

1-1 By: Shapiro S.B. No. 1941
1-2 (In the Senate - Filed March 12, 2009; March 24, 2009, read
1-3 first time and referred to Committee on Higher Education;
1-4 April 15, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 5, Nays 0; April 15, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1941 By: Duncan

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the administration and operation of the state's
1-11 programs for prepaying or saving toward the costs of attending an
1-12 institution of higher education.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Section 54.603, Education Code, is amended to
1-15 read as follows:

1-16 Sec. 54.603. SUNSET PROVISION. The Prepaid Higher
1-17 Education Tuition Board is subject to Chapter 325, Government Code
1-18 (Texas Sunset Act). Unless continued in existence as provided by
1-19 that chapter, the board is abolished and the programs established
1-20 under this subchapter and under Subchapters [~~Subchapter~~] G and H
1-21 terminate September 1, 2019.

1-22 SECTION 2. Section 54.751, Education Code, is amended by
1-23 amending Subdivisions (2) and (6) and adding Subdivision (3-a) to
1-24 read as follows:

1-25 (2) "Beneficiary" means the person designated under a
1-26 prepaid tuition contract as the person entitled to apply one or more
1-27 tuition units purchased under the contract to the payment of the
1-28 person's undergraduate tuition and required fees at a general
1-29 academic teaching institution, two-year institution of higher
1-30 education, private or independent institution of higher education,
1-31 career school, or accredited out-of-state institution of higher
1-32 education.

1-33 (3-a) "Career school" means a career school or college
1-34 as defined by Section 132.001 that offers a two-year associate
1-35 degree as approved by the Texas Higher Education Coordinating
1-36 Board.

1-37 (6) "Prepaid tuition contract" means a contract under
1-38 which a person purchases from the board on behalf of a beneficiary
1-39 one or more tuition units that the beneficiary is entitled to apply
1-40 to the payment of the beneficiary's undergraduate tuition and
1-41 required fees at a general academic teaching institution, two-year
1-42 institution of higher education, private or independent
1-43 institution of higher education, career school, or accredited
1-44 out-of-state institution of higher education.

1-45 SECTION 3. Section 54.7521, Education Code, is amended to
1-46 read as follows:

1-47 Sec. 54.7521. TEXAS SAVE AND MATCH PROGRAM. (a) The board
1-48 by rule shall develop and shall implement the Texas Save and Match
1-49 program under which money paid by a purchaser under a prepaid
1-50 tuition contract may be matched with:

1-51 (1) contributions made by any person to the Texas Save
1-52 and Match program and used to purchase additional tuition units on
1-53 behalf of beneficiaries selected as provided by board rule; and

1-54 (2) money appropriated by the legislature for the
1-55 Texas Save and Match program and used to purchase additional
1-56 tuition units on behalf of beneficiaries:

1-57 (A) whose annual household income is below the
1-58 state median family income, adjusted for household size;

1-59 (B) whose enrollment in the program would, as
1-60 determined by the board, promote the participation goals and
1-61 targets of the most recent revision of "Closing the Gaps," the
1-62 state's master plan for higher education; or

1-63 (C) who meet other criteria established by board

2-1 rule.

2-2 (b) Notwithstanding other law, for purposes of Subchapter
 2-3 I, Chapter 659, Government Code:

2-4 (1) the Texas Save and Match program is considered an
 2-5 eligible charitable organization entitled to participate in a state
 2-6 employee charitable campaign under Subchapter I, Chapter 659,
 2-7 Government Code; and

2-8 (2) a state employee is entitled to authorize a
 2-9 payroll deduction for contributions to the Texas Save and Match
 2-10 program as a charitable contribution under Section 659.132,
 2-11 Government Code.

2-12 SECTION 4. Subsection (a), Section 54.753, Education Code,
 2-13 is amended to read as follows:

2-14 (a) Under the program, a purchaser may prepay the costs of
 2-15 all or a portion of a beneficiary's undergraduate tuition and
 2-16 required fees at a general academic teaching institution, two-year
 2-17 institution of higher education, private or independent
 2-18 institution of higher education, career school, or accredited
 2-19 out-of-state institution of higher education by entering into a
 2-20 prepaid tuition contract with the board to purchase one or more
 2-21 tuition units of a type described by this section at the applicable
 2-22 price established by the board for that type of unit for the year in
 2-23 which the unit is purchased. The portion of the beneficiary's
 2-24 undergraduate tuition and required fees for which a tuition unit
 2-25 may be redeemed at a particular general academic teaching
 2-26 institution or two-year institution of higher education is assigned
 2-27 to the tuition unit at the time of purchase, and the tuition unit
 2-28 may be redeemed to pay that portion of the tuition and fees at the
 2-29 general academic teaching institution or two-year institution of
 2-30 higher education in any academic year in which the unit is redeemed
 2-31 in accordance with this subchapter. The purchaser may purchase one
 2-32 type of unit or a combination of two or three types of units.

