

AN ACT

relating to measures regarding high school completion and enrollment in higher education.

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

SECTION 1. Chapter 29, Education Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. PUBLIC JUNIOR COLLEGE AND SCHOOL DISTRICT

PARTNERSHIP PROGRAM TO PROVIDE DROPOUT RECOVERY

Sec. 29.401. APPLICABILITY. (a) This subchapter applies only to a public junior college, as defined by Section 61.003, located in a county:

(1) with a population of 750,000 or more; and

(2) with less than 65 percent of the population 25 years and older having graduated from high school, according to the most recent American Community Survey five-year estimates compiled by the United States Census Bureau.

(b) The application of this subchapter to a public junior college is not affected if, after the public junior college enters into a partnership and begins providing a dropout recovery program as provided by this subchapter, the county's demographics under Subsection (a)(2) change and the county no longer meets the requirements under Subsection (a)(2).

(c) This subchapter applies only to a school district with a dropout rate that is higher than 15 percent based on four-year high

school completion rates. The application of this subchapter to a district is not affected if, after the district enters into a partnership as provided by this subchapter, the district's dropout rate changes and the district no longer meets the requirements under this subsection.

(d) This section expires September 1, 2013.

Sec. 29.402. PARTNERSHIP. (a) Beginning September 1, 2012, a public junior college may enter into an articulation agreement to partner with one or more school districts located in the public junior college district to provide on the campus of the public junior college a dropout recovery program for students described by Subsection (b) to successfully complete and receive a diploma from a high school of the appropriate partnering school district.

(b) A person who is under 26 years of age is eligible to enroll in a dropout recovery program under this subchapter if the person:

(1) must complete not more than three course credits to complete the curriculum requirements for the minimum, recommended, or advanced high school program, as appropriate, for high school graduation; or

(2) has failed to perform satisfactorily on an end-of-course assessment instrument administered under Section 39.023(c) or an assessment instrument administered under Section 39.023(c) as that section existed before amendment by Chapter 1312 (S.B. 1031), Acts of the 80th Legislature, Regular Session, 2007.

(c) A public junior college under this section shall:

1 (1) design a dropout recovery curriculum that includes
2 career and technology education courses that lead to industry or
3 career certification;

4 (2) integrate into the dropout recovery curriculum
5 research-based strategies to assist students in becoming able
6 academically to pursue postsecondary education, including:

7 (A) high quality, college readiness instruction
8 with strong academic and social supports;

9 (B) secondary to postsecondary bridging that
10 builds college readiness skills, provides a plan for college
11 completion, and ensures transition counseling; and

12 (C) information concerning appropriate supports
13 available in the first year of postsecondary enrollment to ensure
14 postsecondary persistence and success, to the extent funds are
15 available for the purpose;

16 (3) offer advanced academic and transition
17 opportunities, including dual credit courses and college
18 preparatory courses, such as advanced placement courses; and

19 (4) coordinate with each partnering school district to
20 provide in the articulation agreement that the district retains
21 accountability for student attendance, student completion of high
22 school course requirements, and student performance on assessment
23 instruments as necessary for the student to receive a diploma from a
24 high school of the partnering school district.

25 (d) A dropout recovery program provided under this
26 subchapter must comply with the requirements of Sections 29.081(e)
27 and (f).

1 Sec. 29.403. FINANCING. (a) A public junior college
2 district may receive from each partnering school district for each
3 student from that district enrolled in a dropout recovery program
4 under this subchapter an amount negotiated between the junior
5 college district and that partnering district not to exceed the
6 total average per student funding amount in that district during
7 the preceding school year for maintenance and operations, including
8 state and local funding, but excluding money from the available
9 school fund.

10 (b) A student who is enrolled in a program under this
11 subchapter is included in determining the average daily attendance
12 under Section 42.005 of the partnering school district.

13 Sec. 29.404. OTHER FUNDING. (a) To the extent consistent
14 with the General Appropriations Act, a public junior college under
15 this subchapter is eligible to receive dropout prevention and
16 intervention program funds appropriated to the agency.

