

By: Turner

H.B. No. 3612

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the administration of the Texas Save and Match Program
3 to assist qualifying beneficiaries under the state's prepaid
4 tuition plans and college savings plans and to the treatment of a
5 beneficiary's assets under prepaid tuition plans and college
6 savings plans in determining eligibility for student financial
7 assistance and other assistance programs.

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

9 SECTION 1. Chapter 54, Education Code, is amended by adding
10 Subchapter I to read as follows:

11 SUBCHAPTER I. TEXAS SAVE AND MATCH PROGRAM

12 Sec. 54.801. DEFINITIONS. In this subchapter:

13 (1) "Beneficiary" means a beneficiary on whose behalf
14 a purchaser enters into a prepaid tuition contract with the board
15 under Subchapter F or H or for whom a savings trust account is
16 opened under Subchapter G.

17 (2) "Board" means the Prepaid Higher Education Tuition
18 Board.

19 (3) "Program" means the Texas Save and Match Program
20 established under this subchapter.

21 Sec. 54.802. TEXAS SAVE AND MATCH PROGRAM. (a) The board
22 shall develop and implement the Texas Save and Match Program, under
23 which money contributed to a savings trust account by an account
24 owner under the higher education savings plan under Subchapter G or

1 paid by a purchaser under a prepaid tuition contract under
2 Subchapter F or H on behalf of an eligible beneficiary may be
3 matched with:

4 (1) contributions made by any person to the program
5 for use in making additional savings trust account contributions
6 under Subchapter G or in prepaying additional tuition and fees or
7 purchasing additional tuition units under prepaid tuition
8 contracts under Subchapters F and H on behalf of eligible
9 beneficiaries selected as provided by board rule; or

10 (2) money appropriated by the legislature for the
11 program to be used for the purposes described by Subdivision (1).

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

14 (1) the program is considered an eligible charitable
15 organization entitled to participate in a state employee charitable
16 campaign under Subchapter I, Chapter 659, Government Code; and

17 (2) a state employee is entitled to authorize a
18 payroll deduction for contributions to the program as a charitable
19 contribution under Section 659.132, Government Code.

20 Sec. 54.803. INITIAL ELIGIBILITY FOR PARTICIPATION IN
21 PROGRAM. (a) To be initially eligible to participate in the
22 program, a beneficiary, at the time a prepaid tuition contract is
23 entered into on the beneficiary's behalf under Subchapter F or H, or
24 a savings trust account is opened on the beneficiary's behalf under
25 Subchapter G, as applicable, must:

26 (1) be:

27 (A) a resident of this state; or

1 (B) a dependent for purposes of Section 152,
2 Internal Revenue Code of 1986, of a resident of this state; and

3 (2) have a household adjusted gross income, for the
4 most recently completed tax year, that is not more than 120 percent
5 of the state median household adjusted gross income.

6 (b) To determine whether a beneficiary is initially
7 eligible to participate in the program, the board shall solicit
8 from the purchaser who enters into a prepaid tuition contract on the
9 beneficiary's behalf under Subchapter F or H or from the individual
10 who opens a savings trust account on the beneficiary's behalf under
11 Subchapter G, as applicable, at the time the purchaser or
12 individual enters into the contract or agreement with the board and
13 in the manner prescribed by board rule, information necessary to
14 determine the beneficiary's eligibility.

15 Sec. 54.804. LIMITATIONS. (a) The board by rule shall
16 prescribe:

17 (1) the maximum number of years for which a
18 beneficiary is eligible for matching funds under the program; and

19 (2) the maximum annual amount of contributions to a
20 savings trust account under Subchapter G or of payments under a
21 prepaid tuition contract under Subchapter F or H that are eligible
22 for a match under the program.

23 (b) In determining the amount of matching funds to which
24 eligible beneficiaries are entitled under the program, the board by
25 rule may adopt match ratios under which matching fund amounts are
26 awarded in inverse relation to beneficiaries' household adjusted
27 gross incomes.