2-33 SECTION 5. Subsection (d), Section 54.754, Education Code,
 2-34 is amended to read as follows:

2-35 (d) If a beneficiary redeems fewer tuition units of the type
 2-36 or combination of types necessary to pay the total cost of the
 2-37 beneficiary's tuition and required fees at the general academic
 2-38 teaching institution, two-year institution of higher education,
 2-39 private or independent institution of higher education, career
 2-40 school, or accredited out-of-state institution of higher education
 2-41 at which the beneficiary enrolls, the beneficiary is responsible
 2-42 for paying the amount of the difference between the amount of
 2-43 tuition and required fees for which the beneficiary pays through
 2-44 the redemption of one or more tuition units and the total cost of
 2-45 the beneficiary's tuition and required fees at the institution.

2-46 SECTION 6. Subsections (a), (b), (c), (f), and (g), Section
 2-47 54.765, Education Code, are amended to read as follows:

2-48 (a) Except as provided by Subsection (h) [~~(e)~~], the
 2-49 comptroller is the custodian of the assets of the fund.

2-50 (b) The comptroller shall pay money from the fund [~~on a~~
 2-51 ~~warrant drawn by the comptroller~~] supported only by [~~on~~] a voucher
 2-52 signed by the comptroller or the comptroller's authorized
 2-53 representative. The comptroller may designate the plan manager as
 2-54 the comptroller's authorized representative to pay expenditures or
 2-55 transfer funds under this section and Sections 54.766 and 54.767.

2-56 (c) When a beneficiary enrolls at a general academic
 2-57 teaching institution or two-year institution of higher education,
 2-58 on written authorization from the purchaser of the tuition unit or
 2-59 units for that beneficiary, the comptroller or the comptroller's
 2-60 authorized representative shall transfer to the institution an
 2-61 amount equal to the lesser of:

2-62 (1) the sum of:

2-63 (A) the total purchase price of the tuition unit
 2-64 or units the beneficiary redeems for the semester or other academic
 2-65 term; and

2-66 (B) the amount determined under Subsection (d);
 2-67 or

2-68 (2) an amount equal to 101 percent of the amount of
 2-69 tuition and required fees covered by the tuition units being

3-1 redeemed.

3-2 (f) When a beneficiary enrolls at a private or independent
3-3 institution of higher education, career school, or accredited
3-4 out-of-state institution of higher education, on written
3-5 authorization from the purchaser of the tuition unit or units for
3-6 that beneficiary, the comptroller or the comptroller's authorized
3-7 representative shall transfer to the institution the lesser of:

3-8 (1) an amount equal to the current cost of the tuition
3-9 and required fees that would be covered by redemption of the number
3-10 and type of tuition units the beneficiary is redeeming if the
3-11 beneficiary were redeeming the unit or units at a general academic
3-12 teaching institution or two-year institution of higher education as
3-13 follows:

3-14 (A) for a Type I unit, at the general academic
3-15 teaching institution that [~~in the sales year in which the unit was~~
3-16 ~~purchased,~~] had the highest tuition and required fee cost;

3-17 (B) for a Type II unit, at a general academic
3-18 teaching institution that [~~in the sales year in which the unit was~~
3-19 ~~purchased,~~] had tuition and required fee cost at the weighted
3-20 average; and

3-21 (C) for a Type III unit, at a two-year
3-22 institution of higher education that [~~in the sales year in which~~
3-23 ~~the unit was purchased,~~] had tuition and required fee cost at the
3-24 weighted average; or

3-25 (2) an amount equal to the total purchase price of the
3-26 tuition unit or units the beneficiary redeems for the semester or
3-27 other academic term plus the portion of the total return on assets
3-28 of the fund attributable to that amount.

3-29 (g) The comptroller annually shall provide to the board a
3-30 sworn statement of the amount of the fund's assets in the
3-31 comptroller's or plan manager's custody. The plan manager shall
3-32 provide to the comptroller a quarterly report of all funds
3-33 distributed during the previous quarter. The comptroller may
3-34 require more frequent reports or may request that the plan manager
3-35 provide any additional information at any time necessary to ensure
3-36 that the fund's assets are adequately protected.

3-37 SECTION 7. Section 54.767, Education Code, is amended to
3-38 read as follows:

3-39 Sec. 54.767. USE OF FUND ASSETS. The assets of the fund may
3-40 be used only to:

3-41 (1) pay the costs of program administration and
3-42 operations;

3-43 (2) make payments to general academic teaching
3-44 institutions, two-year institutions of higher education, private
3-45 or independent institutions of higher education, career schools,
3-46 and accredited out-of-state institutions of higher education on
3-47 behalf of beneficiaries; and

3-48 (3) make refunds under prepaid tuition contracts.

