

BILL ANALYSIS

C.S.H.B. 4068

By: Smith

Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

A recent state agency report found the student tuition refund policies for barber schools and beauty culture schools to be ambiguous and inconsistent, noting that the policies vary from school to school as a result of different interpretations of the applicable tuition requirements by the schools. To clarify these tuition refund policies, the report recommended that the statutes governing such policies be updated to match current law regarding tuition refund policies for career schools and colleges. C.S.H.B. 4068 seeks to amend the applicable law to address this issue.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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

C.S.H.B. 4068 amends the Occupations Code to define, among other terms used in the regulation of barber school and beauty culture school operations, "unearned tuition" as the portion of tuition and fees charged by a barber school or a beauty culture school, as applicable, to a student for which the student has not yet received instruction and "fees" as charges assessed by such a school that are in addition to tuition, including charges for instructional supplies, books, and kits, student activity fees, laboratory fees, services charges, and deposits. The bill replaces references to unused tuition in statutory provisions relating to the regulation of barber schools and beauty culture schools with references to unearned tuition.

C.S.H.B. 4068 establishes that the minimum refund of unearned tuition to a student of a barber school or a private beauty culture school who is terminated from a course of training before completion of the course of training is calculated by dividing the number of hours remaining in the course for which the student has been charged after the effective date of the student's termination by the total number of hours in the course for which the student has been charged, and then multiplying the resulting number by the amount of the tuition. The bill requires the owner of a barber school or a beauty culture school to calculate a refund on a form approved by the Texas Department of Licensing and Regulation (TDLR) or in a manner acceptable to TDLR and requires the refunds for fees charged to the student to be made in a reasonable manner. The bill authorizes the owner of a barber school or a beauty culture school to seek recovery from a student of the unpaid portion of earned tuition owed by the student. The bill removes the requirement that a private beauty culture school license holder's refund policy condition the school's authorized retention of up to \$100 of any tuition collected before the course of training

begins on a student's failure to withdraw before the cancellation period expires and instead requires the policy to condition that authorized retention of collected tuition on the student not beginning the course of training before the cancellation period expires.

C.S.H.B. 4068 includes among the information that the holder of a barber school permit and the holder of a private beauty culture school license are required to furnish to each prospective student the school's cancellation and settlement policy for providing a full refund of all money paid by a student under specified circumstances and information regarding the school's statutory powers and duties with respect to any retention or refunding of student tuition and fees on the student's withdrawal or termination.

C.S.H.B. 4068 repeals statutory provisions relating to the amount a barber school or private beauty culture school is required to refund to a student who withdraws or is terminated before the last half of the course begins and removes the condition that a course of training at a barber school or private beauty culture school be scheduled to last not more than 12 months for the school's retention and refunding authority or duty with respect to a student's withdrawal or termination to apply. The bill authorizes a barber school to retain 100 percent of the earned tuition on a student's withdrawal or termination, rather than \$100 of the tuition and fees paid by the student, and specifies that the barber school is not obligated to refund any unearned tuition if the student withdraws or is terminated during the last 25 percent of the course, rather than during the last half of the course. The bill also conditions a beauty culture school's retention of 100 percent of the earned tuition and fees paid by a student on the student's withdrawal or termination during the last 25 percent of the course, rather than during the last half of the course.

C.S.H.B. 4068 reduces from four years to two years the period following a student's withdrawal or termination during which a barber school or a beauty culture school is required to allow such a student to reenter the school, if the student withdraws or is terminated after completing half of the course, and the period during which a student who withdraws and receives a grade of incomplete is authorized to reenroll and complete the course of training or program, as applicable, without incurring additional costs.

C.S.H.B. 4068 repeals a statutory provision prohibiting a student of a private beauty culture school the license of which has been expired for more than 30 days from transferring hours of instruction completed at that school. The bill removes the requirement for the executive director of TDLR, on evaluation and approval, to certify specified transcript information in writing to a student of a private beauty culture school or vocational cosmetology program in a public school and the school to which the student seeks a transfer and instead authorizes TDLR to certify the information to the student and school.

C.S.H.B. 4068 changes the date by which a barber school and a beauty culture school are required to pay a refund from not later than the 30th day after the date the student becomes eligible for the refund to not later than the 30th day after the later of the effective date of the student's termination or the date the student otherwise becomes eligible for the refund. The bill transfers from the commissioner of education to the Texas Workforce Commission the requirement each year to set the interest rate on the amount of the refund a school has failed to pay within the applicable refund period and specifies that the interest is penalty interest. The bill removes the authority of TDLR to exempt a school from the payment of interest under certain conditions and instead authorizes the executive director of TDLR to waive the payment of penalty interest under those conditions.

