

By: Watson

S.B. No. 1760

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the Prepaid Tuition Unit Undergraduate Education
3 Program, Higher Education Savings Plans, the Texas Save & Match
4 Program and the treatment of a beneficiary's assets under the plans
5 in determining eligibility for student financial assistance and
6 other programs.

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

8 SECTION 1. Subchapter H, Education Code, is amended to read
9 as follows:

10 Sec. 54.751. DEFINITIONS. In this subchapter:

11 (1) "Accredited out-of-state institution of higher
12 education" means a public or private institution of higher
13 education that:

14 (A) is located outside this state; and

15 (B) is accredited by a recognized accrediting
16 agency.

17 (2) "Beneficiary" means the person designated under a
18 prepaid tuition contract as the person entitled to apply one or more
19 tuition units purchased under the contract to the payment of the
20 person's undergraduate tuition and required fees at a general
21 academic teaching institution, two-year institution of higher
22 education, private or independent institution of higher education,
23 or accredited out-of-state institution of higher education.

24 (3) "Board" means the Prepaid Higher Education Tuition

1 Board.

2 (4) "Fund" means the Texas tomorrow fund II.

3 (5) "General academic teaching institution" has the
4 meaning assigned by Section 61.003, except that the term does not
5 include a public state college.

6 (6) "Matching account" means an account in the Texas
7 Save & Match Program established under this section.

8 (7) "Participating beneficiary" means a beneficiary
9 for whom a matching account has been opened under this section.

10 (8) [~~(6)~~] "Prepaid tuition contract" means a contract
11 under which a person purchases from the board on behalf of a
12 beneficiary one or more tuition units that the beneficiary is
13 entitled to apply to the payment of the beneficiary's undergraduate
14 tuition and required fees at a general academic teaching
15 institution, two-year institution of higher education, private or
16 independent institution of higher education, or accredited
17 out-of-state institution of higher education.

18 (9) [~~(7)~~] "Private or independent institution of
19 higher education," "public junior college," "public state
20 college," "public technical institute," and "recognized
21 accrediting agency" have the meanings assigned by Section 61.003.

22 (10) [~~(8)~~] "Program" means the prepaid tuition unit
23 undergraduate education program.

24 (11) [~~(9)~~] "Purchaser" means a person who enters into
25 a prepaid tuition contract with the board on behalf of a beneficiary
26 for the purchase of one or more tuition units.

27 (12) [~~(10)~~] "Required fee" means a fee, other than a

1 laboratory fee for a specific course, that is charged by a public or
2 private institution of higher education to all students at the
3 institution who are not exempt from the fee. For purposes of this
4 subdivision, a fee is a required fee only to the extent that the fee
5 is considered a qualified higher education expense under Internal
6 Revenue Code provisions applicable to the program.

7 (13) [~~(11)~~] "Two-year institution of higher
8 education" means a public junior college, a public state college,
9 and a public technical institute.

10 SECTION 2. Section 54.7521, Education Code, is amended to
11 read as follows:

12 Sec. 54.7521. TEXAS SAVE AND MATCH PROGRAM. The board by
13 rule shall develop and shall implement the Texas Save and Match
14 program under which money paid by a purchaser under a prepaid
15 tuition contract or higher education savings plan, applicable to
16 plans and programs under Subchapters F, G, and H of this section,
17 may be matched with:

18 (1) contributions made by any person to the Texas Save
19 and Match program and used to purchase additional tuition units or
20 savings plan contributions on behalf of beneficiaries selected as
21 provided by board rule; and

22 (2) money appropriated by the legislature for the
23 Texas Save and Match program and used to purchase additional
24 tuition units or savings plan contributions on behalf of
25 beneficiaries:

26 (A) whose annual household income is below 400%
27 of the Federal Poverty Level [the state median family income],

1 adjusted for household size;

2 (B) whose enrollment in the program would, as
3 determined by the board, promote the participation goals and
4 targets of the most recent revision of "Closing the Gaps," the
5 state's master plan for higher education; or

6 (C) who meet other criteria established by board
7 rule.

