

BILL ANALYSIS

C.S.H.B. 3766
By: Lozano
Higher Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties suggest that the costs that public institutions of higher education face as a result of the tuition and fee exemption for certain military personnel and their dependents have become too high. C.S.H.B. 3766 seeks to mitigate this cost by revising certain conditions of eligibility for the exemption.

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. 3766 amends the Education Code to require a person, to qualify for an exemption, waiver, or other benefit for enrollment at a public institution of higher education during an academic year, to complete a free application for federal student aid (FAFSA) for that academic year and submit the person's FAFSA student aid report to the institution or designate the institution as a preferred institution to receive the report from the U.S. Department of Education or to complete and submit to the institution the Texas Application for State Financial Aid (TASFA) or a similar application for state student financial assistance if the person is not eligible to receive federal student aid. The bill exempts from this requirement a student who receives a waiver of tuition and fees charged by an institution as a student enrolled in course for concurrent high school and college-level credit. The bill makes these provisions applicable to a person's eligibility for an exemption or waiver from the payment of all or part of tuition or other fees beginning with tuition and fees charged for the 2018 fall semester.

C.S.H.B. 3766 makes the following changes with regard to the conditions that must be met for a child to be eligible to receive a tuition and fee exemption for certain military personnel and their dependents:

- removes the condition that the child maintain a grade point average that satisfies the grade point average requirement for making satisfactory academic progress in a degree, certificate, or continuing education program as determined by the institution at which the child is enrolled in accordance with the institution's policy regarding eligibility for financial aid;
- adds the condition that the child maintain a course load of at least 24 semester credit hours per academic year and a cumulative grade point average of at least 2.5 on a four-point scale or the equivalent;
- adds the condition that the child, if eligible, have exhausted all benefits available to the

child under the federal Post-9/11 Veterans Educational Assistance Act of 2008 or any other federal law authorizing educational benefits for veterans; and

- clarifies that, with regard to the condition that the child be 25 years of age or younger on the first day of the semester or other academic term for which the exemption is claimed, the first day of the semester or other academic term is the first class date of the semester or other academic term.

C.S.H.B. 3766 amends the Government Code to include the following among the information the electronic system that monitors the use of tuition and fee exemptions for certain military personnel and their dependents must allow the Texas Veterans Commission to receive from institutions of higher education: for each individual receiving benefits, the length of service of the person eligible for an exemption based on the person's military or related service during certain specified periods as indicated by official documentation from the U.S. Department of Defense. The bill, except as otherwise provided, applies beginning with tuition and fees charged for the 2017 fall semester.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3766 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

SECTION 1. This Act shall be known as the Hazlewood Legacy Preservation Act.

No equivalent provision. (*But see Sec. 54.341(l)(4) below.*)

HOUSE COMMITTEE SUBSTITUTE

No equivalent provision.

SECTION 1. Subchapter D, Chapter 54, Education Code, is amended by adding Section 54.201 to read as follows:

Sec. 54.201. CERTAIN FINANCIAL AID ELIGIBILITY INFORMATION

REQUIRED. (a) Notwithstanding any other law and subject to Subsection (b), to qualify for an exemption, waiver, or other benefit authorized under this subchapter for enrollment at an institution of higher education during an academic year, a person must:

(1) complete a free application for federal student aid (FAFSA) for that academic year and:

(A) submit the person's FAFSA student aid report to the institution; or

(B) designate the institution as a preferred institution to receive the report from the United States Department of Education; or

(2) if the person is not eligible to receive federal student aid, complete and submit to the institution the Texas Application for State Financial Aid (TASFA) or a similar

application for state student financial assistance.

(b) Subsection (a) does not apply to a person who receives a waiver under Section 54.216.

SECTION 1.01. Section 54.341, Education Code, is amended by amending Subsections (a), (c), (d), (h), (i), (k), (l), and (n) and adding Subsection (a-5) to read as follows:

(a) The governing board of each institution of higher education shall exempt the following persons from the payment of tuition, dues, fees, and other required charges, including fees for correspondence courses but excluding general deposit fees, student services fees, and any fees or charges for lodging, board, or clothing, provided the person seeking the exemption currently resides in this state and entered the service at a location in this state, declared this state as the person's home of record in the manner provided by the applicable military or other service, or would have been determined to be a resident of this state for purposes of Subchapter B at the time the person entered the service:

(1) all nurses and honorably discharged members of the armed forces of the United States who served during the Spanish-American War or during World War I;

(2) all nurses, members of the Women's Army Auxiliary Corps, members of the Women's Auxiliary Volunteer Emergency Service, and all honorably discharged members of the armed forces of the United States who served during World War II except those who were discharged from service because they were over the age of 38 or because of a personal request on the part of the person that the person be discharged from service;