C.S.H.B. 4068 requires a barber school that ceases to operate to refund unearned tuition and authorizes the refund to be paid from the barber school tuition protection account. The bill caps the amount paid from the account at \$1,000 per student. The bill, in a provision requiring TDLR to attempt to arrange for students enrolled in a private beauty culture school that ceases to operate to attend another school, removes the specification that the other school be another private beauty culture school. The bill removes statutory provisions specifying the method for

refunding tuition and fees to a student of a closed private beauty culture school, depending on whether that student cannot be placed in another school or does not accept a place that is available and reasonable in another school, and instead requires a school that ceases to operate to refund unearned tuition. The bill removes the requirement that such refunds be paid from the private beauty culture school tuition protection account and instead authorizes refunds to be paid from that account.

C.S.H.B. 4068 requires the Texas Commission of Licensing and Regulation, not later than December 1, 2015, to adopt rules implementing the bill's provisions. The bill applies only to a student enrolling in a barber school or beauty culture school on or after February 1, 2016.

C.S.H.B. 4068 repeals the following provisions of the Occupations Code:

- Section 1601.001(b)
- Section 1601.564(b)
- Section 1602.455(e)
- Section 1602.459(b) and (c)

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 4068 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Section 1601.001(a), Occupations Code, is amended.	SECTION 1. Same as introduced version.
SECTION 2. Section 1601.3571(b), Occupations Code, is amended.	SECTION 2. Same as introduced version.
SECTION 3. Subchapter L, Chapter 1601, Occupations Code, is amended.	SECTION 3. Same as introduced version.
SECTION 4. Section 1601.556, Occupations Code, is amended.	SECTION 4. Same as introduced version.
SECTION 5. Section 1601.563, Occupations Code, is amended by amending Subsections (a) and (c) and adding Subsections (b-1), (d), and (e) to read as follows: (a) A barber school permit holder shall maintain a refund policy to provide for the refund of the <u>unearned</u> [unused part of] tuition <u>charged to</u> [fees, and other charges paid by] a student who, after the expiration of the cancellation period established under Section 1601.562: (1) fails to begin the course of training; (2) withdraws from the course of training;	SECTION 5. Section 1601.563, Occupations Code, is amended by amending Subsections (a) and (c) and adding Subsections (b-1), (d), (e), and (f) to read as follows: (a) A barber school permit holder shall maintain a refund policy to provide for the refund of the <u>unearned</u> [unused part of] tuition <u>charged to</u> [fees, and other charges paid by] a student who, after the expiration of the cancellation period established under Section 1601.562: (1) fails to begin the course of training; (2) withdraws from the course of training;

or

(3) is terminated from the course of training before completion of the course of training.

(b-1) The minimum refund of unearned tuition to a student is calculated by dividing the number of hours remaining in the course for which the student has been charged after the effective date of the termination by the total number of hours in the course for which the student has been charged, and then multiplying the resulting number by the amount of the tuition.

(c) A barber school permit holder shall publish in the catalogue and enrollment agreement of the school a description of the refund policies [policy].

(d) The owner of a barber school shall calculate the refund on a form approved by the department or in a manner acceptable to the department.

(e) Refunds for fees charged to the student shall be made in a reasonable manner.

or

(3) is terminated from the course of training before completion of the course of training.

(b-1) The minimum refund of unearned tuition to a student is calculated by dividing the number of hours remaining in the course for which the student has been charged after the effective date of the termination by the total number of hours in the course for which the student has been charged, and then multiplying the resulting number by the amount of the tuition.

(c) A barber school permit holder shall publish in the catalogue and enrollment agreement of the school a description of the refund policies [policy].

(d) The owner of a barber school shall calculate the refund on a form approved by the department or in a manner acceptable to the department.

(e) Refunds for fees charged to the student shall be made in a reasonable manner.

(f) The owner of a barber school may seek recovery from a student of the unpaid portion of earned tuition owed by the student.

SECTION 6. Sections 1601.564(a) and (c), Occupations Code, are amended.

SECTION 6. Same as introduced version.

SECTION 7. Section 1601.565(b), Occupations Code, is amended.

SECTION 7. Same as introduced version.

SECTION 8. Sections 1601.566(a), (b), and (d), Occupations Code, are amended.

SECTION 8. Same as introduced version.

SECTION 9. Subchapter L, Chapter 1601, Occupations Code, is amended.

SECTION 9. Same as introduced version.

SECTION 10. Section 1602.001, Occupations Code, is amended.

SECTION 10. Same as introduced version.

SECTION 11. Subchapter J, Chapter 1602, Occupations Code, is amended.

SECTION 11. Same as introduced version.

SECTION 12. Section 1602.452, Occupations Code, is amended.

SECTION 12. Same as introduced version.

SECTION 13. Section 1602.455(d), Occupations Code, is amended.

SECTION 13. Same as introduced version.

