a private or independent
22 institution of higher education, career school, or accredited
23 out-of-state institution of higher education, on written
24 authorization from the purchaser of the tuition unit or units for
25 that beneficiary, the comptroller or the comptroller's authorized
26 representative shall transfer to the institution the lesser of:

27 (1) an amount equal to the current cost of the tuition

1 and required fees that would be covered by redemption of the number
2 and type of tuition units the beneficiary is redeeming if the
3 beneficiary were redeeming the unit or units at a general academic
4 teaching institution or two-year institution of higher education as
5 follows:

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

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

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

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

21 (g) The comptroller annually shall provide to the board a
22 sworn statement of the amount of the fund's assets in the
23 comptroller's or plan manager's custody. The plan manager shall
24 provide to the comptroller a quarterly report of all funds
25 distributed during the previous quarter. The comptroller may
26 require more frequent reports or may request that the plan manager
27 provide any additional information at any time necessary to ensure

1 that the fund's assets are adequately protected.

2 SECTION 7. Section 54.767, Education Code, is amended to
3 read as follows:

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

6 (1) pay the costs of program administration and
7 operations;

8 (2) make payments to general academic teaching
9 institutions, two-year institutions of higher education, private
10 or independent institutions of higher education, career schools,
11 and accredited out-of-state institutions of higher education on
12 behalf of beneficiaries; and

13 (3) make refunds under prepaid tuition contracts.

14 SECTION 8. Subsection (b), Section 54.7671, Education Code,
15 is amended to read as follows:

16 (b) For purposes of a transfer of money from an account
17 under this subchapter, the value of the account at the time of
18 transfer is the lesser of:

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

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

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

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

9 (2) an amount equal to the total purchase price of the
10 tuition units to be transferred from the account, plus the portion
11 of the total return on assets of the fund attributable to that
12 amount.

13 SECTION 9. Subsections (b) and (c), Section 54.769,
14 Education Code, are amended to read as follows:

15 (b) The rights of a purchaser, beneficiary, or successor in
16 interest of a purchaser or beneficiary in and under a prepaid
17 tuition contract and the payment of tuition and required fees for a
18 beneficiary under a prepaid tuition contract 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 under this chapter are exempt from attachment, levy, garnishment,
23 execution, and seizure for the satisfaction of any debt, judgment,
24 or claim against a purchaser, beneficiary, or successor in interest
25 of a purchaser or beneficiary.

26 (c) A claim or judgment against a purchaser, beneficiary, or
27 successor in interest of a purchaser or beneficiary does not impair

1 or entitle the claim or judgment holder to assert or enforce a lien
2 against:

3 (1) the rights of a purchaser, beneficiary, or
4 successor in interest of a purchaser or beneficiary in and under a
5 prepaid tuition contract; or

6 (2) the right of a beneficiary to the payment of
7 tuition and required fees to a general academic teaching
8 institution, two-year institution of higher education, private or
9 independent institution of higher education, career school, or
10 accredited out-of-state institution of higher education under a
11 prepaid tuition contract.

12 SECTION 10. Subsection (a), Section 54.774, Education Code,
13 is amended to read as follows:

14 (a) A prepaid tuition contract remains in effect after the
15 program is terminated if, when the program is terminated, the
16 beneficiary:

17 (1) has been accepted by or is enrolled at a general
18 academic teaching institution, two-year institution of higher
19 education, private or independent institution of higher education,
20 career school, or accredited out-of-state institution of higher
21 education; or

22 (2) is projected to graduate from high school not
23 later than the third anniversary of the date the program is
24 terminated.

25 SECTION 11. Subsection (b), Section 54.775, Education Code,
26 is amended to read as follows:

27 (b) Notwithstanding Subsection (a), the board may release

1 information described by that subsection to a general academic
2 teaching institution, two-year institution of higher education,
3 private or independent institution of higher education, career
4 school, or accredited out-of-state institution of higher education
5 at which a beneficiary may enroll or is enrolled. The institution
6 shall keep the information confidential.

7 SECTION 12. The Texas Save and Match program is entitled to
8 participate in the state employee charitable campaign conducted
9 during the autumn of 2009 without regard to any limitation on the
10 time during which an organization must apply to participate in the
11 campaign.

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

S.B. No. 1941

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1941 passed the Senate on April 23, 2009, by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1941 passed the House on May 26, 2009, by the following vote: Yeas 145, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor