

House Bill 3655
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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
- (13) staff.

No equivalent provision.

SENATE VERSION (IE)

SECTION 1. Same as House version.

CONFERENCE

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

(n) If the comptroller determines that the purpose of a direct-support organization established under Subsection (e) has been substantially complied with, the comptroller may dissolve the organization. On dissolution, the title to all funds and properties then owned by the organization shall transfer to the Texas Match the Promise Foundation. [FA1]

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SECTION 2. Section 54.641(a), Education Code, is amended to read as follows:

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

- (1) the amount paid by the purchaser under the prepaid tuition contract;
- (2) the number of credit hours originally covered by the contract;
- (3) the number of credit hours remaining under the contract; and
- (4) any other information the board determines by rule is necessary or appropriate.

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

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

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

- (a) The board shall:
- (1) develop and implement the plan in a manner consistent with this subchapter;
 - (2) select the financial institution or institutions to serve as plan manager; and

SENATE VERSION (IE)

SECTION 2. Same as House version.

SECTION 3. Same as House version.

SECTION 4. Same as House version.

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

SECTION 5. The heading to Section 54.708, Education Code, is amended to read as follows:
Sec. 54.708. CONTRIBUTIONS AND WITHDRAWALS[; ~~PENALTY FOR NONQUALIFIED WITHDRAWAL~~].

SECTION 6. Section 54.708(b), Education Code, is amended to read as follows:
(b) An account owner may withdraw all or part of the balance of an account on prior notice as authorized by board rules. ~~[The board shall adopt rules governing the determination whether a withdrawal is a qualified withdrawal or a nonqualified withdrawal. The rules may require an account owner requesting to make a qualified withdrawal to provide a certification of qualified higher education expenses.]~~

SECTION 7. Sections 54.751(2), (6), and (7), Education Code, are amended to read as follows:
(2) "Beneficiary" means the person designated under a prepaid tuition contract as the person entitled to apply one or more tuition units purchased under the contract to the payment of the person's undergraduate tuition and required fees at a general academic teaching institution, two-year institution of higher education, private or independent

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SECTION 5. Same as House version.

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institution of higher education, medical and dental unit, career school, or accredited out-of-state institution of higher education.

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

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

SECTION 8. Section 54.753, Education Code, is amended by amending Subsection (a) and adding Subsection (c-1) to read as follows:

(a) Under the program, a purchaser may prepay the costs of all or a portion of a beneficiary's undergraduate tuition and required fees at a general academic teaching institution, two-year institution of higher education, private or independent institution of higher education, medical and dental unit, career school, or accredited out-of-state institution of higher education by entering into a prepaid tuition contract with the board to purchase one or more tuition units of a type described by this section at the applicable price established by the board for that type of unit for the year in which the

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SECTION 8. Same as House version.

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unit is purchased. The portion of the beneficiary's undergraduate tuition and required fees for which a tuition unit may be redeemed at a particular general academic teaching institution or two-year institution of higher education is assigned to the tuition unit at the time of purchase, and the tuition unit may be redeemed to pay that portion of the tuition and fees at the general academic teaching institution or two-year institution of higher education in any academic year in which the unit is redeemed in accordance with this subchapter. The purchaser may purchase one type of unit or a combination of two or three types of units.

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

SECTION 9. Sections 54.754(a) and (d), Education Code, are amended to read as follows:

(a) In accordance with this subchapter, when a beneficiary under a prepaid tuition contract redeems one or more tuition units to pay costs of tuition and required fees, the board shall apply money in the fund, in the amount provided by Section 54.765 to pay all or the applicable portion of the costs of the beneficiary's tuition and required fees at the general academic teaching institution, two-year institution of higher education, private or independent institution of higher education, medical and dental unit, or accredited out-of-state

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institution of higher education in which the beneficiary enrolls. Subject to Subsection (b)(2) and the other provisions of this section, a beneficiary may redeem any type of tuition unit for attendance at an institution or unit described by this section. A general academic teaching institution or two-year institution of higher education shall accept the amount transferred to the institution under Section 54.765(c) when the unit or units are redeemed as payment for all or the applicable portion of the beneficiary's tuition and required fees.

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

SECTION 10. Section 54.765(f), Education Code, is amended to read as follows:

(f) When a beneficiary enrolls at a private or independent institution of higher education, medical and dental unit, 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

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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 or two-year institution of higher education as follows:

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

(B) for a Type II unit, at a general academic teaching institution 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 unit or units the beneficiary redeems for the semester or other academic term plus the portion of the total return on assets of the fund attributable to that amount.

SECTION 11. Section 54.767, Education Code, is amended to read as follows:

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

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

(2) make payments to general academic teaching institutions, two-year institutions of higher education, private or independent institutions of higher education, medical and dental units, career schools, and accredited out-

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SECTION 11. Same as House version.

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of-state institutions of higher education on behalf of beneficiaries; and
(3) make refunds under prepaid tuition contracts.

SECTION 12. 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, two-year institution of higher education, private or independent institution of higher education, medical and dental unit, career school, or accredited out-of-state institution of higher education under this chapter are exempt from attachment, levy, garnishment, execution, and seizure for the satisfaction of any debt, judgment, or claim against a purchaser, beneficiary, or successor in interest of a purchaser or beneficiary.

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

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

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

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SECTION 12. Same as House version.

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SECTION 13. Section 54.774(a), Education Code, is amended to read as follows:

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

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

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

SECTION 13. Same as House version.

SECTION 14. Section 54.775(b), Education Code, is amended to read as follows:

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

SECTION 14. Same as House version.

SECTION 15. Section 54.776, Education Code, is amended to read as follows:

Sec. 54.776. STATEMENT REGARDING STATUS OF PREPAID TUITION CONTRACT. Not later than January

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31 [4] of each year, the board shall provide without charge to each purchaser a statement of:

- (1) the amount paid by the purchaser under the prepaid tuition contract;
- (2) the total number of each type of tuition unit covered by the contract at any one time;
- (3) the number of each type of tuition unit remaining under the contract;
- (4) the value of the purchasers' tuition units if redeemed at any general academic teaching institution or two-year institution of higher education designated for that year by the purchaser in the time and manner required by the board, not to exceed five institutions; and
- (5) any other information the board determines by rule is necessary or appropriate.

SECTION 16. Sections 54.708(c), (d), (e), and (f), Education Code, are repealed.

SECTION 17. 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, 2019.

SENATE VERSION (IE)

SECTION 16. Same as House version.

SECTION 17. Same as House version.

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