

AN ACT

relating to the administration and operation of the state's programs for paying, prepaying, or saving toward the costs of attending an institution of higher education, including the powers and duties of the Prepaid Higher Education Tuition Board.

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

SECTION 1. Section 54.602, Education Code, is amended by adding Subsection (c) to read as follows:

(c) Unless otherwise specified, the provisions of this subchapter concerning the following requirements applicable to the board under this subchapter also apply to the board for purposes of Subchapters G, H, I, and J of this chapter:

(1) membership;

(2) appointments of members;

(3) removal of members;

(4) ethics policy;

(5) training;

(6) board officers;

(7) compensation;

(8) meetings;

(9) public interest information and complaints;

(10) use of technology;

(11) program and facility accessibility;

(12) executive director; and

1           (13) staff.

2           SECTION 2. Section 54.633, Education Code, is amended by  
3 adding Subsection (n) to read as follows:

4           (n) If the comptroller determines that the purpose of a  
5 direct-support organization established under Subsection (e) has  
6 been substantially complied with, the comptroller may dissolve the  
7 organization. On dissolution, the title to all funds and  
8 properties then owned by the organization shall transfer to the  
9 Texas Match the Promise Foundation.

10          SECTION 3. Section 54.641(a), Education Code, is amended to  
11 read as follows:

12          (a) Not later than January 31 [~~1~~] of each year, the board  
13 shall furnish without charge to each purchaser a statement of:

14               (1) the amount paid by the purchaser under the prepaid  
15 tuition contract;

16               (2) the number of credit hours originally covered by  
17 the contract;

18               (3) the number of credit hours remaining under the  
19 contract; and

20               (4) any other information the board determines by rule  
21 is necessary or appropriate.

22          SECTION 4. Section 54.701(8), Education Code, is amended to  
23 read as follows:

24               (8) "Qualified higher education expenses" has the  
25 meaning assigned by [~~means tuition, fees, or expenses for books,~~  
26 ~~supplies, and equipment required for the enrollment or attendance~~  
27 ~~of an individual at an eligible educational institution, the costs~~

1 ~~of room and board, and any other higher education expenses that may~~  
2 ~~be permitted under]~~ Section 529, Internal Revenue Code of 1986, as  
3 amended.

4 SECTION 5. Section 54.702(a), Education Code, is amended to  
5 read as follows:

6 (a) The board shall:

7 (1) develop and implement the plan in a manner  
8 consistent with this subchapter;

9 (2) select the financial institution or institutions  
10 to serve as plan manager; and

11 (3) adopt rules to implement this subchapter  
12 ~~[governing withdrawal of money from a savings trust account and~~  
13 ~~develop policies and penalties for nonqualified withdrawals].~~

14 SECTION 6. The heading to Section 54.708, Education Code,  
15 is amended to read as follows:

16 Sec. 54.708. CONTRIBUTIONS AND WITHDRAWALS [~~; PENALTY FOR~~  
17 ~~NONQUALIFIED WITHDRAWAL].~~

18 SECTION 7. Section 54.708(b), Education Code, is amended to  
19 read as follows:

20 (b) An account owner may withdraw all or part of the balance  
21 of an account on prior notice as authorized by board rules. ~~[The~~  
22 ~~board shall adopt rules governing the determination whether a~~  
23 ~~withdrawal is a qualified withdrawal or a nonqualified withdrawal.~~  
24 ~~The rules may require an account owner requesting to make a~~  
25 ~~qualified withdrawal to provide a certification of qualified higher~~  
26 ~~education expenses.]~~

27 SECTION 8. Sections 54.751(2), (6), and (7), Education

1 Code, are amended to read as follows:

2 (2) "Beneficiary" means the person designated under a  
3 prepaid tuition contract as the person entitled to apply one or more  
4 tuition units purchased under the contract to the payment of the  
5 person's undergraduate tuition and required fees at a general  
6 academic teaching institution, two-year institution of higher  
7 education, private or independent institution of higher education,  
8 medical and dental unit, career school, or accredited out-of-state  
9 institution of higher education.

10 (6) "Prepaid tuition contract" means a contract under  
11 which a person purchases from the board on behalf of a beneficiary  
12 one or more tuition units that the beneficiary is entitled to apply  
13 to the payment of the beneficiary's undergraduate tuition and  
14 required fees at a general academic teaching institution, two-year  
15 institution of higher education, private or independent  
16 institution of higher education, medical and dental unit, career  
17 school, or accredited out-of-state institution of higher  
18 education.

