

BILL ANALYSIS

C.S.S.B. 1735
By: Birdwell
Higher Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties suggest that the benefits from the Hazlewood tuition and fee exemption at public institutions of higher education for certain military personnel and their dependents should be contained to ensure that they are available only to Texas residents, with the intention of controlling the cost implications resulting from extending the benefits to veterans who enrolled in the military as residents of other states. C.S.S.B. 1735 seeks to address this issue.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 1735 amends the Education Code to require a person born outside Texas, in order to be eligible for a tuition and fee exemption at public institutions of higher education for certain military personnel and their dependents, to have resided in Texas continuously for the eight years immediately preceding the first class date of the semester or other academic term to which the exemption would apply. The bill establishes that a person who received an exemption for a semester or other academic term before the 2016 spring semester continues to be eligible for the exemption provided by the law setting out the exemption as that law existed on January 1, 2015.

C.S.S.B. 1735 changes the residency requirement for a person seeking the exemption as an honorably discharged military veteran from current residency in Texas and entry into the service at a location in Texas, the declaration of Texas as the person's home of record in the manner provided by the applicable military or other service, or a determination that the person would have been a Texas resident at the time the person entered the service for purposes of in-state tuition and fees to the establishment and maintenance of a domicile in Texas as described by statutory provisions relating to eligibility for in-state tuition and fees and satisfaction of the eight-year residency requirement applicable to a person born outside Texas added by the bill.

C.S.S.B. 1735 changes the exemption residency requirement for the surviving spouse or child of a deceased military service member and the spouse or child of a totally and permanently disabled veteran from the spouse's or child's classification as a resident for purposes of in-state tuition and fees on the date of the spouse's or child's registration to the spouse's or child's establishment and maintenance of a domicile in Texas as described by statutory provisions relating to eligibility for in-state tuition and fees and satisfaction of the eight-year residency requirement applicable to a person born outside Texas as added by the bill.

C.S.S.B. 1735 prohibits a person who qualifies for a tuition and fee exemption at public institutions of higher education based on the person's military service, or a person to whom such an exemption is assigned based on the military service of the person's parent, from receiving the exemption for a semester or other academic term the first class date of which is later than the 15th anniversary of the date of the person's or parent's honorable discharge from active military duty, as applicable. This prohibition does not apply to a person who is eligible to receive an exemption as the surviving spouse or child of a deceased military service member or as the spouse or child of a permanently and totally disabled veteran or to continue to receive an exemption granted before the 2009–2010 academic year, before the 2011–2012 academic year, before the 2014–2015 academic year, or before the 2016 spring semester.

C.S.S.B. 1735 adds state or federal grant aid to the educational benefits used for the payment of tuition and fees to which a person is entitled at the time of registration that invalidate the person's eligibility for the tuition and fee exemption for certain military personnel and their dependents if the value of the grant aid and benefits received in a semester or other term is equal to or exceeds the value of the exemption for the same semester or other term. The bill entitles a person, if the value of state or federal grant aid that may be used only for the payment of tuition and fees and that is received in a semester or other term does not equal or exceed the value of the exemption for the same semester or other term, to receive both the grant aid and the exemption in the same semester or other term. The bill prohibits the combined amount of the grant aid that may be used only for the payment of tuition and fees plus the amount of the exemption received in a semester or other term from exceeding the cost of tuition and fees for that semester or other term and prohibits an institution of higher education from requiring a person eligible for an exemption as a veteran to apply for or obtain a student loan.