17 (b) A public junior college under this subchapter may
18 receive gifts, grants, and donations to use for the purposes of this
19 subchapter.

20 SECTION 2. Section 54.213(b), Education Code, is amended to
21 read as follows:

22 (b) ~~[Savings to the foundation school fund that occur as a~~
23 ~~result of the Early High School Graduation Scholarship program~~
24 ~~created in Subchapter K, Chapter 56, and that are not required for~~
25 ~~the funding of state credits for tuition and mandatory fees under~~
26 ~~Section 56.204 or school district credits under Section 56.2075~~
27 ~~shall be used first to provide tuition exemptions under Section~~

~~54.212. Any of those savings remaining after providing tuition exemptions under Section 54.212 shall be used to provide tuition exemptions under Section 54.214.]~~ The Texas Education Agency shall ~~[also]~~ accept and make available to provide tuition exemptions under Section 54.214 gifts, grants, and donations made to the agency for that purpose. The commissioner of education shall transfer those funds to the Texas Higher Education Coordinating Board to distribute to institutions of higher education that provide exemptions under that section. ~~[Payment of funds under this subsection shall be made in the manner provided by Section 56.207 for state credits under Subchapter K, Chapter 56.]~~

SECTION 3. Chapter 54, Education Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. TEXAS SAVE AND MATCH PROGRAM

Sec. 54.801. DEFINITIONS. In this subchapter:

(1) "Accredited out-of-state institution of higher education," "career school," "general academic teaching institution," "private or independent institution of higher education," and "two-year institution of higher education" have the meanings assigned by Section 54.751.

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

(3) "Board" means the Prepaid Higher Education Tuition Board.

(4) "Fund" means the Texas save and match trust fund

established under Section 54.808.

(5) "Program" means the Texas Save and Match Program established under this subchapter.

(6) "Program entity" means the Texas Match the Promise Foundation, a Texas nonprofit corporation, or any other tax-exempt charitable organization established by law to implement the program.

Sec. 54.802. TEXAS SAVE AND MATCH PROGRAM. (a) The board, in cooperation with the program entity, shall administer the Texas Save and Match Program, under which money contributed to a savings trust account by an account owner under a higher education savings plan established under Subchapter G or paid by a purchaser under a prepaid tuition contract under Subchapter H on behalf of an eligible beneficiary may be matched with:

(1) contributions made by any person to the program entity for use in making additional savings trust account contributions under Subchapter G or in purchasing additional tuition units under prepaid tuition contracts under Subchapter H; or

(2) money appropriated by the legislature for the program to be used by the board to make additional savings trust account contributions under Subchapter G or to purchase additional tuition units under Subchapter H.

(b) In addition to the board's powers assigned under Subchapters F, G, and H, the board has the powers necessary or proper to carry out its duties under this subchapter, including the power to:

1 (1) sue and be sued;

2 (2) enter into contracts and other necessary
3 instruments;

4 (3) enter into agreements or other transactions with
5 the United States, state agencies, general academic teaching
6 institutions, two-year institutions of higher education, and local
7 governments;

8 (4) appear on its own behalf before governmental
9 agencies;

10 (5) contract for necessary goods and services,
11 including specifying in the contract duties to be performed by the
12 provider of a good or service that are a part of or are in addition
13 to the person's primary duties under the contract;

14 (6) engage the services of private consultants,
15 actuaries, trustees, records administrators, managers, legal
16 counsel, and auditors for administrative or technical assistance;

17 (7) solicit and accept gifts, grants, donations,
18 loans, and other aid from any source or participate in any other
19 manner in any government program to carry out this subchapter;

20 (8) impose administrative fees;

21 (9) contract with a person to market the program;

22 (10) purchase liability insurance covering the board
23 and employees and agents of the board; and

24 (11) establish other policies, procedures, and
25 eligibility criteria to implement this subchapter.

26 (c) Notwithstanding other law, for purposes of Subchapter
27 I, Chapter 659, Government Code:

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

5 (2) a state employee is entitled to authorize a
6 payroll deduction for contributions to the program entity as a
7 charitable contribution under Section 659.132, Government Code.