1 (c) Withdrawals from a matching account for a savings trust
2 account may be used only for qualified higher education expenses as
3 defined by Subchapter G of the eligible beneficiary for whom the
4 matching account is established. Funds in the matching account
5 must be disbursed directly to providers of qualified higher
6 education services and may not be disbursed directly to the
7 beneficiary.

8 (d) Prepaid tuition and fees or tuition units in a matching
9 account for the beneficiary of a prepaid tuition contract may be
10 redeemed only by the board or by a qualified institution of higher
11 education in the manner prescribed by the board on behalf of the
12 beneficiary.

13 (e) Any unused funds or unused prepaid tuition and fees or
14 tuition units in a matching account that are not withdrawn or
15 redeemed for the beneficiary before the beneficiary's 30th birthday
16 are forfeited, and the applicable matching funds shall be returned
17 to the pool of matching funds maintained by the board.

18 Sec. 54.805. MATCHING ACCOUNT ADMINISTRATION. (a) A
19 matching account established on behalf of a beneficiary under this
20 subchapter must be accounted for separately from the beneficiary's
21 prepaid tuition contract balance or savings trust account balance.

22 (b) To the extent possible, money, prepaid tuition and fees,
23 or tuition units in a beneficiary's matching account shall be
24 withdrawn or redeemed before money is withdrawn from the
25 beneficiary's savings trust account under Subchapter G or prepaid
26 tuition and fees or tuition units are redeemed from the prepaid
27 tuition contract for the beneficiary under Subchapter F or H.

1 (c) Information relating to the beneficiary of a matching
2 account, including personally identifiable information regarding
3 the beneficiary, is confidential and not subject to disclosure
4 under Chapter 552, Government Code.

5 (d) The board shall, to the extent possible, provide with
6 any periodic statement for a savings trust account or prepaid
7 tuition contract the balance of the matching account opened under
8 this subchapter on behalf of the beneficiary of the account or
9 contract.

10 Sec. 54.806. EFFECT OF ACCOUNT BALANCE ON BENEFICIARY'S
11 ELIGIBILITY FOR STUDENT FINANCIAL ASSISTANCE. The balance of a
12 beneficiary's matching account under this subchapter may not be
13 considered as available to the beneficiary, or otherwise included
14 in the beneficiary's household income or other financial resources,
15 for purposes of determining the beneficiary's eligibility for a
16 TEXAS grant or any other state-funded student financial assistance.

17 Sec. 54.807. GIFTS, GRANTS, AND DONATIONS. The board may
18 solicit and accept gifts, grants, and donations from any public or
19 private source for the purposes of this subchapter.

20 Sec. 54.808. PILOT PROJECTS UNDER PROGRAM. To fulfill the
21 intent of the program, the board may establish pilot projects under
22 the program in an effort to incentivize participation in the
23 prepaid higher education tuition program under Subchapter F, the
24 higher education savings program under Subchapter G, and the
25 prepaid tuition unit undergraduate education program under
26 Subchapter H, including projects that incentivize participation
27 by:

1 (1) awarding additional matching grants based on a
2 beneficiary's achievement of specified academic goals;

3 (2) offering additional seed matching grants on the
4 opening of a savings trust account or the purchase of a prepaid
5 tuition contract;

6 (3) providing incentives for employers to contribute
7 matching funds to the program;

8 (4) partnering with public school districts and
9 educational agencies to create a program information portal
10 designed to increase program awareness and accessibility among
11 school districts, parents, and students; and

12 (5) partnering with financial institutions or prepaid
13 card providers to develop user interface opportunities that
14 increase the ease and efficiency with which contributions or
15 purchases can be made under Subchapter F, G, or H.

16 Sec. 54.809. PROGRAM PROMOTION AND MARKETING; REPORT.

17 (a) The board shall coordinate with community members throughout
18 the state, including members of the medical, educational,
19 nonprofit, and business communities, to promote and market the
20 program to further the goals and targets of the most recent revision
21 of "Closing the Gaps," the state's master plan for higher
22 education.