C.S.S.B. 1735 requires a person who becomes eligible for a tuition and fee exemption as a veteran to have served on active military duty, excluding training, for at least six years before any unused portion of the exemption may be assigned to a child of the person under certain conditions and caps at 60 credit hours the amount of unused cumulative credit hours for which a veteran could receive the exemption that may be so assigned. The bill changes the exemption residency requirement for such a child from classification as a resident for purposes of in-state tuition and fees when the child enrolls in an institution of higher education to establishment and maintenance of a domicile in Texas as described by statutory provisions relating to eligibility for in-state tuition and fees and satisfaction of the eight-year residency requirement applicable to a person born outside Texas as added by the bill. The bill also replaces the requirement that such a child be a graduate or undergraduate student and maintain a grade point average that satisfies the grade point average requirement for making satisfactory academic progress in a degree, certificate, or continuing education program as determined by the institution at which the child is enrolled in accordance with the institution's financial aid eligibility policy with a requirement that such a student be an undergraduate student and maintain a course load of at least 24 semester credit hours per academic year and a cumulative grade point average of at least 2.5 on a four-point scale or the equivalent. The bill clarifies that the maximum age of such a child, for eligibility purposes, applies to the child's age on the first class date of the semester or other academic term for which the exemption is claimed.

C.S.S.B. 1735 requires an institution of higher education to require a person receiving a tuition and fee exemption for certain military personnel or their dependents to complete a Free Application for Federal Student Aid. The bill prohibits the institution from using the information obtained from a person's application to encourage or require the person to obtain a student loan but authorizes the institution to use the information to make a person aware of grant opportunities. The bill's provisions apply beginning with tuition and fees charged for the 2016 spring semester, except that the eight-year residency requirement added by the bill applies beginning with tuition and fees charged for the first academic semester beginning on or after the bill's effective date.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 1735 may differ from the engrossed in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 54.341, Education Code, is amended by amending Subsections (a), (e), (k), and (l) and adding Subsections (a-0), (a-5), (c-1), (k-2), (l-1), and (p) to read as follows:

SECTION 1. Section 54.341, Education Code, is amended by amending Subsections (a), (b-1), (e), (k), and (l) and adding Subsections (a-0), (a-5), (c-1), (k-2), and (p) to read as follows:

(a) The governing board of each institution of higher education shall exempt the following persons described by Subsection (a-0) from the payment of tuition, dues, fees, and other required charges, including fees for correspondence courses but excluding general deposit fees, student services fees, and any fees or charges for lodging, board, or clothing, provided the person seeking the exemption currently resides in this state and the person:

(a) The governing board of each institution of higher education shall exempt the following persons from the payment of tuition, dues, fees, and other required charges, including fees for correspondence courses but excluding general deposit fees, student services fees, and any fees or charges for lodging, board, or clothing, provided the person seeking the exemption established and maintained a domicile in this state as described by Section 54.052(a)(1) and satisfies the residency requirement under Subsection (a-0)

(1) entered the service at a location in this state;

[currently resides in this state and entered the service at a location in this state, declared this state as the person's home of record in the manner provided by the applicable military or other service, or would have been determined to be a resident of this state for purposes of Subchapter B at the time the person entered the service]:

(2) [;] declared this state as the person's home of record in the manner provided by the applicable military or other service;

(3) [~~;~~] would have been determined to be a resident of this state for purposes of Subchapter B at the time the person entered the service; or

(4) has resided in this state continuously for the eight years immediately preceding the first class date of the semester or academic term to which the exemption would apply.

(a-0) The following persons are exempted from the payment of tuition, dues, fees, and other required charges under Subsection (a):

(1) all nurses and honorably discharged members of the armed forces of the United States who served during the Spanish-American War or during World War I;

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(2) all nurses, members of the Women's Army Auxiliary Corps, members of the Women's Auxiliary Volunteer Emergency Service, and all honorably discharged members of the armed forces of the United

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States who served during World War II except those who were discharged from service because they were over the age of 38 or because of a personal request on the part of the person that the person be discharged from service;

(3) all honorably discharged men and women of the armed forces of the United States who served during the national emergency which began on June 27, 1950, and which is referred to as the Korean War; and

(4) all persons who were honorably discharged from the armed forces of the United States after serving on active military duty, excluding training, for more than 180 days and who served a portion of their active duty during:

(A) the Cold War which began on the date of the termination of the national emergency cited in Subdivision (3);

(B) the Vietnam era which began on December 21, 1961, and ended on May 7, 1975;

(C) the Grenada and Lebanon era which began on August 24, 1982, and ended on July 31, 1984;

(D) the Panama era which began on December 20, 1989, and ended on January 21, 1990;

(E) the Persian Gulf War which began on August 2, 1990, and ends on the date thereafter prescribed by Presidential proclamation or September 1, 1997, whichever occurs first;

(F) the national emergency by reason of certain terrorist attacks that began on September 11, 2001; or

(G) any future national emergency declared in accordance with federal law.

