

By: Zaffirini
(Callegari)

S.B. No. 40

Substitute the following for S.B. No. 40:

By: Branch

C.S.S.B. No. 40

A BILL TO BE ENTITLED

AN ACT

relating to the composition and functions of the Texas Guaranteed Student Loan Corporation.

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

SECTION 1. Sections 57.01 and 57.11, Education Code, are amended to read as follows:

Sec. 57.01. DECLARATION OF POLICY. The legislature, giving due consideration to the historical and continuing interest of the people of the State of Texas in encouraging deserving and qualified persons to realize their aspirations for education beyond high school, finds and declares that postsecondary education for qualified Texans ~~[those]~~ who desire to pursue such ~~[an]~~ education ~~[and are properly qualified therefor]~~ is important to the welfare and security of this state and the nation and, consequently, is an important public purpose. The legislature finds and declares that the state can achieve its full economic and social potential only if every individual has the opportunity to contribute to the full extent of the individual's ~~[his or her]~~ capabilities and only when financial barriers to the individual's ~~[his or her]~~ economic, social, and educational goals are removed. It is, therefore, the purpose of this chapter to establish the Texas Guaranteed Student Loan Corporation to:

(1) administer a guaranteed student loan program, student financial aid programs, and other student loan programs to

1 assist qualified [~~Texas~~] students in this state and across the
2 nation in receiving a postsecondary education in this state or
3 elsewhere in the nation; [~~and~~]

4 (2) assist institutions of higher education by
5 providing [~~provide~~] necessary and desirable services related to
6 financial aid and student [~~the~~] loan programs; and

7 (3) participate in revenue-generating activities
8 related to higher education student financial aid and student loan
9 programs to the extent the activities support the corporation's
10 primary purposes under Subdivisions (1) and (2) [~~program, including~~
11 ~~cooperative awareness efforts with appropriate educational and~~
12 ~~civic associations designed to disseminate postsecondary education~~
13 ~~awareness information, including information regarding student~~
14 ~~financial aid and the Federal Family Education Loan Program, and~~
15 ~~other relevant topics including the prevention of student loan~~
16 ~~default~~].

17 Sec. 57.11. TEXAS GUARANTEED STUDENT LOAN CORPORATION. (a)
18 The Texas Guaranteed Student Loan Corporation is created to
19 administer the programs authorized by this chapter.

20 (b) The corporation is a public nonprofit corporation and,
21 except as otherwise provided in this chapter, has all the powers and
22 duties incident to a nonprofit corporation under Chapter 22,
23 Business Organizations Code [~~the Texas Non-Profit Corporation Act~~
24 ~~(Article 1396-1.01 et seq., Vernon's Texas Civil Statutes)~~].

25 (c) [~~(b)~~] Except as otherwise provided by law, all expenses
26 of the corporation shall be paid from revenue [~~income~~] of the
27 corporation.

1 (d) [~~(c)~~] The corporation is subject to Chapters [~~Chapter~~]
2 551 and 552, Government Code.

3 (e) [~~(d)~~] Student loan borrower information collected,
4 assembled, or maintained by the corporation is confidential and is
5 not subject to disclosure under Chapter 552, Government Code.

6 SECTION 2. Section 57.12(a), Education Code, is amended to
7 read as follows:

8 (a) The Texas Guaranteed Student Loan Corporation is
9 subject to Chapter 325, Government Code (Texas Sunset Act). Unless
10 continued in existence as provided by that chapter, the corporation
11 is abolished and this chapter expires September 1, 2013 [~~2017~~].

12 SECTION 3. Section 57.1311(b), Education Code, is amended
13 to read as follows:

14 (b) The training program must provide the person with
15 information regarding:

16 (1) the provisions of this chapter, including the
17 policies developed under Section 57.19(i) regarding the separation
18 of policymaking and management responsibilities, and the
19 corporation's programs, functions, rules, and budget;

20 (2) the results of the most recent formal audit of the
21 corporation;

22 (3) the requirements of laws relating to open
23 meetings, public information, and conflicts of interest; and

24 (4) any applicable ethics policies adopted by the
25 corporation or the Texas Ethics Commission.