(3) all honorably discharged men and women of the armed forces of the United States who served during the national emergency which began on June 27, 1950, and which is referred to as the Korean War; and

(4) all persons who were honorably discharged from the armed forces of the United States after serving on active military duty, excluding training, for more than four years [~~180 days~~] and who served a portion of their active duty during:

(A) the Cold War which began on the date of the termination of the national emergency cited in Subdivision (3);

SECTION 2. Sections 54.341(l) and (n), Education Code, are amended to read as follows:

(B) the Vietnam era which began on December 21, 1961, and ended on May 7, 1975;

(C) the Grenada and Lebanon era which began on August 24, 1982, and ended on July 31, 1984;

(D) the Panama era which began on December 20, 1989, and ended on January 21, 1990;

(E) the Persian Gulf War which began on August 2, 1990, and ends on the date thereafter prescribed by Presidential proclamation or September 1, 1997, whichever occurs first;

(F) the national emergency by reason of certain terrorist attacks that began on September 11, 2001; or

(G) any future national emergency declared in accordance with federal law.

(a-5) A person who received an exemption under this section for an academic year before the 2017-2018 academic year continues to be eligible for the exemption provided by this section as this section existed on January 1, 2017.

(c) A person may not receive exemptions provided for by this section for more than a cumulative total of 150 credit hours. A person may not receive an exemption provided for by this section after the end of the 15th year after the date the member of the armed forces of the United States who qualifies for an exemption under Subsection (a) is honorably discharged.

(d) The governing board of each institution of higher education granting an exemption under this section shall require each applicant claiming the exemption to submit to the institution, in the form and manner prescribed by the Texas Higher Education Coordinating Board [~~Veterans Commission~~] for purposes of this section under Section 61.101(b) [~~434.0079(b), Government Code~~], an application for the exemption and necessary evidence that the applicant qualifies for the exemption not later than the last class date of the semester or term to which the exemption applies, except that the governing board may encourage the submission of an application and evidence by the official day of record for the semester or term to which the exemption applies on which the institution must determine the enrollment that is reported to the coordinating board [~~Texas Higher Education Coordinating Board~~].

(h) The governing board of each institution of higher education shall electronically report to the Texas Higher Education Coordinating Board [~~Veterans Commission~~] the information required by Section 61.102 [~~434.00791, Government Code,~~] relating to each individual receiving an exemption from fees and charges under Subsection (a), (a-2), (b), or (k). The institution shall report the information not later than January 31 of each year for the fall semester, June 30 of each year for the spring semester, and September 30 of each year for the summer session.

(i) The Texas Higher Education Coordinating Board [~~Veterans Commission~~] may adopt rules to provide for the efficient and uniform application of this section. In developing rules under this subsection, the coordinating board [~~commission~~] shall consult with [~~the Texas Higher Education Coordinating Board and~~] institutions of higher education.

(k) The Texas Higher Education Coordinating Board [~~Veterans Commission~~] by rule shall prescribe procedures to allow:

(1) a person who becomes eligible for an exemption provided by Subsection (a) to waive the person's right to any unused portion of the number of cumulative credit hours for which the person could receive the exemption and assign the exemption for the unused portion of those credit hours to a child of the person; and

(2) following the death of a person who becomes eligible for an exemption provided by Subsection (a), the assignment of the exemption for the unused portion of the credit hours to a child of the person, to be made by the person's spouse or by the conservator, guardian, custodian, or other legally designated caretaker of the child, if the child does not otherwise qualify for an exemption under Subsection (b).

(l) To be eligible to receive an exemption under Subsection (k), the child must:

(1) be a student who is classified as a resident under Subchapter B when the child enrolls in an institution of higher education;

(2) as a graduate or undergraduate student, maintain a grade point average that satisfies the grade point average requirement for making satisfactory academic progress in a degree, certificate, or continuing education program as determined by the institution at which the child is enrolled in accordance

(1) To be eligible to receive an exemption under Subsection (k), the child must:

(1) be a student who is classified as a resident under Subchapter B when the child enrolls in an institution of higher education;

(2) be [~~as~~] a graduate or undergraduate student[, ~~maintain a grade point average that satisfies the grade point average requirement for making satisfactory academic progress in a degree, certificate, or continuing education program as determined by the institution at which the child is enrolled in~~

with the institution's policy regarding eligibility for financial aid; ~~and~~

(3) be 25 years of age or younger on the first day of the semester or other academic term for which the exemption is claimed; and

(4) complete a Free Application for Federal Student Aid (FAFSA).

