

By: Buckingham

S.B. No. 1664

A BILL TO BE ENTITLED

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 54.641(a), Education Code, is amended to
3 read as follows:

4 (a) Not later than January 31 [4] of each year, the board
5 shall furnish without charge to each purchaser a statement of:

6 (1) the amount paid by the purchaser under the prepaid
7 tuition contract;

8 (2) the number of credit hours originally covered by
9 the contract;

10 (3) the number of credit hours remaining under the
11 contract; and

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

14 SECTION 3. Section 54.701(8), Education Code, is amended to
15 read as follows:

16 (8) "Qualified higher education expenses" has the
17 meaning assigned by [~~means tuition, fees, or expenses for books,~~
18 ~~supplies, and equipment required for the enrollment or attendance~~
19 ~~of an individual at an eligible educational institution, the costs~~
20 ~~of room and board, and any other higher education expenses that may~~
21 ~~be permitted under~~] Section 529, Internal Revenue Code of 1986, as
22 amended.

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

25 (a) The board shall:

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

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

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

6 SECTION 5. The heading to Section 54.708, Education Code,
7 is amended to read as follows:

8 Sec. 54.708. CONTRIBUTIONS AND WITHDRAWALS~~[; PENALTY FOR~~
9 ~~NONQUALIFIED WITHDRAWAL]~~.

10 SECTION 6. Section 54.708(b), Education Code, is amended to
11 read as follows:

12 (b) An account owner may withdraw all or part of the balance
13 of an account on prior notice as authorized by board rules. ~~[The~~
14 ~~board shall adopt rules governing the determination whether a~~
15 ~~withdrawal is a qualified withdrawal or a nonqualified withdrawal.~~
16 ~~The rules may require an account owner requesting to make a~~
17 ~~qualified withdrawal to provide a certification of qualified higher~~
18 ~~education expenses.]~~

19 SECTION 7. Sections 54.751(2), (6), and (7), Education
20 Code, are amended to read as follows:

21 (2) "Beneficiary" means the person designated under a
22 prepaid tuition contract as the person entitled to apply one or more
23 tuition units purchased under the contract to the payment of the
24 person's undergraduate tuition and required fees at a general
25 academic teaching institution, medical and dental unit, two-year
26 institution of higher education, private or independent
27 institution of higher education, career school, or accredited

1 out-of-state institution of higher education.

2 (6) "Prepaid tuition contract" means a contract under
3 which a person purchases from the board on behalf of a beneficiary
4 one or more tuition units that the beneficiary is entitled to apply
5 to the payment of the beneficiary's undergraduate tuition and
6 required fees at a general academic teaching institution, medical
7 and dental unit, two-year institution of higher education, private
8 or independent institution of higher education, career school, or
9 accredited out-of-state institution of higher education.

10 (7) "Medical and dental unit," "private [~~"Private]~~ or
11 independent institution of higher education," "public junior
12 college," "public state college," "public technical institute,"
13 and "recognized accrediting agency" have the meanings assigned by
14 Section 61.003.

15 SECTION 8. Section 54.752(b), Education Code, is amended to
16 read as follows:

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

- 20 (1) adopt rules to implement this subchapter;
21 (2) sue and be sued;
22 (3) enter into contracts and other necessary
23 instruments;
24 (4) enter into agreements or other transactions with
25 the United States, state agencies, general academic teaching
26 institutions, medical and dental units, two-year institutions of
27 higher education, and local governments;

1 (5) appear on its own behalf before governmental
2 agencies;

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

7 (7) engage the services of private consultants,
8 actuaries, trustees, records administrators, managers, legal
9 counsel, and auditors for administrative or technical assistance;

10 (8) solicit and accept gifts, grants, loans, and other
11 aid from any source or participate in any other way in any
12 government program to carry out this subchapter;

13 (9) impose administrative fees;

14 (10) contract with a person to market the program;

15 (11) purchase liability insurance covering the board
16 and employees and agents of the board; and

17 (12) establish other policies, procedures, and
18 eligibility criteria to implement this subchapter.