8 Sec. 54.803. INITIAL ELIGIBILITY FOR PARTICIPATION IN
9 PROGRAM. (a) To be initially eligible to participate in the
10 program, a beneficiary, at the time a prepaid tuition contract is
11 entered into on the beneficiary's behalf under Subchapter H or a
12 savings trust account is opened on the beneficiary's behalf under
13 Subchapter G, as applicable, must be:

14 (1) a resident of this state; or

15 (2) a dependent for purposes of Section 152, Internal
16 Revenue Code of 1986, of a resident of this state.

17 (b) To be initially eligible to receive matching funds
18 described by Section 54.802(a)(2) under the program, a beneficiary,
19 at the time a prepaid tuition contract is entered into on the
20 beneficiary's behalf under Subchapter H, or a savings trust
21 account is opened on the beneficiary's behalf under Subchapter G,
22 as applicable, must be eligible for free meals under the national
23 free or reduced-price breakfast and lunch program.

24 Sec. 54.804. LIMITATIONS. A matching account established
25 by the board or program entity on behalf of a beneficiary under
26 this subchapter is forfeited and reverts to the board or program
27 entity on the occurrence of any of the following:

1 (1) the 10th anniversary of the date the beneficiary
2 is projected to graduate from high school, as indicated by the
3 purchaser in the enrollment contract, except that time spent by the
4 beneficiary as an active duty member of the United States armed
5 services tolls the period described by this subdivision;

6 (2) a change of beneficiary by the account owner or
7 purchaser of the matched account;

8 (3) a contract cancellation of the matched account and
9 refund request;

10 (4) the successful completion by the beneficiary of an
11 associate or bachelor's degree program;

12 (5) transfer of the matched account to another
13 qualified tuition program of any state that meets the requirements
14 of Section 529, Internal Revenue Code of 1986; or

15 (6) any other event the board or program entity
16 determines would be inconsistent with the program's purposes.

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

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

27 (c) To the extent possible, the board shall include

1 information about a matching account in the periodic statement
2 provided to applicable account owners and purchasers under
3 Subchapters G and H.

4 Sec. 54.806. CONFIDENTIALITY. (a) Records in the custody
5 of the board or program entity relating to the participation of
6 specific purchasers, beneficiaries, applicants, scholarship
7 recipients, or donors under the program are confidential.

8 (b) Notwithstanding Subsection (a), the board or program
9 entity may release information described by Subsection (a) to the
10 extent required by a general academic teaching institution,
11 two-year institution of higher education, private or independent
12 institution of higher education, career school, or accredited
13 out-of-state institution of higher education at which a beneficiary
14 may enroll or is enrolled. The institution or school receiving
15 information described by Subsection (a) shall keep the information
16 confidential.

17 (c) Notwithstanding any other provision of this subchapter,
18 the board or program entity may release information to the Internal
19 Revenue Service or to any state tax agency as required by applicable
20 tax law.

21 (d) Notwithstanding any other provision of this subchapter,
22 the board or program entity may release information relating to
23 donors who authorize release of that information.

24 Sec. 54.807. PILOT PROJECTS UNDER PROGRAM. To fulfill the
25 intent of the program, the board may use funds described by Section
26 54.802(a)(2) to establish pilot projects under the program in an
27 effort to incentivize participation in the higher education savings

1 program under Subchapter G and the prepaid tuition unit
2 undergraduate education program under Subchapter H, including
3 projects that incentivize participation by:

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

6 (2) providing initial matching grants and paying
7 application fees;

8 (3) providing incentives for employers to contribute
9 matching funds to the program; and

10 (4) creating a program information portal designed to
11 increase program awareness and accessibility among school
12 districts, parents, and students.

13 Sec. 54.808. TEXAS SAVE AND MATCH TRUST FUND; AGREEMENTS
14 BETWEEN BOARD AND PROGRAM ENTITY REGARDING PROGRAM ENTITY FUNDS.

15 (a) The Texas save and match trust fund is established as a trust
16 fund to be held with the comptroller.