(a-5) A person who received an exemption under this section for a semester or other academic term before the 2017 spring semester continues to be eligible for the exemption provided by this section as this section existed on January 1, 2015.

States who served during World War II except those who were discharged from service because they were over the age of 38 or because of a personal request on the part of the person that the person be discharged from service;

(3) all honorably discharged men and women of the armed forces of the United States who served during the national emergency which began on June 27, 1950, and which is referred to as the Korean War; and

(4) all persons who were honorably discharged from the armed forces of the United States after serving on active military duty, excluding training, for more than 180 days and who served a portion of their active duty during:

(A) the Cold War which began on the date of the termination of the national emergency cited in Subdivision (3);

(B) the Vietnam era which began on December 21, 1961, and ended on May 7, 1975;

(C) the Grenada and Lebanon era which began on August 24, 1982, and ended on July 31, 1984;

(D) the Panama era which began on December 20, 1989, and ended on January 21, 1990;

(E) the Persian Gulf War which began on August 2, 1990, and ends on the date thereafter prescribed by Presidential proclamation or September 1, 1997, whichever occurs first;

(F) the national emergency by reason of certain terrorist attacks that began on September 11, 2001; or

(G) any future national emergency declared in accordance with federal law.

(a-0) To be eligible for an exemption provided by this section, a person must have resided in this state continuously for the eight years immediately preceding the first class date of the semester or other academic term to which the exemption would apply. This subsection does not apply to a person who was born in this state.

(a-5) A person who received an exemption under this section for a semester or other academic term before the 2016 spring semester continues to be eligible for the exemption provided by this section as this section existed on January 1, 2015.

No equivalent provision.

(c-1) This subsection does not apply to a person who is eligible to receive an exemption under Subsection (a-2) or (b) or to continue to receive an exemption under Subsection (a-1), (a-3), (a-4), or (a-5). In addition to the limitation prescribed by Subsection (c), a person who qualifies for an exemption under Subsection (a) based on the person's military service may not receive the exemption for a semester or other academic term the first class date of which is later than the 15th anniversary of:

(1) the date of the person's honorable discharge from active military duty; or

(2) if the person subsequently serves in the Texas National Guard or in the reserve component of the armed forces of the United States, the date of the person's latest discharge from the Texas National Guard or the reserve component, as applicable.

(e) The exemption from tuition, fees, and other charges provided for by this section does not apply to a person who at the time of registration is entitled to receive state or federal grant aid or educational benefits under federal legislation that may be used only for the payment of tuition and fees if the value of the grant aid and [those] benefits received in a semester or other term is equal to or exceeds the value of the exemption for the same semester or other term. If the value of state or federal grant aid or federal benefits that may be used only for the payment of tuition and fees and are received in a semester or other term does not equal or exceed the value of the exemption

(b-1) To qualify for an exemption under Subsection (a-2) or (b), the spouse or child must have established and maintained a domicile in this state as described by Section 54.052(a)(1) or (2), as applicable, and satisfy the residency requirement under Subsection (a-0) [be classified as a resident under Subchapter B on the date of the spouse's or child's registration].

(c-1) In addition to the limitation prescribed by Subsection (c), a person who qualifies for an exemption under Subsection (a) based on the person's military service, or a person to whom an exemption is assigned under Subsection (k) based on the military service of the person's parent, may not receive the exemption for a semester or other academic term the first class date of which is later than the 15th anniversary of the date of the person's or parent's honorable discharge from active military duty, as applicable. This subsection does not apply to a person who is eligible to receive an exemption under Subsection (a-2) or (b) or to continue to receive an exemption under Subsection (a-1), (a-3), (a-4), or (a-5).