26 SECTION 4. Sections 57.13(a) and (b), Education Code, are
27 amended to read as follows:

1 (a) The corporation is governed by a board of nine [~~11~~]
2 directors in accordance with this section.

3 (b) The governor, with the advice and consent of the senate,
4 shall appoint the [~~10~~] members of [~~to~~] the board as follows:

5 (1) four [~~five~~] members who must have knowledge of or
6 experience in finance, including management of funds or business
7 operations;

8 (2) one member who must be a student enrolled at a
9 postsecondary educational institution for the number of credit
10 hours required by the institution to be classified as a full-time
11 student of the institution; and

12 (3) four members who must be members the faculty or
13 administration of a [~~an eligible~~] postsecondary educational
14 institution that is an eligible institution for purposes of the
15 Higher Education Act of 1965, as amended [~~, as defined by Section~~
16 ~~57.46~~].

17 SECTION 5. Section 57.131(d), Education Code, is amended to
18 read as follows:

19 (d) A person may not be one of the members of the board
20 required by Section 57.13(b) to have knowledge of or experience in
21 finance if the person:

22 (1) is a member of the board of directors or an
23 employee of a [~~an eligible~~] lender that:

24 (A) participates in a [~~the guaranteed~~] student
25 loan program; or

26 (B) originates, makes, holds, services, or has a
27 pecuniary interest of any kind in higher education student loans of

1 any nature; or

2 (2) owns:

3 (A) 10 percent or more of the voting stock or
4 shares of a business entity that engages in an activity described by
5 Subdivision (1); or

6 (B) \$15,000 or more of the fair market value of a
7 business entity that engages in an activity described by
8 Subdivision (1).

9 SECTION 6. Section 57.14, Education Code, is amended to
10 read as follows:

11 Sec. 57.14. DIRECTORS' TERMS OF OFFICE. Members of the
12 board [~~appointed by the governor~~] serve for terms of six years, with
13 the terms of three [~~or four~~] members [~~, as applicable,~~] expiring on
14 January 31 of each odd-numbered year.

15 SECTION 7. Section 57.17, Education Code, is amended to
16 read as follows:

17 Sec. 57.17. OFFICERS. The governor shall designate the
18 chairman from among the board's membership. The board shall elect
19 from among its members a [~~chairman,~~] vice-chairman[~~7~~] and other
20 officers that the board considers necessary. The chairman and
21 vice-chairman serve for a term of one year and may be redesignated
22 or reelected, as applicable.

23 SECTION 8. Subchapter B, Chapter 57, Education Code, is
24 amended by adding Section 57.181 to read as follows:

25 Sec. 57.181. MEETING BY TELEPHONE CONFERENCE CALL; QUORUM
26 PRESENT AT ONE LOCATION REQUIRED. (a) Notwithstanding Chapter
27 551, Government Code, the board or a board committee may hold a

1 meeting by telephone conference call only if a quorum of the board
2 or board committee, as applicable, is physically present at one
3 location of the meeting.

4 (b) A telephone conference call meeting is subject to the
5 notice requirements applicable to other meetings, except that the
6 meeting notice must also specify:

7 (1) the location of the meeting where a quorum of the
8 board or board committee, as applicable, will be physically
9 present; and

10 (2) the intent to have a quorum present at that
11 location.

12 (c) The meeting location where a quorum is physically
13 present must be open to the public during the open portions of a
14 telephone conference call meeting. The open portions of the
15 meeting must be audible to the public at the location where the
16 quorum is present and be tape-recorded at that location. The tape
17 recording must be made available to the public.

18 (d) The meeting location where a quorum is physically
19 present must provide two-way communication during the entire
20 telephone conference call meeting, and the identification of each
21 party to the telephone conference call must be clearly stated
22 before the party speaks.

23 (e) A member of the board who participates in a board or
24 board committee meeting by telephone conference call but is not
25 physically present at the meeting location where a quorum is
26 physically present is not considered to be absent from the meeting
27 for any purpose. The vote of a member of the board who participates

1 in a board or board committee meeting by telephone conference call
2 is counted for the purpose of determining the number of votes cast
3 on a motion or other proposition before the board or board
4 committee.