SECTION 14. Section 1602.458, Occupations Code, is amended to read as follows:

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Sec. 1602.458. REFUND POLICY. (a)

Sec. 1602.458. REFUND POLICY. (a)

The holder of a private beauty culture school license shall maintain a refund policy to provide for the refund of any unearned ~~[unused part of]~~ tuition charged to ~~[, fees, and other charges paid by]~~ a student who, at the expiration of the cancellation period established under Section 1602.457:

- (1) fails to enter the course of training;
 - (2) withdraws from the course of training;
- or
- (3) is terminated from the course of training before completion of the course of training.

(b) The refund policy must provide that:

(1) the refund is based on the period of the student's enrollment, computed on the basis of course time expressed in scheduled hours, as specified by an enrollment agreement, contract, or other document acceptable to the department;

(2) the effective date of the termination for refund purposes is the earliest of:

- (A) the last date of attendance, if the student is terminated by the school;
- (B) the date the license holder receives the student's written notice of withdrawal; or
- (C) 10 school days after the last date of attendance; and

(3) the school may retain not more than \$100 if:

(A) tuition is collected before the course of training begins; and

(B) the student does not begin ~~[fails to withdraw from]~~ the course of training before the cancellation period expires.

(c) The minimum refund of unearned tuition to a student is calculated by dividing the number of hours remaining in the course for which the student has been charged after the effective date of the termination by the total number of hours in the course for which the student has been charged, and then multiplying the resulting number by the amount of the tuition.

(d) The owner of a beauty culture school license shall calculate the refund on a form approved by the department or in a manner acceptable to the department.

(e) Refunds for fees charged to the student shall be made in a reasonable manner.

The holder of a private beauty culture school license shall maintain a refund policy to provide for the refund of any unearned ~~[unused part of]~~ tuition charged to ~~[, fees, and other charges paid by]~~ a student who, at the expiration of the cancellation period established under Section 1602.457:

- (1) fails to enter the course of training;
 - (2) withdraws from the course of training;
- or
- (3) is terminated from the course of training before completion of the course of training.

(b) The refund policy must provide that:

(1) the refund is based on the period of the student's enrollment, computed on the basis of course time expressed in scheduled hours, as specified by an enrollment agreement, contract, or other document acceptable to the department;

(2) the effective date of the termination for refund purposes is the earliest of:

- (A) the last date of attendance, if the student is terminated by the school;
- (B) the date the license holder receives the student's written notice of withdrawal; or
- (C) 10 school days after the last date of attendance; and

(3) the school may retain not more than \$100 if:

(A) tuition is collected before the course of training begins; and

(B) the student does not begin ~~[fails to withdraw from]~~ the course of training before the cancellation period expires.

(c) The minimum refund of unearned tuition to a student is calculated by dividing the number of hours remaining in the course for which the student has been charged after the effective date of the termination by the total number of hours in the course for which the student has been charged, and then multiplying the resulting number by the amount of the tuition.

(d) The owner of a beauty culture school shall calculate the refund on a form approved by the department or in a manner acceptable to the department.

(e) Refunds for fees charged to the student shall be made in a reasonable manner.

(f) The owner of a beauty culture school may seek recovery from a student of the unpaid portion of earned tuition owed by the student.

SECTION 15. Section 1602.459(a), Occupations Code, is amended.

SECTION 15. Same as introduced version.

SECTION 16. Section 1602.460, Occupations Code, is amended.

SECTION 16. Same as introduced version.

SECTION 17. Section 1602.461, Occupations Code, is amended.

SECTION 17. Same as introduced version.

SECTION 18. Section 1602.462(b), Occupations Code, is amended.

SECTION 18. Same as introduced version.

SECTION 19. Sections 1602.463(a), (b), and (c), Occupations Code, are amended.

SECTION 19. Same as introduced version.

SECTION 20. The following provisions of the Occupations Code are repealed:

SECTION 20. The following provisions of the Occupations Code are repealed:

- (1) Section 1601.001(b);
- (2) Section 1601.564(b);
- (3) Sections 1602.455(b), (c), and (e); and
- (4) Sections 1602.459(b) and (c).

- (1) Section 1601.001(b);
- (2) Section 1601.564(b);
- (3) Section 1602.455(e); and
- (4) Sections 1602.459(b) and (c).

SECTION 21. Not later than June 1, 2016, the Texas Commission of Licensing and Regulation shall adopt rules implementing Chapters 1601 and 1602, Occupations Code, as amended by this Act.

SECTION 21. Not later than December 1, 2015, the Texas Commission of Licensing and Regulation shall adopt rules implementing Chapters 1601 and 1602, Occupations Code, as amended by this Act.

SECTION 22. The changes in law made by this Act apply only to a student enrolling in a barber school or beauty culture school on or after the effective date of this Act. A student enrolling in a barber school or beauty culture school before that date is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 22. The changes in law made by this Act apply only to a student enrolling in a barber school or beauty culture school on or after February 1, 2016. A student enrolling in a barber school or beauty culture school before that date is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 23. This Act takes effect January 1, 2016.

SECTION 23. This Act takes effect September 1, 2015.