By:  Creighton, West, Zaffirini S.B. No. 1094

(In the Senate - Filed March 5, 2021; March 18, 2021, read first time and referred to Committee on Higher Education; April 6, 2021, reported favorably by the following vote: Yeas 9, Nays 0; April 14, 2021, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Creighton       X

West            X

Birdwell        X

Blanco          X

Miles           X

Paxton          X

Springer        X

Taylor          X

Zaffirini       X

A BILL TO BE ENTITLED

AN ACT

relating to the payment of apprenticeship education expenses using the state's programs for paying, prepaying, or saving toward the costs of attending an institution of higher education.

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

SECTION 1.  Section 54.605(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 in an institution of higher education, a private or independent institution of higher education, [~~or~~] a career school or college, or an apprenticeship program described by Section 54.619(i); or

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

SECTION 2.  Section 54.619, Education Code, is amended by adding Subsection (i) to read as follows:

(i)  Notwithstanding other provisions of this subchapter, any contract benefits purchased under this subchapter may be applied to the payment of apprenticeship program expenses for a registered apprenticeship program as if the apprenticeship program were an institution of higher education or private or independent institution of higher education. On the purchaser's request, the board shall apply, in accordance with Section 54.628, any existing amount of prepaid tuition contract benefits to the payment of apprenticeship program expenses. The board is not responsible for the payment of apprenticeship program expenses in excess of that amount. The board may adopt rules as necessary to implement this subsection. In this subsection, "apprenticeship program expenses" means expenses for fees, books, supplies, and equipment required for a beneficiary to participate in an apprenticeship program that is registered and certified with the United States Department of Labor under the National Apprenticeship Act (29 U.S.C. Section 50 et seq.).

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

(8)  "Qualified higher education expenses" has the meaning assigned by Section 529, Internal Revenue Code of 1986, as amended, and includes expenses for fees, books, supplies, and equipment required for the beneficiary to participate in an apprenticeship program that is registered and certified with the United States Department of Labor under the National Apprenticeship Act (29 U.S.C. Section 50 et seq.).

SECTION 4.  Section 54.751, Education Code, is amended by adding Subdivisions (1-a) and (9-a) and amending Subdivisions (2) and (6) to read as follows:

(1-a)  "Apprenticeship program expenses" means the expenses for fees, books, supplies, and equipment required for a beneficiary to participate in a registered apprenticeship program.

(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:

(A)  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; and

(B)  apprenticeship program expenses.

(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:

(A)  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; or

(B)  apprenticeship program expenses.

(9-a)  "Registered apprenticeship program" means an apprenticeship program that is registered and certified with the United States Department of Labor under the National Apprenticeship Act (29 U.S.C. Section 50 et seq.).

SECTION 5.  Section 54.753(a), Education Code, is amended 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 or all or a portion of the beneficiary's apprenticeship program expenses 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 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.

SECTION 6.  Sections 54.754(a), (d), and (e), 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 or apprenticeship program expenses, 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 institution of higher education in which the beneficiary enrolls or the beneficiary's apprenticeship program expenses. 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, or program 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 or apprenticeship program expenses, the beneficiary is responsible for paying the amount of the difference between the amount of tuition and required fees or expenses 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 or the beneficiary's apprenticeship program expenses.

(e)  If the beneficiary redeems fewer tuition units to pay the cost of tuition and required fees or apprenticeship program expenses than the number of units purchased on behalf of the beneficiary under a prepaid tuition contract, other than to defer redemption as permitted in accordance with Section 54.758, the purchaser may:

(1)  redeem for cash the amount of the purchase price of the excess units, plus annual interest earned on that money, accrued at a rate set by the board not to exceed five percent annually; or

(2)  transfer the remaining units to another beneficiary in accordance with this subchapter.

SECTION 7.  Section 54.758(a), Education Code, is amended to read as follows:

(a)  A prepaid tuition contract must permit the beneficiary to elect to pay from a source other than tuition units purchased under the contract the beneficiary's tuition and required fees or apprenticeship program expenses for some or all of the tuition and required fees or apprenticeship program expenses to which the beneficiary is entitled to payment under the contract, and to defer to a subsequent semester or other academic term the right to payment of the beneficiary's tuition and required fees or apprenticeship program expenses by using tuition units remaining under the contract.

SECTION 8.  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, or registered apprenticeship program, 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 or apprenticeship program expenses 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 9.  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-of-state institutions of higher education, and registered apprenticeship programs on behalf of beneficiaries; and

(3)  make refunds under prepaid tuition contracts.

SECTION 10.  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 or apprenticeship program expenses 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 or apprenticeship program expenses under a prepaid tuition contract.

SECTION 11.  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 registered apprenticeship program; or

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

SECTION 12.  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, or registered apprenticeship program at which a beneficiary may enroll or is enrolled. The institution, [~~or~~] unit, or program shall keep the information confidential.

SECTION 13.  Section 54.806(b), Education Code, is amended to read as follows:

(b)  Notwithstanding Subsection (a), the board or program entity may release information described by Subsection (a) to the extent required by a general academic teaching institution, two-year institution of higher education, private or independent institution of higher education, career school, [~~or~~] accredited out-of-state institution of higher education, or registered apprenticeship program at which a beneficiary may enroll or is enrolled. The institution, [~~or~~] school, or program receiving information described by Subsection (a) shall keep the information confidential.

SECTION 14.  The change in law made by this Act regarding the application of prepaid tuition contract benefits to the payment of apprenticeship program expenses for a registered apprenticeship program applies to contract benefits purchased under Subchapters F and H, Chapter 54, Education Code, as amended by this Act, before, on, or after the effective date of this Act.

SECTION 15.  This Act takes effect September 1, 2021.

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