3-49 SECTION 8. Subsection (b), Section 54.7671, Education Code,
3-50 is amended to read as follows:

3-51 (b) For purposes of a transfer of money from an account
3-52 under this subchapter, the value of the account at the time of
3-53 transfer is the lesser of:

3-54 (1) an amount equal to the cost, at the time of the
3-55 transfer, of the tuition and required fees that would be covered by
3-56 redemption of the number and type of tuition units to be transferred
3-57 from the account if the beneficiary were redeeming the units at a
3-58 general academic teaching institution or two-year institution of
3-59 higher education as follows:

3-60 (A) for a Type I unit, at the general academic
3-61 teaching institution that [~~in the sales year in which the unit was~~
3-62 ~~purchased,~~] had the highest tuition and required fee cost;

3-63 (B) for a Type II unit, at a general academic
3-64 teaching institution that [~~in the sales year in which the unit was~~
3-65 ~~purchased,~~] had tuition and required fee cost at the weighted
3-66 average; and

3-67 (C) for a Type III unit, at a two-year
3-68 institution of higher education that [~~in the sales year in which~~
3-69 ~~the unit was purchased,~~] had tuition and required fee cost at the

4-1 weighted average; or
4-2 (2) an amount equal to the total purchase price of the
4-3 tuition units to be transferred from the account, plus the portion
4-4 of the total return on assets of the fund attributable to that
4-5 amount.

4-6 SECTION 9. Subsections (b) and (c), Section 54.769,
4-7 Education Code, are amended to read as follows:

4-8 (b) The rights of a purchaser, beneficiary, or successor in
4-9 interest of a purchaser or beneficiary in and under a prepaid
4-10 tuition contract and the payment of tuition and required fees for a
4-11 beneficiary under a prepaid tuition contract to a general academic
4-12 teaching institution, two-year institution of higher education,
4-13 private or independent institution of higher education, career
4-14 school, or accredited out-of-state institution of higher education
4-15 under this chapter are exempt from attachment, levy, garnishment,
4-16 execution, and seizure for the satisfaction of any debt, judgment,
4-17 or claim against a purchaser, beneficiary, or successor in interest
4-18 of a purchaser or beneficiary.

4-19 (c) A claim or judgment against a purchaser, beneficiary, or
4-20 successor in interest of a purchaser or beneficiary does not impair
4-21 or entitle the claim or judgment holder to assert or enforce a lien
4-22 against:

4-23 (1) the rights of a purchaser, beneficiary, or
4-24 successor in interest of a purchaser or beneficiary in and under a
4-25 prepaid tuition contract; or

4-26 (2) the right of a beneficiary to the payment of
4-27 tuition and required fees to a general academic teaching
4-28 institution, two-year institution of higher education, private or
4-29 independent institution of higher education, career school, or
4-30 accredited out-of-state institution of higher education under a
4-31 prepaid tuition contract.

4-32 SECTION 10. Subsection (a), Section 54.774, Education Code,
4-33 is amended to read as follows:

4-34 (a) A prepaid tuition contract remains in effect after the
4-35 program is terminated if, when the program is terminated, the
4-36 beneficiary:

4-37 (1) has been accepted by or is enrolled at a general
4-38 academic teaching institution, two-year institution of higher
4-39 education, private or independent institution of higher education,
4-40 career school, or accredited out-of-state institution of higher
4-41 education; or

4-42 (2) is projected to graduate from high school not
4-43 later than the third anniversary of the date the program is
4-44 terminated.

4-45 SECTION 11. Subsection (b), Section 54.775, Education Code,
4-46 is amended to read as follows:

4-47 (b) Notwithstanding Subsection (a), the board may release
4-48 information described by that subsection to a general academic
4-49 teaching institution, two-year institution of higher education,
4-50 private or independent institution of higher education, career
4-51 school, or accredited out-of-state institution of higher education
4-52 at which a beneficiary may enroll or is enrolled. The institution
4-53 shall keep the information confidential.

4-54 SECTION 12. The Texas Save and Match program is entitled to
4-55 participate in the state employee charitable campaign conducted
4-56 during the autumn of 2009 without regard to any limitation on the
4-57 time during which an organization must apply to participate in the
4-58 campaign.

4-59 SECTION 13. This Act takes effect immediately if it
4-60 receives a vote of two-thirds of all the members elected to each
4-61 house, as provided by Section 39, Article III, Texas Constitution.
4-62 If this Act does not receive the vote necessary for immediate
4-63 effect, this Act takes effect September 1, 2009.

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