5 (f) A member of the board may participate remotely by
6 telephone conference call instead of by being physically present at
7 the location of a board meeting for not more than one board meeting
8 per calendar year. A board member who participates remotely in any
9 portion of a board meeting by telephone conference call is
10 considered to have participated in the entire board meeting by
11 telephone conference call. For purposes of this subsection, remote
12 participation by telephone conference call in a meeting of a board
13 committee does not count as remote participation by telephone
14 conference call in a board meeting regardless of whether:

15 (1) a quorum of the full board attends the board
16 committee meeting; or

17 (2) notice of the board committee meeting is also
18 posted as notice of a board meeting.

19 (g) A person who is not a member of the board may not speak
20 at the board or board committee meeting from a remote location by
21 telephone conference call, except as provided by Section 551.129,
22 Government Code.

23 (h) The authority provided by this section is in addition to
24 the authority provided by Section 551.125, Government Code.

25 SECTION 9. Section 57.19(d), Education Code, is amended to
26 read as follows:

27 (d) The president or the president's designee shall develop

1 a [~~an intra-agency~~] career ladder program for the corporation. The
2 program shall require internal corporate [~~intra-agency~~] postings
3 of all nonentry level positions concurrently with any public
4 posting.

5 SECTION 10. Section 57.20(a), Education Code, is amended to
6 read as follows:

7 (a) The corporation shall appoint an ombudsman [~~maintain a~~
8 ~~system~~] to promptly and efficiently act on complaints filed with
9 the corporation. The ombudsman [~~corporation~~] shall maintain
10 information about parties to the complaint, the subject matter of
11 the complaint, a summary of the results of the review or
12 investigation of the complaint, and its disposition.

13 SECTION 11. Sections 57.21(a) and (c), Education Code, are
14 amended to read as follows:

15 (a) The corporation shall take an active role in
16 coordinating, facilitating, promoting, and providing assistance
17 and support to:

18 (1) programs that focus on and disseminate [~~designed~~
19 ~~to make available to the residents of this state~~] information
20 regarding [~~concerning~~] postsecondary education awareness and the
21 availability of student financial aid[, ~~including the Federal~~
22 ~~Family Education Loan Program~~,] and that [~~to~~] assist families in
23 obtaining [~~needed~~] postsecondary education financing;

24 (2) programs designed to assist students, families,
25 borrowers, and schools in preventing [~~prevent~~] student loan default
26 throughout the life of the loan, provided that such programs are
27 required as a part of a guaranty agency's obligation under the

1 Federal Family Education Loan Program established by the Higher
2 Education Act of 1965 (20 U.S.C. Section 1071 et seq.), or are
3 funded by statutory or regulatory mandate, compensation, grant,
4 contract, award, or other appropriate means; and

5 (3) programs designed to increase student retention
6 and graduation rates in postsecondary education.

7 (c) To the extent practicable, each [~~Each~~] state agency
8 that conducts higher education and financial aid outreach
9 activities shall enter into a memorandum of understanding with the
10 corporation. The memorandum of understanding may [~~must~~] outline
11 how the corporation and the state agency will coordinate outreach
12 activities to maximize resources and avoid duplication.

13 SECTION 12. The heading to Section 57.22, Education Code,
14 is amended to read as follows:

15 Sec. 57.22. APPLICATION OF BUSINESS ORGANIZATIONS CODE [~~THE~~
16 ~~TEXAS NON-PROFIT CORPORATION ACT~~].

17 SECTION 13. Section 57.22(a), Education Code, is amended to
18 read as follows:

19 (a) The corporation is subject to Chapter 22, Business
20 Organizations Code [~~the Texas Non-Profit Corporation Act (Article~~
21 ~~1396-1.01 et seq., Vernon's Texas Civil Statutes)~~], except that:

22 (1) the corporation may not make donations for the
23 public welfare or for charitable or scientific purposes or in aid of
24 war activities;

25 (2) the corporation is not required to file articles
26 of incorporation;

27 (3) the corporation is not subject to voluntary or

1 involuntary dissolution;

2 (4) the corporation may not be placed in receivership;
3 and

4 (5) the corporation is not required to make reports to
5 the secretary of state under Section 22.357, Business Organizations
6 Code [~~Article 9.01 of that Act~~].