19 (7) "Medical and dental unit," "private [~~"Private~~] or  
20 independent institution of higher education," "public junior  
21 college," "public state college," "public technical institute,"  
22 and "recognized accrediting agency" have the meanings assigned by  
23 Section 61.003.

24 SECTION 9. Section 54.753, Education Code, is amended by  
25 amending Subsection (a) and adding Subsection (c-1) to read as  
26 follows:

27 (a) Under the program, a purchaser may prepay the costs of

1 all or a portion of a beneficiary's undergraduate tuition and  
2 required fees at a general academic teaching institution, two-year  
3 institution of higher education, private or independent  
4 institution of higher education, medical and dental unit, career  
5 school, or accredited out-of-state institution of higher education  
6 by entering into a prepaid tuition contract with the board to  
7 purchase one or more tuition units of a type described by this  
8 section at the applicable price established by the board for that  
9 type of unit for the year in which the unit is purchased. The  
10 portion of the beneficiary's undergraduate tuition and required  
11 fees for which a tuition unit may be redeemed at a particular  
12 general academic teaching institution or two-year institution of  
13 higher education is assigned to the tuition unit at the time of  
14 purchase, and the tuition unit may be redeemed to pay that portion  
15 of the tuition and fees at the general academic teaching  
16 institution or two-year institution of higher education in any  
17 academic year in which the unit is redeemed in accordance with this  
18 subchapter. The purchaser may purchase one type of unit or a  
19 combination of two or three types of units.

20 (c-1) On or before June 1, each general academic teaching  
21 institution and each two-year institution of higher education shall  
22 annually provide information for the next fall semester to the  
23 board in a format requested by the board, to assist the board in  
24 determining tuition unit sales prices for the next sales period and  
25 redemption values for the next academic year.

26 SECTION 10. Sections 54.754(a) and (d), Education Code, are  
27 amended to read as follows:

1           (a) In accordance with this subchapter, when a beneficiary  
2 under a prepaid tuition contract redeems one or more tuition units  
3 to pay costs of tuition and required fees, the board shall apply  
4 money in the fund, in the amount provided by Section 54.765 to pay  
5 all or the applicable portion of the costs of the beneficiary's  
6 tuition and required fees at the general academic teaching  
7 institution, two-year institution of higher education, private or  
8 independent institution of higher education, medical and dental  
9 unit, or accredited out-of-state institution of higher education in  
10 which the beneficiary enrolls. Subject to Subsection (b)(2) and the  
11 other provisions of this section, a beneficiary may redeem any type  
12 of tuition unit for attendance at an institution or unit described  
13 by this section. A general academic teaching institution or  
14 two-year institution of higher education shall accept the amount  
15 transferred to the institution under Section 54.765(c) when the  
16 unit or units are redeemed as payment for all or the applicable  
17 portion of the beneficiary's tuition and required fees.

18           (d) If a beneficiary redeems fewer tuition units of the type  
19 or combination of types necessary to pay the total cost of the  
20 beneficiary's tuition and required fees at the general academic  
21 teaching institution, two-year institution of higher education,  
22 private or independent institution of higher education, medical and  
23 dental unit, career school, or accredited out-of-state institution  
24 of higher education at which the beneficiary enrolls, the  
25 beneficiary is responsible for paying the amount of the difference  
26 between the amount of tuition and required fees for which the  
27 beneficiary pays through the redemption of one or more tuition

1 units and the total cost of the beneficiary's tuition and required  
2 fees at the institution or unit.

3 SECTION 11. Section 54.765(f), Education Code, is amended  
4 to read as follows:

5 (f) When a beneficiary enrolls at a private or independent  
6 institution of higher education, medical and dental unit, career  
7 school, or accredited out-of-state institution of higher  
8 education, on written authorization from the purchaser of the  
9 tuition unit or units for that beneficiary, the comptroller or the  
10 comptroller's authorized representative shall transfer to the  
11 institution the lesser of:

12 (1) an amount equal to the current cost of the tuition  
13 and required fees that would be covered by redemption of the number  
14 and type of tuition units the beneficiary is redeeming if the  
15 beneficiary were redeeming the unit or units at a general academic  
16 teaching institution or two-year institution of higher education as  
17 follows:

18 (A) for a Type I unit, at the general academic  
19 teaching institution that had the highest tuition and required fee  
20 cost;

21 (B) for a Type II unit, at a general academic  
22 teaching institution that had tuition and required fee cost at the  
23 weighted average; and

24 (C) for a Type III unit, at a two-year  
25 institution of higher education that had tuition and required fee  
26 cost at the weighted average; or

27 (2) an amount equal to the total purchase price of the

1 tuition unit or units the beneficiary redeems for the semester or  
2 other academic term plus the portion of the total return on assets  
3 of the fund attributable to that amount.