(e) The exemption from tuition, fees, and other charges provided for by this section does not apply to a person who at the time of registration is entitled to receive state or federal grant aid or educational benefits under federal legislation that may be used only for the payment of tuition and fees if the value of the grant aid and [those] benefits received in a semester or other term is equal to or exceeds the value of the exemption for the same semester or other term. If the value of state or federal grant aid or federal benefits that may be used only for the payment of tuition and fees and are received in a semester or other term does not equal or exceed the value of the exemption

for the same semester or other term, the person is entitled to receive both the grant aid or [those] federal benefits and the exemption in the same semester or other term. The combined amount of the state or federal grant aid or federal benefit that may be used only for the payment of tuition and fees plus the amount of the exemption received in a semester or other term may not exceed the cost of tuition and fees for that semester or other term. An institution of higher education may not require a person eligible for an exemption under Subsection (a) to apply for or obtain a student loan.

(k) Subject to the limitation prescribed by Subsection (k-2), the [The] Texas Veterans Commission by rule shall prescribe procedures to allow:

(1) a person who becomes eligible for an exemption provided by Subsection (a) to waive the person's right to any unused portion of the number of cumulative credit hours for which the person could receive the exemption and assign the exemption for the unused portion of those credit hours to a child of the person; and

(2) following the death of a person who becomes eligible for an exemption provided by Subsection (a), the assignment of the exemption for the unused portion of the credit hours to a child of the person, to be made by the person's spouse or by the conservator, guardian, custodian, or other legally designated caretaker of the child, if the child does not otherwise qualify for an exemption under Subsection (b).

(k-2) A person who becomes eligible for an exemption provided by Subsection (a) must have served on active military duty, excluding training, or on active service or active status in the Texas National Guard or the reserve component of the armed forces of the United States for a cumulative total of at least six years before any portion of the exemption may be assigned to a child of the person under Subsection (k).

(l) To be eligible to receive an exemption under Subsection (k), the child must:

(1) be a student who is classified as a resident under Subchapter B when the child

for the same semester or other term, the person is entitled to receive both the grant aid or [those] federal benefits and the exemption in the same semester or other term. The combined amount of the state or federal grant aid or federal benefit that may be used only for the payment of tuition and fees plus the amount of the exemption received in a semester or other term may not exceed the cost of tuition and fees for that semester or other term. An institution of higher education may not require a person eligible for an exemption under Subsection (a) to apply for or obtain a student loan.

(k) Subject to the limitation prescribed by Subsection (k-2), the [The] Texas Veterans Commission by rule shall prescribe procedures to allow:

(1) a person who becomes eligible for an exemption provided by Subsection (a) to waive the person's right to any unused portion of the number of cumulative credit hours for which the person could receive the exemption and assign the exemption for up to 60 credit hours of the unused portion of those credit hours to a child of the person; and

(2) following the death of a person who becomes eligible for an exemption provided by Subsection (a), the assignment of the exemption for up to 60 credit hours of the unused portion of the credit hours to a child of the person, to be made by the person's spouse or by the conservator, guardian, custodian, or other legally designated caretaker of the child, if the child does not otherwise qualify for an exemption under Subsection (b).

(k-2) A person who becomes eligible for an exemption provided by Subsection (a) must have served on active military duty, excluding training, for at least six years before any portion of the exemption may be assigned to a child of the person under Subsection (k).

(l) To be eligible to receive an exemption under Subsection (k), the child must:

(1) have established and maintained a domicile in this state as described by

enrolls in an institution of higher education;

(2) ~~be an [as a graduate or] undergraduate student[, maintain a grade point average that satisfies the grade point average requirement for making satisfactory academic progress in a degree, certificate, or continuing education program as determined by the institution at which the child is enrolled in accordance with the institution's policy regarding eligibility for financial aid]; [and]~~

(3) maintain:

(A) a course load of at least 24 semester credit hours per academic year; and

(B) a cumulative grade point average of at least 2.5 on a four-point scale or the equivalent;

(4) claim the exemption for a semester or other academic term the first class date of which is no later than the 15th anniversary of the honorable discharge date from active duty of the parent from whom the exemption is being assigned;

(5) no later than the last class date of each semester or other academic term to which the exemption would apply, perform at least 20 hours of community service approved by the Texas Veterans Commission for purposes of this subdivision; and

(6) be 25 years of age or younger on the first class date [day] of the semester or other academic term for which the exemption is claimed.