23 (b) Not later than December 1 of each year, the board shall
24 submit to the governor, lieutenant governor, speaker of the house
25 of representatives, Legislative Budget Board, Legislative Audit
26 Committee, state auditor, and Texas Higher Education Coordinating
27 Board a report detailing the collaborative promotion and marketing

1 efforts under this section. The board may include the report in the
2 report required by Section 54.777.

3 Sec. 54.810. RULES. The board shall adopt rules for the
4 administration of this subchapter.

5 SECTION 2. Section 54.702, Education Code, is amended by
6 adding Subsection (c-1) to read as follows:

7 (c-1) The board shall waive the amount of any enrollment fee
8 charged by the board for a new account under this subchapter for any
9 beneficiary whose household adjusted gross income for the most
10 recently completed tax year is not more than 200 percent of the
11 federal poverty level.

12 SECTION 3. Section 54.777(a), Education Code, is amended to
13 read as follows:

14 (a) Not later than December 1 of each year, the board shall
15 submit to the governor, lieutenant governor, speaker of the house
16 of representatives, Legislative Budget Board, Legislative Audit
17 Committee, state auditor, and Texas Higher Education Coordinating
18 Board a report including:

19 (1) the fiscal transactions of the board and the plan
20 manager under this subchapter during the preceding fiscal year;

21 (2) the market and book value of the fund as of the end
22 of the preceding fiscal year;

23 (3) the asset allocations of the fund expressed in
24 percentages of stocks, fixed income, cash, or other financial
25 investments;

26 (4) the rate of return on the investment of the fund's
27 assets during the preceding fiscal year; ~~and~~

1 (5) an actuarial valuation of the assets and
2 liabilities of the program, including the extent to which the
3 program's liabilities are unfunded; and

4 (6) a breakdown of the following information relating
5 to purchasers and beneficiaries of prepaid tuition contracts
6 entered into during the preceding fiscal year:

7 (A) the annual gross household income of
8 purchasers;

9 (B) the highest educational level achieved by
10 purchasers; and

11 (C) the race or ethnicity of beneficiaries.

12 SECTION 4. Subchapter C, Chapter 62, Health and Safety
13 Code, is amended by adding Section 62.1012 to read as follows:

14 Sec. 62.1012. EXCLUSION OF ASSETS IN PREPAID TUITION
15 PROGRAMS AND HIGHER EDUCATION SAVINGS PLANS. For purposes of
16 determining whether a child meets family income and resource
17 requirements for eligibility for the child health plan, the
18 commission may not consider as income or resources a right to assets
19 held in or a right to receive payments or benefits under:

20 (1) any fund or plan established under Subchapter F,
21 G, H, or I, Chapter 54, Education Code, including an interest in a
22 savings trust account, prepaid tuition contract, or related
23 matching account; or

24 (2) any qualified tuition program of any state that
25 meets the requirements of Section 529, Internal Revenue Code of
26 1986.

27 SECTION 5. Subchapter A, Chapter 31, Human Resources Code,

1 is amended by adding Section 31.0039 to read as follows:

2 Sec. 31.0039. EXCLUSION OF ASSETS IN PREPAID TUITION
3 PROGRAMS AND HIGHER EDUCATION SAVINGS PLANS. For purposes of
4 determining the amount of financial assistance granted to an
5 individual under this chapter for the support of dependent children
6 or determining whether the family meets household income and
7 resource requirements for financial assistance under this chapter,
8 the department may not consider the right to assets held in or the
9 right to receive payments or benefits under:

10 (1) any fund or plan established under Subchapter F,
11 G, H, or I, Chapter 54, Education Code, including an interest in a
12 savings trust account, prepaid tuition contract, or related
13 matching account; or

14 (2) any qualified tuition program of any state that
15 meets the requirements of Section 529, Internal Revenue Code of
16 1986.