7 SECTION 14. Section 57.24, Education Code, is amended to
8 read as follows:

9 Sec. 57.24. AUTHORITY TO PARTICIPATE IN OTHER
10 REVENUE-GENERATING ACTIVITIES; LIMITATIONS. (a) The corporation
11 may participate in a revenue-generating activity by entering into a
12 contract with the United States Department of Education, with this
13 state or any agency, instrumentality, or political subdivision of
14 this state, with any eligible institution as defined by Section 435
15 of the Higher Education Act of 1965 (20 U.S.C. Section 1085), as
16 amended, that is eligible to participate in a program under Title IV
17 of that Act, with any guaranty agency as defined by Section 435 of
18 that Act (20 U.S.C. Section 1085), or with any entity to which the
19 United States Department of Education has awarded one or more
20 contracts to provide services under Title IV of that Act [~~that is~~
21 ~~consistent with the corporation's purposes~~] if the board determines
22 that [~~the revenue from the activity~~]:

23 (1) [~~is sufficient to cover the costs of~~] the activity
24 is consistent with the corporation's purposes described by Section
25 57.01; [and]

26 (2) revenue from the activity is sufficient to cover
27 the costs of the activity, including the opportunity costs of any

1 invested capital, within a defined period of time determined by the
2 board for purposes of this section; and

3 (3) revenue from the activity will enable the
4 corporation to support educational purposes under Section 57.211
5 [may contribute to a reduction in the insurance premium paid by
6 students under Section 57.43 of this code].

7 (b) The corporation may enter into a contract with the
8 United States Department of Education under Subsection (a) alone or
9 in concert with any of the entities with which the corporation may
10 enter into a contract under that subsection.

11 (c) If, under Subsection (a) [of this section], the board
12 authorizes the corporation to perform additional services, the
13 corporation may not require postsecondary educational institutions
14 or students to use those services unless required by state or
15 federal law.

16 (d) If, under Subsection (a), the board authorizes the
17 corporation to perform debt collection, default aversion,
18 financial literacy, exit counseling, or loan servicing, the
19 corporation may perform those services only in relation to higher
20 education student loans.

21 (e) The corporation shall submit a written report to the
22 legislature and the Legislative Budget Board not later than
23 December 1 of each even-numbered year regarding the corporation's
24 participation in revenue-generating activities under this section.
25 The report must:

26 (1) include the amounts of revenue from and expenses
27 associated with the activities;

1 (2) demonstrate how that revenue is used for the
2 support of educational purposes under Section 57.211; and

3 (3) certify:

4 (A) the reasonable and necessary amount of
5 operating funds under Section 57.71 required to fulfill the
6 corporation's responsibilities under Section 57.41(a); and

7 (B) the amount of excess operating funds under
8 Section 57.71.

9 (f) Contracts entered into by the corporation in pursuit of
10 the corporation's primary purposes described by Sections 57.01(1)
11 and (2) do not constitute revenue-generating activities under this
12 section and are not subject to the requirements prescribed by this
13 section.

14 SECTION 15. Section 57.41(a), Education Code, is amended to
15 read as follows:

16 (a) The corporation shall serve as the designated guarantee
17 agency under the Federal Family Education Loan Program in
18 accordance with [~~loans made to eligible borrowers by eligible~~
19 ~~lenders as provided by the federal guaranteed student loan program~~
20 ~~under~~] the Higher Education Act of 1965, 20 U.S.C. Section [~~Sec.~~]
21 1001 et seq., as amended, regulations adopted under that Act, and
22 other applicable federal law.