17 (b) Money in the fund may be spent without appropriation
18 and only to establish matching accounts, make deposits, purchase
19 tuition units, and award matching grants and scholarships under
20 the program and to pay the costs of program administration and
21 operations.

22 (c) The board may invest, reinvest, and direct the
23 investment of any available money in the fund.

24 (d) Interest and income from the assets of the fund shall be
25 credited to and deposited in the fund.

26 (e) The board and the program entity may enter into an
27 agreement under which the board may hold and manage funds of the

1 program entity and provide services to the program entity.

2 Sec. 54.809. RULES. The board shall adopt rules for the
3 administration of this subchapter.

4 SECTION 4. Subchapter A, Chapter 56, Education Code, is
5 amended by adding Section 56.007 to read as follows:

6 Sec. 56.007. EXCLUSION OF ASSETS IN PREPAID TUITION
7 PROGRAMS AND HIGHER EDUCATION SAVINGS PLANS. Notwithstanding any
8 other law, the right of a person to assets held in or the right to
9 receive payments or benefits under any fund or plan established
10 under Subchapter G, H, or I, Chapter 54, including an interest in a
11 savings trust account, prepaid tuition account, or related matching
12 account, may not be considered an asset of the person, or otherwise
13 included in the person's household income or other financial
14 resources, for purposes of determining the person's eligibility for
15 a TEXAS grant or any other state-funded student financial
16 assistance.

17 SECTION 5. Section 56.204(a), Education Code, is amended to
18 read as follows:

19 (a) In a total amount not to exceed the amount of funds
20 appropriated for the current state fiscal year to pay for [An
21 ~~eligible person under the Early High School Graduation Scholarship~~
22 ~~program is entitled to]~~ a state credit to apply toward tuition or
23 tuition and mandatory fees, as applicable, at a public or private
24 institution of higher education in this state, the commissioner of
25 education shall award to eligible persons credits in the following
26 amounts:

27 (1) \$2,000 to apply toward tuition and mandatory fees

1 if the person successfully completed the recommended or advanced
2 high school program established under Section 28.025 and graduated
3 from high school on or after September 1, 2005, in 36 consecutive
4 months or less and an additional \$1,000 to apply toward tuition and
5 mandatory fees if the person graduated with at least 15 hours of
6 college credit;

7 (2) \$500 to apply toward tuition and mandatory fees if
8 the person successfully completed the recommended or advanced high
9 school program established under Section 28.025 and graduated from
10 high school on or after September 1, 2005, in more than 36
11 consecutive months but not more than 41 consecutive months and an
12 additional \$1,000 to apply toward tuition and mandatory fees if the
13 person graduated with at least 30 hours of college credit;

14 (3) \$1,000 to apply toward tuition and mandatory fees
15 if the person successfully completed the recommended or advanced
16 high school program established under Section 28.025 and graduated
17 from high school on or after September 1, 2005, in more than 41
18 consecutive months but not more than 45 consecutive months with at
19 least 30 hours of college credit; or

20 (4) \$1,000 to apply only toward tuition if the person
21 graduated before September 1, 2005, after successfully completing
22 the requirements for a high school diploma in not more than 36
23 consecutive months.

24 SECTION 6. Section 56.207(b), Education Code, is amended to
25 read as follows:

26 (b) On receipt of a report from the coordinating board under
27 Subsection (a), the commissioner of education shall transfer to the

coordinating board, from funds appropriated for the purpose of the
Early High [Foundation] School Graduation Scholarship program
[Program], an amount commensurate with the amount of funds
appropriated [sufficient] to pay each eligible institution of
higher education the amount of state credit for tuition or tuition
and mandatory fees, as applicable, that is applied by the
institution during the period covered by the report.