19 SECTION 9. Sections 54.753(a), (b), (c), (d), and (e),
20 Education Code, are amended to read as follows:

21 (a) Under the program, a purchaser may prepay the costs of
22 all or a portion of a beneficiary's undergraduate tuition and
23 required fees at a general academic teaching institution, medical
24 and dental unit, two-year institution of higher education, private
25 or independent institution of higher education, career school, or
26 accredited out-of-state institution of higher education by
27 entering into a prepaid tuition contract with the board to purchase

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

15 (b) The assigned value of a tuition unit, purchased as
16 provided by this section, when used to pay the cost of tuition and
17 required fees at a general academic teaching institution, medical
18 and dental unit, or two-year institution of higher education, is
19 equal to one percent of the amount necessary for the academic year
20 in which the unit is redeemed to cover the applicable cost of
21 undergraduate resident tuition and required fees for one academic
22 year consisting of 30 semester credit hours as follows:

23 (1) for a Type I tuition unit, the cost of
24 undergraduate resident tuition and required fees charged by the
25 general academic teaching institution or medical and dental unit,
26 as applicable, with the highest such tuition and fee costs,
27 determined as provided by Subsection (d);

1 (2) for a Type II tuition unit, the weighted average
2 undergraduate resident tuition and required fees charged by general
3 academic teaching institutions or medical and dental units, as
4 applicable, determined as provided by Subsection (e); and

5 (3) for a Type III tuition unit, the weighted average
6 undergraduate resident tuition and required fees of two-year
7 institutions of higher education, determined as provided by
8 Subsection (f).

9 (c) Each year, the board shall establish the price at which
10 each type of tuition unit may be purchased during the next sales
11 period and the percentage of the total cost of undergraduate
12 resident tuition and required fees for one academic year consisting
13 of 30 semester credit hours for which each type of tuition unit may
14 be redeemed at each general academic teaching institution, medical
15 and dental unit, and two-year institution. The percentage shall be
16 based on the total cost of required tuition and fees at a particular
17 general academic teaching institution, medical and dental unit, or
18 two-year institution of higher education in relation to the amount
19 determined for the institution or unit with the highest cost or
20 weighted average cost, as applicable. The purchase price
21 established for each type of unit must be equal to the applicable
22 cost of tuition and required fees as determined under this section
23 for the most recent academic year that began before the beginning of
24 the sales period. The sales period to which those prices apply
25 expires on the first anniversary of the date the units become
26 available for purchase at the prices established for that year. On
27 or before June 1, each general academic teaching institution,

1 medical and dental unit, and two-year institution of higher
2 education shall annually provide information for the upcoming fall
3 semester to the board in a format requested by the board, to assist
4 the board in determining tuition unit sales prices for the upcoming
5 sales period and redemption values for the upcoming academic year.

6 (d) The board shall base the purchase price of a Type I
7 tuition unit on one percent of the cost of the undergraduate
8 resident tuition and required fees for the applicable academic year
9 at the general academic teaching institution or medical and dental
10 unit, as applicable, with the highest such tuition and fee cost for
11 that academic year.

12 (e) The board shall base the purchase price of a Type II
13 tuition unit on one percent of the cost of the weighted average
14 general academic teaching institution or medical and dental unit,
15 as applicable, undergraduate resident tuition and required fees for
16 the applicable academic year. That cost is determined by:

17 (1) for each general academic teaching institution or
18 medical and dental unit, as applicable, multiplying the average
19 amount of the institution's or unit's undergraduate resident
20 tuition and required fees for an academic year consisting of 30
21 semester credit hours by the number of full-time equivalent
22 undergraduate resident students at that institution or unit;

23 (2) adding together the products computed under
24 Subdivision (1) for each institution or unit; and

25 (3) dividing the sum determined under Subdivision (2)
26 by the total number of full-time equivalent undergraduate resident
27 students at all general academic teaching institutions or medical

1 and dental units, as applicable.