8 SECTION 3. Subchapter H, Education Code, is amended by
9 adding Sections 54.7522, 54.7523, 54.7524, and 54.7525 as follows:

10 Sec. 54.7522. SAVE & MATCH PROGRAM RATIOS. For those
11 beneficiaries deemed eligible under Section 75.7521 of this
12 subchapter, the board shall develop a variable formula to match
13 purchases based upon annual household income. Depending on
14 availability of funds, for each eligible dollar contributed to the
15 prepaid tuition unit contract account or higher education savings
16 plan, the board shall match these contributions using the following
17 guidelines:

18 (1) \$2, if the beneficiary's household adjusted income
19 for the most recently completed tax year is less than or equal to
20 200 percent of the federal poverty level;

21 (2) \$1, if the beneficiary's household adjusted income
22 for the most recently completed tax year is more than 200 percent of
23 the federal poverty level but not more than 300 percent of the
24 federal poverty level; or

25 (3) 50 cents, if the beneficiary's household adjusted
26 income for the most recently completed tax year is more than 300
27 percent of the federal poverty level but not more than 400 percent

1 of the federal poverty level.

2 Sec. 54.7523 ADMINISTRATION OF MATCH ACCOUNT

3 (1) Contributions made to the beneficiary's savings
4 trust account or prepaid tuition contract are matched with grant
5 funds to the beneficiary's matching account as provided by this
6 section.

7 (2) A matching account opened on behalf of a
8 beneficiary under this section must be accounted separately from
9 the beneficiary's traditional prepaid tuition unit balance or
10 savings trust account balance.

11 (3) To the extent possible, assets in match accounts
12 shall be expended prior to redemption of tuition units or qualified
13 withdrawal from the beneficiary's primary account.

14 (4) Information relating to the beneficiary of a
15 matching account established on behalf of the beneficiary under
16 Section 54.717, including any personally identifiable information
17 about the beneficiary, is confidential and is not subject to
18 disclosure under Chapter 552, Government Code.

19 (5) The board shall, to the extent possible, provide
20 the matching account balance with the periodic account statement
21 for each beneficiary participating in the program established under
22 Section 54.7521.

23 Sec. 54.7524 LIMITS ON PARTICIPATION

24 (a) To be initially eligible to participate in the program,
25 a beneficiary, at the time a savings trust account is opened on the
26 beneficiary's behalf, must:

27 (1) be:

1 (A) a resident of this state; or
2 (B) a dependent for purposes of Section 152,
3 Internal Revenue Code of 1986, of a resident described by Paragraph
4 (A);

5 (2) be younger than seven years of age; and
6 (3) have a household adjusted gross income, for the
7 most recently completed tax year, that is not more than 400 percent
8 of the federal poverty level.

9 (b) To determine whether a beneficiary is initially
10 eligible to participate in the program, the board shall solicit
11 from the individual who purchases tuition units or opens a savings
12 trust account on the beneficiary's behalf under this subchapter, at
13 the time the individual enters into a savings trust agreement with
14 the board and in the manner prescribed by board rule, information
15 necessary to determine the beneficiary's eligibility.

16 (c) An eligible beneficiary may participate in the program
17 for a time period not to exceed five years if the beneficiary
18 continues to meet the eligibility criteria prescribed by Subsection
19 (d). The five-year period can be either consecutive or
20 non-consecutive. The board shall prescribe procedures for
21 verifying a participating beneficiary's annual and continual
22 eligibility under this section.

23 (d) A participating beneficiary may receive a matching
24 grant to the beneficiary's matching account in any particular
25 calendar year only if at least \$100 is contributed to the
26 beneficiary's savings trust account during that year.
27 Contributions to a beneficiary's savings trust account or prepaid

1 tuition contract account in excess of \$500 in any calendar year are
2 not eligible for a matching grant to the beneficiary's matching
3 account.

4 (e) Any funds in a matching account that are not withdrawn
5 by the beneficiary's 30th birthday are forfeited and shall be
6 returned to the pool of matching funds maintained by the
7 direct-support organization established to operate this section.

8 Sec. 54.7525 DEMONSTRATIONS To fulfill the intent of the
9 Texas Save & Match Program established under Section 54.7521, the
10 Board may establish pilot projects under the program in an effort to
11 incentivize participation in the plan, including projects that
12 encourage participation by:

13 (a) awarding additional matching grants based on a
14 beneficiary's achievement of specified academic goals;

15 (b) offering additional seed matching grants on the opening
16 of a savings trust account; and

17 (c) providing incentives for employers to contribute
18 matching funds to the program.

19 SECTION 4. Subchapter H, Chapter 54, Education Code, is
20 amended by adding Sections 54.761 to read as follows

21 Sec. 54.761. EFFECT OF ACCOUNT BALANCE ON BENEFICIARY'S
22 ELIGIBILITY FOR STUDENT FINANCIAL ASSISTANCE. Money in a
23 beneficiary's savings trust account or matching account may not be
24 considered as available to the beneficiary, or otherwise included
25 in the beneficiary's household income or financial resources, for
26 purposes of determining the beneficiary's eligibility for a TEXAS
27 grant or any other state-funded student financial assistance.