(n) The Texas Higher Education Coordinating Board ~~[Veterans Commission]~~ by rule shall prescribe procedures by which a child assigned an exemption under Subsection (k) who suffered from a severe illness or other debilitating condition that affected the child's ability to use the exemption before reaching the age described by Subsection (1)(3) may be granted additional time to use the exemption corresponding to the time the child was unable to use the exemption because of the illness or condition.

SECTION 2. Chapter 61, Education Code, is amended by adding Subchapter D-1, and a heading is added to that subchapter to read as follows:

SUBCHAPTER D-1. DUTIES REGARDING CERTAIN TUITION AND FEE EXEMPTIONS FOR VETERANS AND FAMILY MEMBERS

SECTION 3. Sections 434.0079 and 434.00791, Government Code, are transferred to Subchapter D-1, Chapter 61, Education Code, as added by this Act, redesignated as Sections 61.101 and 61.102, Education Code, and amended to read as follows:

Sec. 61.101 ~~[434.0079]~~. DUTIES REGARDING CERTAIN TUITION AND FEE EXEMPTIONS FOR VETERANS AND FAMILY MEMBERS. (a) The board ~~[commission, through its veteran education program,]~~ shall assist veterans and their

~~accordance with the institution's policy regarding eligibility for financial aid]; ~~and~~~~

(3) maintain:

(A) a course load of at least 24 semester credit hours per academic year; and

(B) a cumulative grade point average of at least 2.5 on a four-point scale or the equivalent;

(4) be 25 years of age or younger on the first class date ~~[day]~~ of the semester or other academic term for which the exemption is claimed; and

(See SECTION 1 above.)

(5) if eligible, have exhausted all benefits available to the child under the federal Post-9/11 Veterans Educational Assistance Act of 2008 (38 U.S.C. Section 3301 et seq.) or any other federal law authorizing educational benefits for veterans.

(n) The Texas Veterans Commission by rule shall prescribe procedures by which a child assigned an exemption under Subsection (k) who suffered from a severe illness or other debilitating condition that affected the child's ability to use the exemption before reaching the age described by Subsection (1)(4) ~~[(4)(3)]~~ may be granted additional time to use the exemption corresponding to the time the child was unable to use the exemption because of the illness or condition.

No equivalent provision.

SECTION 3. Section 434.00791(b), Government Code, is amended to read as follows:

family members in claiming and qualifying for exemptions from the payment of tuition and fees at institutions of higher education under Section 54.341[~~Education Code~~].

(b) The board [~~commission~~] shall establish the application and necessary evidence requirements for a person to claim an exemption under Section 54.341[~~Education Code~~] at an institution of higher education. The requirements established under this subsection must include a requirement that a person claiming an exemption under Section 54.341 submit an official certificate of honorable discharge.

(c) The board [~~commission~~] shall adopt rules governing the coordination of federal and state benefits of a person eligible to receive an exemption under Section 54.341(k)[~~Education Code~~], including rules governing:

(1) the total number of credit hours assigned under that section that a person may apply to an individual degree or certificate program, consistent with the standards of the appropriate recognized regional accrediting agency; and

(2) the application of the assigned exemption to credit hours for which the institution of higher education does not receive state funding.

Sec. 61.102 [434.00791]. ELECTRONIC SYSTEM TO MONITOR TUITION EXEMPTIONS FOR VETERANS AND FAMILY MEMBERS. [~~(a) In this section, "institution of higher education" has the meaning assigned by Section 61.003, Education Code.~~

[~~(b)~~] The board [~~commission~~] shall ensure a system to electronically monitor the use of tuition and fee exemptions at institutions of higher education under Section 54.341[~~Education Code~~], is developed. The system must allow the board [~~commission~~] to electronically receive, for each semester, the following information from institutions of higher education:

- (1) the name of the institution;
- (2) the name, identification number, and date of birth of each individual attending the institution and receiving benefits for the semester under Section 54.341[~~Education Code~~];
- (3) for each individual receiving benefits, the number of credit hours for which the individual received an exemption for the semester;

(b) The commission shall ensure a system to electronically monitor the use of tuition and fee exemptions at institutions of higher education under Section 54.341, Education Code, is developed. The system must allow the commission to electronically receive, for each semester, the following information from institutions of higher education:

- (1) the name of the institution;
- (2) the name, identification number, and date of birth of each individual attending the institution and receiving benefits for the semester under Section 54.341, Education Code;
- (3) for each individual receiving benefits, the number of credit hours for which the individual received an exemption for the semester;

(4) for each individual receiving benefits at the institution during the semester, the total cumulative number of credit hours for which the individual has received an exemption at the institution; and

(5) any other information required by the board ~~[commission]~~.