2 SECTION 10. Sections 54.754(a), (b), (c), and (d),
3 Education Code, are amended to read as follows:

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

22 (b) To pay for the entire cost of undergraduate resident
23 tuition and required fees for an academic year consisting of 30
24 semester credit hours, redemption of 100 Type I tuition units is
25 required at the general academic teaching institution or medical
26 and dental unit, as applicable, with the highest tuition and fee
27 cost as described by Section 54.753(d), redemption of 100 Type II

1 tuition units is required at a general academic teaching
 2 institution or medical and dental unit, as applicable, with the
 3 applicable tuition and fee cost at the weighted average as
 4 described by Subsection (e) of that section, and redemption of 100
 5 Type III units is required at a two-year institution of higher
 6 education with the applicable tuition and fee cost at the weighted
 7 average as described by Subsection (f) of that section. The number
 8 of tuition units that must be redeemed to pay for the entire cost of
 9 tuition and required fees for an academic year at another general
 10 academic teaching institution, medical and dental unit, or two-year
 11 institution of higher education may be higher or lower:

12 (1) in proportion to the amount that the cost of
 13 tuition and required fees at that institution or unit is higher or
 14 lower than the amount determined for the institution or unit with
 15 the highest cost or weighted average cost, as applicable; or

16 (2) if a more or less valuable type of tuition unit is
 17 redeemed.

18 (c) To assist purchasers in determining the number of
 19 tuition units a beneficiary must redeem to cover the costs of
 20 tuition and required fees at general academic teaching
 21 institutions, medical and dental units, and two-year institutions
 22 of higher education, each year the board shall prepare a tuition
 23 unit redemption chart and shall post the chart on an Internet
 24 website. The chart must show for each general academic teaching
 25 institution, for each medical and dental unit, and for each
 26 two-year institution of higher education the number of each type of
 27 units purchased that year that would be required to cover the cost

1 of tuition and required fees, based on an academic year consisting
2 of 30 semester credit hours.

3 (d) If a beneficiary redeems fewer tuition units of the type
4 or combination of types necessary to pay the total cost of the
5 beneficiary's tuition and required fees at the general academic
6 teaching institution, medical and dental unit, two-year
7 institution of higher education, private or independent
8 institution of higher education, career school, or accredited
9 out-of-state institution of higher education at which the
10 beneficiary enrolls, the beneficiary is responsible for paying the
11 amount of the difference between the amount of tuition and required
12 fees for which the beneficiary pays through the redemption of one or
13 more tuition units and the total cost of the beneficiary's tuition
14 and required fees at the institution or unit.

15 SECTION 11. Section 54.756(e), Education Code, is amended
16 to read as follows:

17 (e) Notwithstanding any provision of Subchapter B, the
18 tuition and required fees charged by a general academic teaching
19 institution, medical and dental unit, or two-year institution of
20 higher education that are paid for with tuition units shall be
21 determined as if the beneficiary of that contract were a resident
22 student.

23 SECTION 12. Sections 54.765(c) and (f), Education Code, are
24 amended to read as follows:

25 (c) When a beneficiary enrolls at a general academic
26 teaching institution, medical and dental unit, or two-year
27 institution of higher education, on written authorization from the

purchaser of the tuition unit or units for that beneficiary, the comptroller or the comptroller's authorized representative shall transfer to the institution or unit an amount equal to the lesser of:

(1) the sum of:

(A) the total purchase price of the tuition unit or units the beneficiary redeems for the semester or other academic term; and

(B) the amount determined under Subsection (d);
or

(2) an amount equal to 101 percent of the amount of tuition and required fees covered by the tuition units being redeemed.

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

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

(A) for a Type I unit, at the general academic teaching institution or medical and dental unit, as applicable,

1 that had the highest tuition and required fee cost;

2 (B) for a Type II unit, at a general academic
3 teaching institution or medical and dental unit, as applicable,
4 that had tuition and required fee cost at the weighted average; and

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

8 (2) an amount equal to the total purchase price of the
9 tuition unit or units the beneficiary redeems for the semester or
10 other academic term plus the portion of the total return on assets
11 of the fund attributable to that amount.

