

By: Seliger, Nelson

S.B. No. 19

A BILL TO BE ENTITLED

AN ACT

relating to performance-based tuition limitations for and a temporary limitation on the amount of tuition and fees charged by certain public institutions of higher education.

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

SECTION 1. Subchapter B, Chapter 54, Education Code, is amended by adding Sections 54.05131 and 54.0514 to read as follows:

Sec. 54.05131. PERFORMANCE-BASED DESIGNATED TUITION LIMITATIONS. (a) In this section:

(1) "Administrative costs" means the percentage of an institution's operating budget expended on institutional expenses, as designated in an institution's annual financial reports in the subcategories of executive management, fiscal operations, general administrative and logistical services, administrative computing support, and public relations/development.

(2) "Coordinating board" means the Texas Higher Education Coordinating Board.

(3) "General academic teaching institution" and "public state college" have the meanings assigned by Section 61.003.

(4) "Performance measure" means a performance measure defined by coordinating board rule under Subsection (b).

(b) The coordinating board, using the negotiated rulemaking procedures under Chapter 2008, Government Code, shall define the

following performance measures to be used for purposes of this section:

(1) the total number of undergraduate degrees awarded by the institution;

(2) the total number of undergraduate degrees awarded by the institution, adjusted by the institution's six-year graduation rate under Subdivision (10);

(3) the total number of undergraduate degrees awarded by the institution per 100 undergraduate full-time student equivalents;

(4) the total number of undergraduate degrees awarded by the institution to at-risk students;

(5) the total number of undergraduate students at the institution having successfully completed at least 25 percent of the student's degree requirements or having earned at least 30 credit hours toward a 120-credit-hour degree;

(6) the total number of undergraduate students at the institution having successfully completed at least 50 percent of the student's degree requirements or having earned at least 60 credit hours toward a 120-credit-hour degree;

(7) the total number of undergraduate students at the institution having successfully completed at least 75 percent of the student's degree requirements or having earned at least 90 credit hours toward a 120-credit-hour degree;

(8) the average length of a student's enrollment, by number of semesters, for undergraduate degree completion;

(9) the four-year graduation rate of first-time,

1 full-time, bachelor's degree-seeking students who enrolled in at
2 least 12 semester credit hours in the student's first fall semester
3 at the institution and who graduated from the institution or from
4 any other institution of higher education or private or independent
5 institution of higher education;

6 (10) the six-year graduation rate of first-time,
7 full-time, bachelor's degree-seeking students who enrolled in at
8 least 12 semester credit hours in the student's first fall semester
9 at the institution and who graduated from the institution or from
10 any other institution of higher education or private or independent
11 institution of higher education; and

12 (11) the institution's administrative costs.

13 (c) This section applies only to a general academic teaching
14 institution other than a public state college.

15 (d) Not later than November 1 of each even-numbered year,
16 the coordinating board shall:

17 (1) in consultation with the president of each
18 institution to which this section applies, establish a target level
19 for each performance measure applicable to the institution for each
20 of the two next academic years to encourage the institution to
21 achieve reasonable incremental progress toward appropriate
22 long-term goals for performance in each performance measure, taking
23 into account the mission, resources, and circumstances of the
24 particular institution; and

25 (2) submit to the standing committee of each house of
26 the legislature with primary jurisdiction over higher education and
27 to each institution to which this section applies a report that

1 includes the target levels established by the coordinating board
2 under Subdivision (1) for each institution.

3 (e) The coordinating board, using the negotiated rulemaking
4 procedures under Chapter 2008, Government Code, by rule shall
5 develop standards to be considered by the coordinating board in
6 establishing an institution's target levels for performance
7 measures under Subsection (d). In developing the standards, the
8 negotiated rulemaking committee established for purposes of this
9 subsection and the coordinating board shall consider institutional
10 improvement on target levels. The coordinating board shall
11 reconvene the negotiated rulemaking committee to assist the
12 coordinating board whenever the coordinating board modifies or
13 updates the standards.

14 (f) In adopting rules under this section, the coordinating
15 board shall prescribe any necessary adjustments or exceptions for
16 institutions that offer only upper-division courses and to which
17 certain performance measures prescribed by Subsection (b) do not
18 apply.

19 (g) As soon as practicable after each academic year, the
20 coordinating board shall determine whether an institution has
21 achieved the applicable target levels for that academic year.
22 Using the negotiated rulemaking procedures under Chapter 2008,
23 Government Code, the coordinating board by rule shall establish the
24 process by which an institution's achievement on a performance
25 measure is submitted to and verified by the coordinating board.

26 (h) After the coordinating board makes a determination for
27 an institution under Subsection (g), the coordinating board shall

1 notify the governing board of the institution that Subsection (i)
2 or (j), as applicable, applies to the tuition charged by the
3 institution for the second academic year following the academic
4 year for which the determination is made and of the limitation
5 prescribed by the applicable subsection on the amount of tuition
6 that may be charged by the institution for that academic year.