SECTION 4. Section 54.341(o), Education Code, is repealed.

SECTION 5. The change in law made by this Act applies only to the imposition of an administrative penalty for a violation that occurs on or after the effective date of this Act. The imposition of an administrative penalty for a violation that occurs before the effective date of this Act is governed by the law in effect on the date the violation occurred, and that law is continued in effect for that purpose.

SECTION 6. (a) In this section, "former governing body" means the Texas Veterans Commission, relating to the oversight of Section 54.341, Education Code, and former Sections 434.0079 and 434.00791, Government Code.

(b) On September 1, 2017:

(1) all functions and activities relating to Section 54.341, Education Code, performed by the former governing body immediately before that date are transferred to the Texas Higher Education Coordinating Board;

(2) all rules, policies, procedures, decisions, and forms adopted by the former governing body relating to Section 54.341, Education Code, or former Sections 434.0079 and 434.00791, Government Code, are continued in effect as rules, policies, procedures, decisions, and forms of the Texas Higher Education Coordinating Board and remain in effect until amended or replaced by that board;

(3) a complaint, investigation, or other proceeding before the former governing body that is related to Section 54.341, Education Code, or former Sections 434.0079 and 434.00791, Government Code, is transferred without change in status

(4) for each individual receiving benefits at the institution during the semester, the total cumulative number of credit hours for which the individual has received an exemption at the institution; ~~[and]~~

(5) for each individual receiving benefits, the length of service of the person eligible for an exemption under Section 54.341(a), Education Code, as indicated by official documentation from the United States Department of Defense; and

(6) any other information required by the commission.

No equivalent provision.

No equivalent provision.

No equivalent provision.

to the Texas Higher Education Coordinating Board, and the Texas Higher Education Coordinating Board assumes, as appropriate and without a change in status, the position of the former governing body in an action or proceeding to which the former governing body is a party;

(4) all money, contracts, leases, property, and obligations of the former governing body relating to Section 54.341, Education Code, or former Sections 434.0079 and 434.00791, Government Code, are transferred to the Texas Higher Education Coordinating Board;

(5) all property in the custody of the former governing body related to Section 54.341, Education Code, or former Sections 434.0079 and 434.00791, Government Code, is transferred to the Texas Higher Education Coordinating Board; and

(6) the unexpended and unobligated balance of any money appropriated by the legislature for the former governing body related to Section 54.341, Education Code, or former Sections 434.0079 and 434.00791, Government Code, is transferred to the Texas Higher Education Coordinating Board.

(c) As soon as practicable after the effective date of this Act, the Texas Veterans Commission may agree with the Texas Higher Education Coordinating Board to transfer any property of the Texas Veterans Commission to the Texas Higher Education Coordinating Board to implement the transfer required by this Act.

(d) Unless the context indicates otherwise, a reference to the former governing body in a law or administrative rule that relates to Section 54.341, Education Code, or former Sections 434.0079 and 434.00791, Government Code, means the Texas Higher Education Coordinating Board.

(e) A license, permit, certification, or registration issued by the former governing body is continued in effect as a license, permit, certification, or registration of the Texas Higher Education Coordinating Board.

(f) On September 1, 2017, all full-time equivalent employee positions at the former governing body that primarily concern the administration, enforcement, or other direct or indirect support of Section 54.341, Education Code, or former Sections 434.0079 and 434.00791, Government

Code, become positions at the Texas Higher Education Coordinating Board. When filling the positions, the Texas Higher Education Coordinating Board shall give first consideration to an applicant who, as of August 31, 2017, was an employee at the former governing body primarily involved in administering or enforcing Section 54.341, Education Code, or former Sections 434.0079 and 434.00791, Government Code.

SECTION 7. In adopting rules under this Act, including rules implementing authority transferred by this Act from the Texas Veterans Commission, the Texas Higher Education Coordinating Board shall engage institutions of higher education in a negotiated rulemaking process as described by Chapter 2008, Government Code.

SECTION 8. The changes in law made by this Act apply beginning with tuition and fees charged for the 2017 fall semester. Tuition and fees charged for a term or semester before the 2017 fall semester are 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 9. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

No equivalent provision.

SECTION 4. (a) Except as otherwise provided by this section, the changes in law made by this Act apply beginning with tuition and fees charged for the 2017 fall semester. Tuition and fees charged for a term or semester before the 2017 fall semester are 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.

(b) Section 54.201, Education Code, as added by this Act, applies to a person's eligibility for an exemption or waiver from the payment of all or part of tuition or other fees beginning with tuition and fees charged for the 2018 fall semester.

SECTION 5. Same as introduced version.