SECTION 7. Subchapter C, Chapter 62, Health and Safety
Code, is amended by adding Section 62.1012 to read as follows:

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

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

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

SECTION 8. Subchapter A, Chapter 31, Human Resources Code,
is amended by adding Section 31.0039 to read as follows:

Sec. 31.0039. EXCLUSION OF ASSETS IN PREPAID TUITION
PROGRAMS AND HIGHER EDUCATION SAVINGS PLANS. For purposes of
determining the amount of financial assistance granted to an

individual under this chapter for the support of dependent children or determining whether the family meets household income and resource requirements for financial assistance under this chapter, the department may not consider the right to assets held in or the right to receive payments or benefits under:

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

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

SECTION 9. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.02611 to read as follows:

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

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

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

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

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

16 SECTION 10. Section 54.7521, Education Code, is repealed.

17 SECTION 11. Sections 56.202(b) and 56.208, Education Code,
18 are repealed.

19 SECTION 12. As soon as practicable after this Act takes
20 effect, the Texas Higher Education Coordinating Board shall revise
21 rules adopted under Section 56.209(a), Education Code, as necessary
22 to conform to changes made by this Act to Subchapter K, Chapter 56,
23 Education Code. For that purpose, the coordinating board may adopt
24 the revisions to those rules in the manner provided by law for
25 emergency rules. This section expires September 1, 2012.

26 SECTION 13. The changes in law made by this Act apply
27 beginning with the 2011-2012 academic year, but do not affect any

1 state credit awarded under Subchapter K, Chapter 56, Education
2 Code, before the effective date of this Act.

3 SECTION 14. The Prepaid Higher Education Tuition Board
4 shall adopt the initial rules required by Subchapter I, Chapter 54,
5 Education Code, as added by this Act, not later than May 31, 2012.

6 SECTION 15. The Texas Save and Match Program established by
7 this Act is an expansion of the Texas Save and Match program created
8 under Section 54.7521, Education Code. On and after the effective
9 date of the repeal of Section 54.7521, Education Code, by this Act,
10 the tax-exempt charitable organization created under that section
11 to provide matching funds under that program may continue to accept
12 tax-deductible donations for the purpose of providing matching
13 funds under the program established by this Act.

14 SECTION 16. Subchapter I, Chapter 54, Education Code, as
15 added by this Act, applies to a prepaid tuition contract purchased
16 for a beneficiary under Subchapter H, Chapter 54, Education Code,
17 regardless of whether the prepaid tuition contract was purchased
18 before, on, or after the effective date of this Act. Subchapter I,
19 Chapter 54, Education Code, as added by this Act, applies only to a
20 savings trust account opened for a beneficiary under Subchapter G,
21 Chapter 54, Education Code, on or after January 1, 2012.

22 SECTION 17. If before implementing any provision of this
23 Act a state agency determines that a waiver or authorization from a
24 federal agency is necessary for implementation of that provision,
25 the agency affected by the provision shall request the waiver or
26 authorization and may delay implementing that provision until the
27 waiver or authorization is granted.

1 SECTION 18. The changes in law made by this Act apply to a
2 person who receives health benefits coverage under Chapter 62,
3 Health and Safety Code, financial assistance under Chapter 31,
4 Human Resources Code, or medical assistance under Chapter 32, Human
5 Resources Code, on or after the effective date of this Act,
6 regardless of the date on which eligibility for coverage or
7 assistance was initially determined.

8 SECTION 19. (a) Except as provided by Subsection (b) of
9 this section, this Act takes effect September 1, 2011.

10 (b) Section 10 of this Act takes effect January 1, 2012.

11 SECTION 20. This Act takes effect immediately if it
12 receives a vote of two-thirds of all the members elected to each
13 house, as provided by Section 39, Article III, Texas Constitution.
14 If this Act does not receive the vote necessary for immediate
15 effect, this Act takes effect September 1, 2011.

H.B. No. 3708

President of the Senate

Speaker of the House

I certify that H.B. No. 3708 was passed by the House on May 3, 2011, by the following vote: Yeas 143, Nays 1, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3708 on May 27, 2011, by the following vote: Yeas 129, Nays 12, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3708 was passed by the Senate, with amendments, on May 25, 2011, by the following vote: Yeas 30, Nays 1.

Secretary of the Senate

APPROVED: _____

Date

Governor