1 SECTION 5. Subchapter H, Education Code, is amended by
2 adding Section 54.762 as follows:

3 Sec. 54.762. REMITTANCE OF ACTUARIAL SOUNDNESS (OR
4 ENROLLMENT) FEE FOR CERTAIN INDIVIDUALS. For beneficiaries deemed
5 eligible under Section 54.7521, the board may waive the amount of
6 any enrollment fee charged by the board for a new account under this
7 subchapter only for a beneficiary whose household adjusted gross
8 income for the most recently completed tax year is not more than 200
9 percent of the federal poverty level. If waived for any
10 beneficiary, the actuarial soundness fee must be remitted to the
11 plan fund through funds collected or appropriated to operate the
12 program.

13 SECTION 6. Subchapter C, Chapter 62, Health and Safety
14 Code, is amended by adding Section 62.1012 to read as follows:

15 Sec. 62.1012. EXCLUSION OF ASSETS IN PREPAID TUITION UNIT
16 UNDERGRADUATE EDUCATION PROGRAMS AND HIGHER EDUCATION SAVINGS
17 PLANS. For purposes of determining whether a child meets family
18 income and resource requirements for eligibility for the child
19 health plan, the commission may not consider as income or resources
20 a right to assets held in or a right to receive payments or benefits
21 under any fund or plan established under Subchapters F, G and H,
22 Chapter 54, Education Code, including an interest in a savings
23 trust account, prepaid tuition contract account, or related
24 matching account.

25 SECTION 7. Subchapter A, Chapter 31, Human Resources Code,
26 is amended by adding Section 31.0039 to read as follows:

27 Sec. 31.0039. EXCLUSION OF ASSETS IN PREPAID TUITION UNIT

1 UNDERGRADUATE EDUCATION PROGRAMS AND HIGHER EDUCATION SAVINGS
2 PLANS. For purposes of determining the amount of financial
3 assistance granted to an individual under this chapter for the
4 support of dependent children or determining whether the family
5 meets household income and resource requirements for financial
6 assistance under this chapter, the department may not consider the
7 right to assets held in or the right to receive payments or benefits
8 under any fund or plan established under Subchapters F, G and H,
9 Chapter 54, Education Code, including an interest in a savings
10 trust account, prepaid tuition unit contract account, or related
11 matching account.

12 SECTION 8. Subchapter B, Chapter 32, Human Resources Code,
13 is amended by adding Section 32.02611 to read as follows:

14 Sec. 32.02611. EXCLUSION OF ASSETS IN PREPAID TUITION UNIT
15 UNDERGRADUATE EDUCATION PROGRAMS AND HIGHER EDUCATION SAVINGS
16 PLANS. In determining eligibility and need for medical assistance,
17 the department may not consider as assets or resources a right to
18 assets held in or a right to receive payments or benefits under any
19 fund or plan established under Subchapters G and H, Chapter 54,
20 Education Code, including an interest in a savings trust account,
21 prepaid tuition contract account, or related matching account.

22 SECTION 9. The Prepaid Higher Education Tuition Board shall
23 adopt rules as required by Section 54.752, Education Code, as added
24 by this Act, not later than November 1, 2009.

25 SECTION 10. The changes in law made by this Act to
26 Subchapter H, Chapter 54, Education Code, apply to a prepaid
27 tuition unit undergraduate contract account opened for a

1 beneficiary under Subchapter H, Chapter 54, Education Code, on or
2 after January 1, 2010.

3 SECTION 11. If before implementing any provision of this
4 Act a state agency determines that a waiver or authorization from a
5 federal agency is necessary for implementation of that provision,
6 the agency affected by the provision shall request the waiver or
7 authorization and may delay implementing that provision until the
8 waiver or authorization is granted.

9 SECTION 12. The changes in law made by this Act apply to a
10 person who receives health benefits coverage under Chapter 62,
11 Health and Safety Code, financial assistance under Chapter 31,
12 Human Resources Code, or medical assistance under Chapter 32, Human
13 Resources Code, on or after the effective date of this Act,
14 regardless of the date on which eligibility for coverage or
15 assistance was initially determined.

16 SECTION 13. This Act takes effect September 1, 2009.