23 SECTION 16. Section 57.461, Education Code, is amended to
24 read as follows:

25 Sec. 57.461. [~~POSTSECONDARY EDUCATIONAL INSTITUTIONS AND~~
26 ~~LENDER~~] ADVISORY COMMITTEES. [~~(a)~~] The corporation shall
27 establish advisory committees as the board considers appropriate [+]

1 ~~[(1) an advisory committee that is composed of 15~~
2 ~~members who represent the postsecondary educational institutions~~
3 ~~that participate in the corporation's guaranteed student loan~~
4 ~~program; and~~

5 ~~[(2) an advisory committee that is composed of 12~~
6 ~~members including:~~

7 ~~[(A) one member who represents the Texas Higher~~
8 ~~Education Coordinating Board; and~~

9 ~~[(B) 11 members who represent lenders that~~
10 ~~participate in the corporation's guaranteed student loan program].~~

11 ~~[(b) The board shall appoint advisory committee members on~~
12 ~~the recommendation of the president.~~

13 ~~[(c) The board may establish other advisory committees as~~
14 ~~the board considers necessary.~~

15 ~~[(d) The board shall:~~

16 ~~[(1) specify each advisory committee's purpose and~~
17 ~~duties; and~~

18 ~~[(2) require each committee to report to the board in a~~
19 ~~manner specified by the board relating to each committee's~~
20 ~~activities and work results.]~~

21 SECTION 17. Sections 57.47(a), (b), and (d), Education
22 Code, are amended to read as follows:

23 (a) If a student borrower defaults on a loan and the
24 corporation is required to honor the guarantee, the corporation may
25 ~~[or the Texas Higher Education Coordinating Board shall]~~ bring suit
26 against the defaulting party in accordance with the requirements of
27 the Higher Education Act of 1965, 20 U.S.C. Section ~~[Sec.]~~ 1001 et

1 seq., as amended.

2 (b) A suit against a defaulting party under this section may
3 be brought in the county in which the defaulting person resides, in
4 which the lender is located, or in Travis or Williamson County.

5 (d) Notwithstanding any other law, if the corporation [~~or~~
6 ~~the Texas Higher Education Coordinating Board~~] brings suit against
7 a defaulting party under this section, the corporation [~~or the~~
8 ~~coordinating board, as appropriate,~~] shall pay 50 percent of the
9 filing fee or other costs of court taxed and collected in advance
10 that are in effect on the date on which the suit is filed. If the
11 defaulting borrower prevails in the suit filed under this section,
12 the corporation [~~or the coordinating board, as appropriate,~~] shall
13 pay the remaining 50 percent of the statutory filing fee on the date
14 of the final disposition of the suit. If the corporation [~~or~~
15 ~~coordinating board~~] prevails in the suit:

16 (1) the judgment shall find the defaulting borrower
17 liable to the corporation [~~or the coordinating board, as~~
18 ~~appropriate,~~] for the amount of the filing fee; and

19 (2) the corporation [~~or coordinating board, as~~
20 ~~appropriate,~~] shall pay the remaining 50 percent of the statutory
21 filing fee not later than one week after the date on which the
22 defaulting borrower pays to the corporation [~~or coordinating board,~~
23 ~~as appropriate,~~] the full amount, including the filing fee, for
24 which the borrower is liable to the corporation [~~or coordinating~~
25 ~~board~~].

26 SECTION 18. Sections 57.481(a), (b), and (c), Education
27 Code, are amended to read as follows:

1 (a) [~~In this section, "loan default rate" means the rate at~~
2 ~~which student borrowers default on loans guaranteed by the~~
3 ~~corporation as determined by the corporation in compliance with~~
4 ~~federal guidelines.~~

5 [~~(b)~~] The corporation shall take a comprehensive and [~~an~~]
6 active role in coordinating, facilitating, and providing technical
7 assistance on guaranteed student loan default prevention and
8 reduction initiatives and programs that promote responsible
9 borrowing, financial literacy, debt management, research, and
10 informed policymaking [~~in the state~~] and shall work with the
11 appropriate state agencies and other entities inside and outside
12 this state, including eligible postsecondary educational
13 institutions, eligible lenders, servicers, secondary markets, the
14 Texas Higher Education Coordinating Board, the Texas [~~Central~~]
15 Education Agency, [~~and~~] state professional and occupational
16 licensing agencies, and the United States Department of Education.

17 (b) [~~(c)~~] The corporation shall maintain a system of
18 communication among the appropriate state agencies and entities to
19 address student [~~reduce~~] loan default prevention issues [~~claims~~].