17 SECTION 6. Subchapter B, Chapter 32, Human Resources Code,
18 is amended by adding Section 32.02611 to read as follows:

19 Sec. 32.02611. EXCLUSION OF ASSETS IN PREPAID TUITION
20 PROGRAMS AND HIGHER EDUCATION SAVINGS PLANS. (a) Except as
21 provided by Subsection (b), in determining eligibility and need for
22 medical assistance, the department may not consider as assets or
23 resources a right to assets held in or a right to receive payments
24 or benefits under:

25 (1) any fund or plan established under Subchapter F,
26 G, H, or I, Chapter 54, Education Code, including an interest in a
27 savings trust account, prepaid tuition contract, or related

1 matching account; or

2 (2) any qualified tuition program of any state that
3 meets the requirements of Section 529, Internal Revenue Code of
4 1986.

5 (b) In determining eligibility and need for medical
6 assistance for an applicant who may be eligible on the basis of the
7 applicant's eligibility for medical assistance for the aged, blind,
8 or disabled under 42 U.S.C. Section 1396a(a)(10), the department
9 may consider as assets or resources a right to assets held in or a
10 right to receive payments or benefits under any fund, plan, or
11 tuition program described by Subsection (a).

12 (c) Notwithstanding Subsection (b), the department shall
13 seek a federal waiver authorizing the department to exclude, for
14 purposes of determining the eligibility of an applicant described
15 by that subsection, the right to assets held in or a right to
16 receive payments or benefits under any fund, plan, or tuition
17 program described by Subsection (a) if the fund, plan, or tuition
18 program was established before the 21st birthday of the beneficiary
19 of the fund, plan, or tuition program.

20 SECTION 7. Section 54.7521, Education Code, is repealed.

21 SECTION 8. The Prepaid Higher Education Tuition Board shall
22 adopt the initial rules required by Subchapter I, Chapter 54,
23 Education Code, as added by this Act, not later than November 1,
24 2011. For that purpose, the board may adopt the initial rules in
25 the manner provided by law for the adoption of emergency rules.

26 SECTION 9. The Texas Save and Match Program established by
27 this Act is an expansion of the Texas Save and Match program created

1 under Section 54.7521, Education Code. On and after the effective
2 date of Section 7 of this Act, the 501(c)(3) foundation created
3 under Section 54.7521, Education Code, to provide matching funds
4 under that program may continue to accept tax-deductible donations
5 for the purpose of providing matching funds under the program
6 established by this Act.

7 SECTION 10. Subchapter I, Chapter 54, Education Code, as
8 added by this Act, applies to a prepaid tuition contract purchased
9 for a beneficiary under Subchapter H, Chapter 54, Education Code,
10 regardless of whether the prepaid tuition contract was purchased
11 before, on, or after the effective date of this Act. Subchapter I,
12 Chapter 54, Education Code, as added by this Act, applies only to a
13 prepaid tuition contract purchased for a beneficiary under
14 Subchapter F, Chapter 54, Education Code, or a savings trust
15 account opened for a beneficiary under Subchapter G, Chapter 54,
16 Education Code, on or after January 1, 2012.

17 SECTION 11. If before implementing any provision of this
18 Act a state agency determines that a waiver or authorization from a
19 federal agency is necessary for implementation of that provision,
20 the agency affected by the provision shall request the waiver or
21 authorization and may delay implementing that provision until the
22 waiver or authorization is granted.

23 SECTION 12. The changes in law made by this Act apply to a
24 person who receives health benefits coverage under Chapter 62,
25 Health and Safety Code, financial assistance under Chapter 31,
26 Human Resources Code, or medical assistance under Chapter 32, Human
27 Resources Code, on or after the effective date of this Act,

1 regardless of the date on which eligibility for coverage or
2 assistance was initially determined.

3 SECTION 13. (a) Except as provided by Subsection (b) of this
4 section, this Act takes effect September 1, 2011.

5 (b) Section 7 of this Act takes effect January 1, 2012.