12 SECTION 13. Section 54.767, Education Code, is amended to
13 read as follows:

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

16 (1) pay the costs of program administration and
17 operations;

18 (2) make payments to general academic teaching
19 institutions, medical and dental units, two-year institutions of
20 higher education, private or independent institutions of higher
21 education, career schools, and accredited out-of-state
22 institutions of higher education on behalf of beneficiaries; and

23 (3) make refunds under prepaid tuition contracts.

24 SECTION 14. Section 54.7671(b), Education Code, is amended
25 to read as follows:

26 (b) For purposes of a transfer of money from an account
27 under this subchapter, the value of the account at the time of

transfer is the lesser of:

(1) an amount equal to the cost, at the time of the transfer, of the tuition and required fees that would be covered by redemption of the number and type of tuition units to be transferred from the account if the beneficiary were redeeming the units at a general academic teaching institution, medical and dental unit, or two-year institution of higher education as follows:

(A) for a Type I unit, at the general academic teaching institution or medical and dental unit, as applicable, that had the highest tuition and required fee cost;

(B) for a Type II unit, at a general academic teaching institution or medical and dental unit, as applicable, that had tuition and required fee cost at the weighted average; and

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

(2) an amount equal to the total purchase price of the tuition units to be transferred from the account, plus the portion of the total return on assets of the fund attributable to that amount.

SECTION 15. Sections 54.769(b) and (c), Education Code, are amended to read as follows:

(b) The rights of a purchaser, beneficiary, or successor in interest of a purchaser or beneficiary in and under a prepaid tuition contract and the payment of tuition and required fees for a beneficiary under a prepaid tuition contract to a general academic teaching institution, medical and dental unit, two-year

1 institution of higher education, private or independent
2 institution of higher education, career school, or accredited
3 out-of-state institution of higher education under this chapter are
4 exempt from attachment, levy, garnishment, execution, and seizure
5 for the satisfaction of any debt, judgment, or claim against a
6 purchaser, beneficiary, or successor in interest of a purchaser or
7 beneficiary.

8 (c) A claim or judgment against a purchaser, beneficiary, or
9 successor in interest of a purchaser or beneficiary does not impair
10 or entitle the claim or judgment holder to assert or enforce a lien
11 against:

12 (1) the rights of a purchaser, beneficiary, or
13 successor in interest of a purchaser or beneficiary in and under a
14 prepaid tuition contract; or

15 (2) the right of a beneficiary to the payment of
16 tuition and required fees to a general academic teaching
17 institution, medical and dental unit, two-year institution of
18 higher education, private or independent institution of higher
19 education, career school, or accredited out-of-state institution
20 of higher education under a prepaid tuition contract.

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

23 (a) A prepaid tuition contract remains in effect after the
24 program is terminated if, when the program is terminated, the
25 beneficiary:

26 (1) has been accepted by or is enrolled at a general
27 academic teaching institution, medical and dental unit, two-year

1 institution of higher education, private or independent
2 institution of higher education, career school, or accredited
3 out-of-state institution of higher education; or

4 (2) is projected to graduate from high school not
5 later than the third anniversary of the date the program is
6 terminated.

7 SECTION 17. Section 54.775(b), Education Code, is amended
8 to read as follows:

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

17 SECTION 18. Section 54.776, Education Code, is amended to
18 read as follows:

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

22 (1) the amount paid by the purchaser under the prepaid
23 tuition contract;

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

26 (3) the number of each type of tuition unit remaining
27 under the contract;

1 (4) the value of the purchasers' tuition units if
2 redeemed at any general academic teaching institution, medical and
3 dental unit, or two-year institution of higher education designated
4 for that year by the purchaser in the time and manner required by
5 the board, not to exceed five institutions or units; and

6 (5) any other information the board determines by rule
7 is necessary or appropriate.

8 SECTION 19. Sections 54.708(c), (d), (e), and (f),
9 Education Code, are repealed.

10 SECTION 20. This Act takes effect immediately if it
11 receives a vote of two-thirds of all the members elected to each
12 house, as provided by Section 39, Article III, Texas Constitution.
13 If this Act does not receive the vote necessary for immediate
14 effect, this Act takes effect September 1, 2019.