20 SECTION 19. Section 57.49, Education Code, is amended to
21 read as follows:

22 Sec. 57.49. COOPERATION OF STATE AGENCIES AND SUBDIVISIONS.
23 Each agency and political subdivision of the state shall cooperate
24 with the corporation in providing information to the agency's or
25 political subdivision's clients concerning student financial aid,
26 including information about delinquency, default prevention, and
27 life-of-loan issues. Each agency and political subdivision shall

1 provide information to the corporation on request to assist the
2 corporation in curing delinquent loans, ~~and~~ collecting defaulted
3 loans, and developing information and reports concerning
4 responsible borrowing.

5 SECTION 20. Sections 57.50 and 57.71, Education Code, are
6 amended to read as follows:

7 Sec. 57.50. NONDISCRIMINATION. Neither the corporation nor
8 an eligible lender may discriminate against an eligible student in
9 making a loan or loan guarantee on the basis of race, age, religion,
10 or sex or any other basis prohibited by applicable law.

11 Sec. 57.71. FEDERAL ~~[RESERVE]~~ AND OPERATING FUNDS. The
12 corporation shall maintain a federal fund ~~[establish reserve]~~ and
13 operating fund ~~[funds]~~ in accordance with Sections ~~[Section]~~ 422,
14 422A, and 422B of the Higher Education Act of 1965 (20 U.S.C.
15 Sections ~~[Section]~~ 1072, 1072a, and 1072b), as amended.

16 SECTION 21. Subchapter D, Chapter 57, Education Code, is
17 amended by adding Section 57.762 to read as follows:

18 Sec. 57.762. REVIEW BY STATE AUDITOR. In addition to any
19 other audit required by law, the state auditor shall periodically
20 review the corporation's activities in a manner consistent with the
21 state auditor's audit plan under Chapter 321, Government Code. The
22 corporation shall reimburse the state auditor for all reasonable
23 costs incurred by the state auditor in conducting a review under
24 this section.

25 SECTION 22. Section 57.78, Education Code, is amended to
26 read as follows:

27 Sec. 57.78. INVESTMENTS. The federal fund maintained by

1 the corporation under Section 57.71 shall [~~All money of the~~
2 ~~corporation may~~] be invested in accordance with Section 422A of the
3 Higher Education Act of 1965 (20 U.S.C. Section 1072a), as amended.
4 The operating fund maintained by the corporation under Section
5 57.71 may be invested only in accordance with Chapter 2256,
6 Government Code. Authority to invest the operating fund in
7 accordance with Chapter 2256, Government Code, complies with
8 Section 422B of the Higher Education Act of 1965 (20 U.S.C. Section
9 1072b), as amended.

10 SECTION 23. The following provisions of the Education Code
11 are repealed:

- 12 (1) Section 57.13(d);
- 13 (2) Sections 57.19(c), (g), and (h);
- 14 (3) Sections 57.41(c) and (d);
- 15 (4) Section 57.42;
- 16 (5) Section 57.43;
- 17 (6) Section 57.44;
- 18 (7) Section 57.45;
- 19 (8) Section 57.46; and
- 20 (9) Sections 57.481(d), (e), (f), (g), and (h).

21 SECTION 24. (a) Notwithstanding any other law, to comply
22 with the requirements of Section 57.13, Education Code, as amended
23 by this Act, and Section 30a, Article XVI, Texas Constitution:

- 24 (1) the term of the member of the board of directors of
25 the Texas Guaranteed Student Loan Corporation appointed under
26 Section 57.13(b)(1), Education Code, for a term to expire January
27 31, 2017, expires September 1, 2011; and

1 (2) that board position ceases to exist on September
2 1, 2011.

3 (b) Subsection (a) of this section does not prohibit the
4 member of the board of directors of the Texas Guaranteed Student
5 Loan Corporation serving in the board position that ceases to exist
6 under that subsection from being appointed as a member of the board
7 under Section 57.13(b), Education Code, for any other term if the
8 person is otherwise qualified to serve in that position.

9 SECTION 25. This Act takes effect September 1, 2011.