7 (i) This subsection applies to tuition charged for an
8 academic year by an institution to which this section applies only
9 if the institution did not achieve, in the second academic year
10 preceding that academic year, the target level assigned by the
11 coordinating board for the administrative costs performance
12 measure as applicable to the institution for that preceding
13 academic year and a majority of the target levels assigned to the
14 remaining performance measures by the coordinating board as
15 applicable to the institution for that preceding academic year.
16 For an academic year in which this subsection applies to the tuition
17 charged by an institution, unless the institution has been granted
18 an exception under Subsection (m) for that year, the amount of
19 tuition the governing board of the institution charges under
20 Section [54.0513](#) to a student for that academic year may not exceed
21 the total amount of tuition that the governing board would have
22 charged under that section to a similarly situated student in the
23 preceding academic year, as that amount is adjusted for each
24 academic year for inflation as determined under Subsection (l).
25 The governing board may not increase the amount of tuition charged
26 under this subsection to a student more than once in any academic
27 year.

1 (j) This subsection applies to tuition charged for an
2 academic year by an institution to which this section applies only
3 if the institution achieved, in the second academic year preceding
4 that academic year, the target level assigned by the coordinating
5 board for the administrative costs performance measure as
6 applicable to the institution for that preceding academic year and
7 a majority of the target levels assigned to the remaining
8 performance measures by the coordinating board as applicable to the
9 institution for that preceding academic year. For an academic year
10 in which this subsection applies to the tuition charged by an
11 institution, the amount of tuition the governing board of the
12 institution charges under Section 54.0513 to a student for that
13 academic year may not exceed by more than one percent the total
14 amount of tuition that the governing board would have charged under
15 that section to a similarly situated student in the preceding
16 academic year, as that amount is adjusted for each academic year for
17 inflation as determined under Subsection (l). The governing board
18 may not increase the amount of tuition charged under this
19 subsection to a student more than once in any academic year.

20 (k) For purposes of this section:

21 (1) an institution is considered to have achieved a
22 target level assigned to a performance measure if the institution
23 has achieved at least 98 percent of the target level; and

24 (2) students are similarly situated if they share the
25 same residency status, degree program, course load, course level,
26 tuition exemption status, and other circumstances affecting the
27 tuition charged to the student.

(1) Not later than August 31 of each year, or as soon thereafter as practicable, the Legislative Budget Board shall publish and certify to the governing board of each institution to which this section applies the inflation rate to be used for purposes of this section for the next academic year. The inflation rate is the percentage increase, if any, as expressed in decimal form rounded to the nearest thousandth of one percent, in the consumer price index, as defined by Section 341.201, Finance Code, for the preceding 12-month period as compared to the consumer price index for the 12-month period preceding that period.

(m) The coordinating board, using the negotiated rulemaking procedures under Chapter 2008, Government Code, by rule shall establish an exception to the application of Subsection (i) for an institution to which that subsection would otherwise apply for an academic year in the event of a natural disaster or other extraordinary circumstance affecting the institution's achievement on performance measures. In an academic year for which an institution is granted an exception under this subsection, Subsection (j) applies to the institution.

Sec. 54.0514. TEMPORARY LIMITATION ON TOTAL AMOUNT OF TUITION. (a) In this section:

(1) "General academic teaching institution" has the meaning assigned by Section 61.003.

(2) "Tuition" includes:

(A) tuition for which the rates are prescribed by this chapter; and

(B) tuition charged by a general academic

1 teaching institution under Section 54.0513 or another law
2 authorizing an institution to establish tuition rates.

3 (b) Notwithstanding Section 54.0513 or another law
4 authorizing an institution to establish tuition rates, the total
5 amount of tuition charged by a general academic teaching
6 institution to a student for the 2018-2019 or 2019-2020 academic
7 year may not exceed the total amount of tuition that the institution
8 would have charged under this chapter to a similarly situated
9 student for the 2016-2017 academic year.

10 (c) For purposes of this section, students are similarly
11 situated if they share the same residency status, degree program,
12 course load, course level, tuition exemption status, and other
13 circumstances affecting the tuition charged to the student.

14 (d) This section does not ensure that the total amount of
15 tuition charged to an individual student does not increase based on
16 a change in the student's residency status, degree program, course
17 load, course level, tuition exemption status, or other circumstance
18 affecting the tuition charged to the student.

19 (e) The Texas Higher Education Coordinating Board may adopt
20 rules as necessary to administer this section.

21 (f) This section expires August 31, 2020.

22 SECTION 2. Subchapter E, Chapter 54, Education Code, is
23 amended by adding Section 54.5001 to read as follows:

24 Sec. 54.5001. TEMPORARY LIMITATIONS ON FEE INCREASES.

25 (a) In this section, "general academic teaching institution" has
26 the meaning assigned by Section 61.003.

27 (b) Notwithstanding any other provision of this subchapter

1 or other law, in each of the 2018-2019 and 2019-2020 academic years,
2 the governing board of a general academic teaching institution may
3 not charge a fee under this subchapter in an amount that is greater
4 than the amount of the fee charged by the institution in the
5 2016-2017 academic year.

6 (c) The limitation provided by this section applies to a fee
7 even if an increase in the amount of the fee is approved by a vote of
8 the students, student government, or student fee advisory committee
9 of the general academic teaching institution.

10 (d) This section expires August 31, 2020.

11 SECTION 3. Section 54.05131, Education Code, as added by
12 this Act, applies beginning with tuition charged by a general
13 academic teaching institution to which that section applies for the
14 2020-2021 academic year.

15 SECTION 4. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2017.