(l-1) If a person fails to meet any of the requirements of Subsection (l)(3) after the completion of any semester or other academic term, the person is not eligible to receive an exemption under Subsection (k) during the next semester or other term in which the person enrolls. A person may become eligible to receive an exemption in a subsequent semester or other academic term if the person:

(1) completes a semester or other academic term during which the person is not eligible for the exemption; and

(2) satisfies the requirements of Subsection (l)(3).

(p) An institution of higher education shall

Section 54.052(a)(1) or (2), as applicable, and satisfy the residency requirement under Subsection (a-0) [be a student who is classified as a resident under Subchapter B when the child enrolls in an institution of higher education];

(2) ~~be an [as a graduate or] undergraduate student[, maintain a grade point average that satisfies the grade point average requirement for making satisfactory academic progress in a degree, certificate, or continuing education program as determined by the institution at which the child is enrolled in accordance with the institution's policy regarding eligibility for financial aid]; [and]~~

(3) maintain:

(A) a course load of at least 24 semester credit hours per academic year; and

(B) a cumulative grade point average of at least 2.5 on a four-point scale or the equivalent; and

(4) be 25 years of age or younger on the first class date [day] of the semester or other academic term for which the exemption is claimed.

No equivalent provision.

(p) An institution of higher education shall

require a person receiving an exemption under this section to complete a Free Application for Federal Student Aid (FAFSA). The institution may not use the information obtained from a person's FAFSA to encourage or require the person to obtain a student loan, but may use the information to make a person aware of grant opportunities.

SECTION 2. Subchapter A, Chapter 434, Government Code, is amended by adding Section 434.00792 to read as follows:

Sec. 434.00792. STUDY AND REPORT REGARDING CERTAIN TUITION AND FEE EXEMPTIONS FOR VETERANS AND FAMILY MEMBERS. (a) The commission, in coordination with the Texas Higher Education Coordinating Board and the Legislative Budget Board, shall conduct a study observing and comparing the implementation and effects, including the costs to institutions of higher education, of the exemption from the payment of tuition and fees at institutions of higher education under Section 54.341, Education Code:

(1) before the enactment of Chapter 1340 (S.B. 93), Acts of the 81st Legislature, Regular Session, 2009, allowing a person eligible for an exemption under Section 54.341, Education Code, to assign the exemption to a child of the person;

(2) after the enactment of the Act described by Subdivision (1); and

(3) after the enactment and becoming law of S.B. 1735, 84th Legislature, Regular Session, 2015, amending Section 54.341, Education Code.

(b) Not later than December 1, 2018, the commission shall report its findings from the study conducted under this section to the legislature.

(c) This section expires January 1, 2019.

SECTION 3. (a) Except as provided by Subsection (b) of this section, the changes in law made by this Act to Section 54.341, Education Code, apply beginning with tuition and fees charged for the 2017 spring semester. Tuition and fees charged for a term or semester before the 2017 spring semester are covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

require a person receiving an exemption under this section to complete a Free Application for Federal Student Aid (FAFSA). The institution may not use the information obtained from a person's FAFSA to encourage or require the person to obtain a student loan, but may use the information to make a person aware of grant opportunities.

No equivalent provision.

SECTION 2. (a) Except as provided by Subsection (b) of this section, the changes in law made by this Act to Section 54.341, Education Code, apply beginning with tuition and fees charged for the 2016 spring semester. Tuition and fees charged for a term or semester before the 2016 spring semester are covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(b) The changes in law made by this Act in amending Section 54.341(a) and adding Section 54.341(a-0), Education Code, apply beginning with tuition and fees charged for the first academic semester beginning on or after the effective date of this Act.

SECTION 4. 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, 2015.

(b) The changes in law made by this Act in adding Section 54.341(a-0), Education Code, apply beginning with tuition and fees charged for the first academic semester beginning on or after the effective date of this Act.

SECTION 3. Same as engrossed version.