

BILL ANALYSIS

C.S.S.B. 40
By: Zaffirini
Higher Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

For over 30 years the Texas Guaranteed Student Loan Corporation (TG) has helped persons wishing to attend an institution of higher education by providing solutions for overcoming financial barriers to attend such an institution. Currently, TG activities are limited to the mission of the Federal Family Education Loan Program (FFELP) under which it was created.

According to federal law effective July 1, 2010, all Federal Stafford, PLUS, and Consolidation loans must be made under the Federal Direct Loan Program (FDLP). Students and parents borrow directly from, and repay their loans to, the U.S. Department of Education. Many of the services performed by TG at no charge under the FFELP, such as helping colleges and universities take appropriate steps to prevent loan defaults by their alumni, are still required. The bill would allow TG to continue to manage their existing FFELP portfolio for the life of the loans, as well as operate under the newly established FDLP, thereby allowing the state to continue to utilize the resources and services of TG.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

The bill modifies the Education Code to update the enabling act of Texas Guaranteed Student Corporation (TG). The bill identifies TG's primary purpose as helping students and institutions of higher education through the administration a guaranteed student loan program or any other student loan program the corporation is authorized, qualified, or required by federal or other law to administer. The bill defines TG as being established to administer any student loan programs the corporation is required, qualified, or authorized by federal or other law, to administer, and to provide related support services; as well as providing support services to students and institutions and secondary purpose as revenue generating activities to support primary purpose.

The bill continues TG's authorization to serve as state's designated guaranty agency. The bill directs the corporation to take a comprehensive and active role in promoting responsible borrowing, financial literacy efforts, debt management, research, and informing policymakers in cooperation with appropriate entities.

The bill modifies the board from 11 members to 9 by removing permanently the Comptroller and expiring permanently the term of the member of the board of directors of the Texas Guaranteed Student Loan Corporation appointed under Section 57.13(b)(1), Education Code, for a term to expire January 31, 2017, to expire September 1, 2011. The bill does not prohibit the member of the board of directors of the Texas Guaranteed Student Loan Corporation serving in the board position that ceases to exist under that subsection from being appointed as a member of the board under Section 57.13(b), Education Code, for any other term if the person is otherwise qualified to

serve in that position. The bill also adds qualifiers to becoming board members as prescribed by the bill, including conflict of interest language.

The bill also allows the board of directors to meet via telephone conference call as long as the meeting is open and accessible to the public and prescribes other qualifiers as prescribed by the bill. The bill requires the corporation to have an internal corporate career ladder and requires the corporation to have an ombudsman. The bill requires TG to establish advisory committees as the board deems appropriate.

The bill requires the corporation to take an active role in coordinating, facilitating, promoting, and providing assistance and support to programs that disseminate information on postsecondary information, assist borrowers and schools in preventing defaults, and engage with state agencies in programs that coordinate such activities and expands information that state agencies are required to provide clients to include delinquency and life-of-loan issues.

The bill makes conforming changes and updates reference to the Texas Nonprofit Corporation Act to the Business Organizations Code. The bill also updates the language authorizing the corporation to engage in other revenue generating activities, deleting the requirement that revenue from the activity lower the insurance premium paid by borrowers in the Guaranteed Student Loan Program to allowing the revenue to be spent to support the corporation's philanthropic activities and purpose. The bill also makes conforming changes and fixes citations to federal statutes.

The bill deletes authority of The Texas Higher Education Coordinating Board to sue students for loan defaults and makes discretionary TGSLC's authority to file suit against students for loan default. Allows suit filed in Williamson as well as Travis County. The bill expands the requirement that the corporation report to the comptroller the names of persons who are in default on a loan guaranteed, or administered, by the corporation.

The bill requires each agency and political subdivision of the state to cooperate with TG in providing information to the agency's or political subdivision's clients concerning student financial aid, including information about delinquency, default prevention, and life-of-loan issues.

The bill prohibits TG from discriminating against an eligible student in making a loan or loan guarantee on the basis of race, age, religion, or sex or any other basis prohibited by applicable law.

The bill requires the corporation to establish reserve and operating funds in accordance with Sections 422, 422A, and 422B of the Higher Education Act of 1965 (20 U.S.C. Sections 1072, 1072a, and 1072b), as amended. The bill requires the reserve and operating funds established by the corporation to be invested in accordance with Sections 422A and 422B of the Higher Education Act of 1965 (20 U.S.C. Sections 1072a and 1072b), as amended, or other applicable federal law.

The bill subjects TG to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the corporation is abolished and this chapter expires September 1, 2013. Similarly the bill subjects TG, In addition to any other audit required by law, the state auditor is required to periodically review the corporation's activities in a manner consistent with the state auditor's audit plan under Chapter 321, Government Code. TG is required to reimburse the state auditor for all reasonable costs incurred by the state auditor in conducting a review under this section.

The following provisions of the Education Code are repealed by the bill:

- Section 57.13(d);
- Sections 57.19(c), (g), and (h);
- Sections 57.41(c) and (d);
- Section 57.42;
- Section 57.43;
- Section 57.44;
- Section 57.45;
- Section 57.46;
- Sections 57.481(d), (e), (f), (g), and (h).

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL TO SUBSTITUTE

Whereas the original bill made no changes in board membership, the substitute bill modifies the board from 11 members to 9. The substitute removes permanently the Comptroller and expiring permanently the term of the member of the board of directors of the Texas Guaranteed Student Loan Corporation appointed under Section 57.13(b)(1), Education Code, for a term to expire January 31, 2017, to expire September 1, 2011. The substitute bill does not prohibit the member of the board of directors of the Texas Guaranteed Student Loan Corporation serving in the board position that ceases to exist under that subsection from being appointed as a member of the board under Section 57.13(b), Education Code, for any other term if the person is otherwise qualified to serve in that position. The substitute bill also adds qualifiers to becoming board members as prescribed by the bill, including conflict of interest language.

The substitute differs from the original bill by specifying contracts entered into by TG in pursuit of the corporation's primary purposes described by Sections 57.01(1) and demonstrate how that revenue is used for the support of educational purposes as defined by statute, do not constitute revenue-generating activities and are not subject to the requirements prescribed by section 57.24.

The relating clause for the substitute bill states, relating to the composition and functions of the Texas Guaranteed Student Loan Corporation; whereas the relating clause for the original bill states, relating to the functions of the Texas Guaranteed Student Loan Corporation.

The substitute bill repeals Education Code § 57.13(d); whereas the original bill does not.

The substitute bill changes the effective date to September 1, 2011; whereas the original bill has an effective date upon passage or September 1, 2011.