4 SECTION 12. Section 54.767, Education Code, is amended to  
5 read as follows:

6 Sec. 54.767. USE OF FUND ASSETS. The assets of the fund may  
7 be used only to:

8 (1) pay the costs of program administration and  
9 operations;

10 (2) make payments to general academic teaching  
11 institutions, two-year institutions of higher education, private  
12 or independent institutions of higher education, medical and dental  
13 units, career schools, and accredited out-of-state institutions of  
14 higher education on behalf of beneficiaries; and

15 (3) make refunds under prepaid tuition contracts.

16 SECTION 13. Sections 54.769(b) and (c), Education Code, are  
17 amended to read as follows:

18 (b) The rights of a purchaser, beneficiary, or successor in  
19 interest of a purchaser or beneficiary in and under a prepaid  
20 tuition contract and the payment of tuition and required fees for a  
21 beneficiary under a prepaid tuition contract to a general academic  
22 teaching institution, two-year institution of higher education,  
23 private or independent institution of higher education, medical and  
24 dental unit, career school, or accredited out-of-state institution  
25 of higher education under this chapter are exempt from attachment,  
26 levy, garnishment, execution, and seizure for the satisfaction of  
27 any debt, judgment, or claim against a purchaser, beneficiary, or



1 successor in interest of a purchaser or beneficiary.

2 (c) A claim or judgment against a purchaser, beneficiary, or  
3 successor in interest of a purchaser or beneficiary does not impair  
4 or entitle the claim or judgment holder to assert or enforce a lien  
5 against:

6 (1) the rights of a purchaser, beneficiary, or  
7 successor in interest of a purchaser or beneficiary in and under a  
8 prepaid tuition contract; or

9 (2) the right of a beneficiary to the payment of  
10 tuition and required fees to a general academic teaching  
11 institution, two-year institution of higher education, private or  
12 independent institution of higher education, medical and dental  
13 unit, career school, or accredited out-of-state institution of  
14 higher education under a prepaid tuition contract.

15 SECTION 14. Section 54.774(a), Education Code, is amended  
16 to read as follows:

17 (a) A prepaid tuition contract remains in effect after the  
18 program is terminated if, when the program is terminated, the  
19 beneficiary:

20 (1) has been accepted by or is enrolled at a general  
21 academic teaching institution, two-year institution of higher  
22 education, private or independent institution of higher education,  
23 medical and dental unit, career school, or accredited out-of-state  
24 institution of higher education; or

25 (2) is projected to graduate from high school not  
26 later than the third anniversary of the date the program is  
27 terminated.

1 SECTION 15. Section 54.775(b), Education Code, is amended  
2 to read as follows:

3 (b) Notwithstanding Subsection (a), the board may release  
4 information described by that subsection to a general academic  
5 teaching institution, two-year institution of higher education,  
6 private or independent institution of higher education, medical and  
7 dental unit, career school, or accredited out-of-state institution  
8 of higher education at which a beneficiary may enroll or is  
9 enrolled. The institution or unit shall keep the information  
10 confidential.

11 SECTION 16. Section 54.776, Education Code, is amended to  
12 read as follows:

13 Sec. 54.776. STATEMENT REGARDING STATUS OF PREPAID TUITION  
14 CONTRACT. Not later than January 31 [~~1~~] of each year, the board  
15 shall provide without charge to each purchaser a statement of:

16 (1) the amount paid by the purchaser under the prepaid  
17 tuition contract;

18 (2) the total number of each type of tuition unit  
19 covered by the contract at any one time;

20 (3) the number of each type of tuition unit remaining  
21 under the contract;

22 (4) the value of the purchasers' tuition units if  
23 redeemed at any general academic teaching institution or two-year  
24 institution of higher education designated for that year by the  
25 purchaser in the time and manner required by the board, not to  
26 exceed five institutions; and

27 (5) any other information the board determines by rule

1 is necessary or appropriate.

2 SECTION 17. Sections 54.708(c), (d), (e), and (f),  
3 Education Code, are repealed.

4 SECTION 18. This Act takes effect immediately if it  
5 receives a vote of two-thirds of all the members elected to each  
6 house, as provided by Section 39, Article III, Texas Constitution.  
7 If this Act does not receive the vote necessary for immediate  
8 effect, this Act takes effect September 1, 2019.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 3655 was passed by the House on May 3, 2019, by the following vote: Yeas 136, Nays 4, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3655 on May 22, 2019, by the following vote: Yeas 145, Nays 0, 1 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 3655 was passed by the Senate, with amendments, on May 14, 2019, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor