

AMENDED IN ASSEMBLY APRIL 17, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 152

Introduced by Assembly Member Beall

January 18, 2007

An act to add Article 22 (commencing with Section 70020) to Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code, relating to financial aid.

LEGISLATIVE COUNSEL'S DIGEST

AB 152, as amended, Beall. Postsecondary education: Golden State Scholarshare Trust: California Prepaid Tuition Program.

Existing law establishes the Golden State Scholarshare Trust Act, pursuant to which participants invest money in the Golden State Scholarshare Trust for the benefit of a specific beneficiary for the purposes of the beneficiary's higher education expenses. The act also establishes the Scholarshare Investment Board as the trustee of the trust, and vests in the board the purposes, powers, and duties of the trust.

This bill would establish the California Prepaid Tuition Program, to be administered by the board, pursuant to which eligible purchasers could purchase tuition units at a set value, determined as prescribed, for redemption at a future date for an equal number of tuition units at any institution of higher education, as defined, for certain educational expenses of eligible beneficiaries, *as defined*. Under the program, each purchase would be valued at a specific number of, or fraction of, tuition units at the University of California. The bill would require the board to set the number of tuition units necessary to pay for a full year's, full-time undergraduate *mandatory systemwide* tuition and fee charges at the University of California at the time a purchaser enters into a

tuition unit contract. The bill would authorize the board to limit the number of tuition units purchased by any one purchaser or on behalf of any one beneficiary, but would prohibit any limit that is less than that necessary to achieve 4 years of full-time, undergraduate *mandatory systemwide* tuition *and fee* charges at the University of California.

The bill would establish the California Prepaid Tuition Fund as a separate fund in the trust for the deposit of all moneys received by the board from eligible purchasers and interest earnings on investments of moneys in the fund. The moneys in the fund would be available, upon appropriation, for the purposes of the program, which would include expenditures on behalf of eligible beneficiaries and the development of the program.

The bill would require the board to adopt regulations consistent with the federal Internal Revenue Code *of 1986* and regulations issued pursuant to that code, to ensure that the program meets all criteria for federal tax-deferral or tax-exempt benefits, or both.

The bill would require the board to establish a procedure by which an account owner under the act may use moneys paid into the trust under the act to purchase tuition units under the program, without financial penalty.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 22 (commencing with Section 70020) is
2 added to Chapter 2 of Part 42 of Division 5 of Title 3 of the
3 Education Code, to read:

4

5 Article 22. California Prepaid Tuition Program

6

7 70020. ~~(a)~~ *This article shall be known, and may be cited,*
8 *as the California Prepaid Tuition Program, which is hereby*
9 *established.*

10 (b) *It is the intent of the Legislature in enacting this article to*
11 *help make higher education affordable and accessible to all citizens*
12 *of this state by offering a savings incentive that will protect*
13 *purchasers and beneficiaries against rising tuition costs. The*
14 *California Prepaid Tuition Program is designed to encourage*
15 *savings and enhance the ability of state citizens to obtain financial*

1 access to institutions of higher education. In addition, the California
2 Prepaid Tuition Program encourages elementary and secondary
3 school students to do well in school as a means of preparing for
4 and aspiring to higher education attendance. The California Prepaid
5 Tuition Program is intended to promote a well-educated and
6 financially secure population to the ultimate benefit of all citizens
7 of the state.

8 70021. Unless the context clearly requires otherwise, the
9 following definitions apply to this article:

10 (a) “Board” means the Scholarshare Investment Board
11 established pursuant to subparagraph (B) of paragraph (2) of
12 subdivision (a) of Section 69984.

13 (b) “Contractual obligation” means a legally binding contract
14 of the state with the purchaser and the beneficiary establishing that
15 purchases of tuition units will be worth the same number of tuition
16 units at the time of redemption as they were worth at the time of
17 the purchase.

18 (c) “Eligible beneficiary” means the person for whom the tuition
19 unit will be redeemed for attendance at an institution of higher
20 education. The beneficiary is that person named by the purchaser
21 at the time that a tuition unit contract is accepted by the board.
22 ~~Qualified organizations, as allowed under Section 529 of the~~
23 ~~Internal Revenue Code of 1986, as it is amended from time to time,~~
24 ~~purchasing tuition unit contracts as future scholarships need not~~
25 ~~designate a beneficiary at the time of purchase.~~

26 (d) “Eligible purchaser” means an individual or organization
27 that has entered into a tuition unit contract with the board for the
28 purchase of tuition units for an eligible beneficiary.

29 (e) “Full-time tuition charges” means ~~resident tuition charges~~
30 ~~at a state institution of higher education for enrollments between~~
31 ~~10 credits and 18 credit hours per academic term. mandatory~~
32 ~~systemwide educational and registration fees charged to a~~
33 ~~California resident student whose enrollment is defined as full~~
34 ~~time by the University of California.~~

35 (f) “Fund” means the California Prepaid Tuition Fund.

36 (g) “Institution of higher education” has the same meaning as
37 “eligible educational institution,” as provided in paragraph (5) of
38 subsection (e) of Section 529 of the *federal* Internal Revenue Code
39 of 1986, as it is amended from time to time, if, as determined by

1 the board, the amendment is consistent with the purposes of this
2 article.

3 (h) “Program” means the California Prepaid Tuition Program.

4 (i) “Trust” means the Golden State Scholarshare Trust
5 established in Article 19 (commencing with Section 69980).

6 (j) “Tuition and fees” means the quarterly or semester charges
7 imposed to attend an institution of higher education and required
8 as a condition of enrollment at a systemwide level for the University
9 of California, the California State University, and the California
10 Community Colleges, and the quarterly or semester charges
11 imposed and required as a condition of enrollment for all other
12 institutions.

13 (k) “Tuition unit contract” means a contract between an eligible
14 purchaser and the board, or a successor agency appointed for
15 administration of this article, for the purchase of tuition units for
16 a specified beneficiary that may be redeemed at a later date for an
17 equal number of tuition units.

18 (l) “Unit purchase price” means the minimum cost to purchase
19 one tuition unit for an eligible beneficiary. ~~It is the intent of the
20 Legislature that the minimum purchase price be 1 percent of the
21 undergraduate tuition and fees for the current year, rounded to the
22 nearest whole dollar, adjusted for the costs of administration and
23 adjusted to ensure the actuarial soundness of the fund. In price
24 setting analysis, the board shall include, but not be limited to,
25 consideration of past and projected patterns of tuition increases,
26 program liability, past and projected investment returns, and the
27 need for a prudent stabilization reserve.~~

28 70022. The California Prepaid Tuition Fund is hereby
29 established as a separate fund within the trust for the deposit of all
30 money received by the board from eligible purchasers and interest
31 earnings on investments of moneys in the fund. The purpose of
32 the moneys in the fund is for the development of a program as
33 described in this article and expenditures on behalf of eligible
34 beneficiaries for the redemption of tuition units purchased under
35 the program.

36 70023. (a) The program shall be administered by the board.

37 (b) (1) The program shall consist of the sale of tuition units,
38 which may be redeemed by the beneficiary at a future date for an
39 equal number of tuition units regardless of any increase *or decrease*
40 in the price of tuition, that may have occurred in the interval.

1 (2) Each purchase shall be valued at a specific number, or
2 fraction of tuition units at the University of California, as
3 determined by the board.

4 ~~(3) The board shall set the number of tuition units necessary to~~
5 ~~pay for a full year's, full-time undergraduate tuition and fee~~
6 ~~charges, at the University of California, at the time a purchaser~~
7 ~~enters into a tuition unit contract.~~

8 (4)

9 (3) The board may limit the number of tuition units purchased
10 by any one purchaser or on behalf of any one beneficiary, however,
11 no limit may be imposed that is less than that necessary to achieve
12 four years of full-time, undergraduate ~~tuition~~ *mandatory*
13 *systemwide tuition and fee* charges at the University of California.
14 The board also may limit the number of participants, if needed, to
15 ensure the actuarial soundness and integrity of the program.

16 (5) The purpose of the program is to help all citizens of the state.
17 To ensure the actuarial soundness and integrity of the program,
18 the board may determine residency requirements for eligible
19 purchasers and eligible beneficiaries.

20 (6) *A qualified organization, as allowed under Section 529 of*
21 *the federal Internal Revenue Code of 1986, as it is amended from*
22 *time to time, purchasing a tuition unit contract as a future*
23 *scholarship need not designate a beneficiary at the time of*
24 *purchase.*

25 (c) ~~(1)~~ No tuition unit may be redeemed until two years after
26 the purchase of the unit. Units may be redeemed for enrollment at
27 any institution of higher education. *It is the intent of the Legislature*
28 *that the minimum purchase price be 1 percent of the undergraduate*
29 *tuition and fees for the University of California for the current*
30 *year, adjusted for the costs of administration and adjusted to*
31 *ensure the actuarial soundness of the fund.*

32 ~~(2) Units shall be redeemed at the unit purchase price in effect~~
33 ~~at the time of redemption.~~

34 (d) The board shall determine the conditions under which the
35 tuition benefit may be transferred to another family member. In
36 permitting transfers, the board shall prohibit the tuition benefit
37 from being bought, sold, bartered, or otherwise exchanged for
38 goods and services by either the beneficiary or the purchaser.

39 (e) The board shall administer the program in a manner
40 reasonably designed to be actuarially sound, ~~such~~ *so* that the assets

1 of the trust will be sufficient to defray the obligations of the trust,
 2 including, but not limited to, the costs of program administration.
 3 The board may discount the minimum purchase price for certain
 4 kinds of purchases, including, but not *necessarily* limited to,
 5 purchases from families with young children, to the extent the
 6 actuarial soundness of the fund is not jeopardized.

7 (f) The board shall ~~annually~~ determine the unit purchase price
 8 of a tuition unit *and is authorized to adjust the unit purchase price*
 9 *whenever the levels of the mandatory systemwide fees of the*
 10 *University of California are adjusted.*

11 (g) The board shall promote, advertise, and publicize the
 12 program.

13 (h) In addition to any other powers conferred by this article, the
 14 board may do all of the following:

15 ~~(2)~~
 16 ~~(1) Impose reasonable limits on the number of tuition units or~~
 17 ~~units that may be used in any one year.~~

18 (1) Determine and set any time limits, if necessary, for the use
 19 of benefits under this article.

20 ~~(3)~~
 21 (2) Impose and collect administrative fees and charges in
 22 connection with any transaction under this article.

23 ~~(4)~~
 24 (3) Appoint and use advisory committees as needed to provide
 25 program direction and guidance.

26 ~~(5)~~
 27 (4) Adopt all rules and regulations necessary for the efficient
 28 administration of the program.

29 ~~(6)~~
 30 (5) Purchase insurance from insurers licensed to do business in
 31 the state, to provide for coverage against any loss in connection
 32 with the fund's property, assets, or activities or to further insure
 33 the value of the tuition units.

34 ~~(7)~~
 35 (6) Make, execute, and deliver contracts, conveyances, and other
 36 instruments necessary to the exercise and discharge of its powers
 37 and duties under this article.

38 ~~(8)~~
 39 (7) Contract for the provision for all or part of the services
 40 necessary for the management and operation of the program with

1 other state or nonstate entities authorized to do business in the
2 state.

3 ~~(9)~~

4 (8) Contract for other services or for goods needed by the board
5 in the conduct of its business under this article.

6 ~~(10)~~

7 (9) Contract with financial consultants, actuaries, auditors, and
8 other consultants as necessary to carry out its responsibilities under
9 this article.

10 ~~(11)~~

11 (10) Solicit and accept cash donations and grants from any
12 person, governmental agency, private business, or organization.

13 ~~(12)~~

14 (11) Perform all acts necessary and proper to carry out the duties
15 and responsibilities of this program under this article.

16 70024. (a) The board shall adopt regulations as it determines
17 to be necessary to implement this article, consistent with the federal
18 Internal Revenue Code and regulations issued pursuant to that
19 code, to ensure that this program meets all criteria for federal
20 tax-deferral or tax-exempt benefits, or both.

21 (b) *In price setting analysis, the board shall include, but not*
22 *necessarily be limited to, consideration of past and projected*
23 *patterns of tuition and fee increases of the University of California,*
24 *program liability, past and projected investment returns, the cost*
25 *of the purchase of insurance pursuant to paragraph (5) of*
26 *subdivision (h) of Section 70023, and the need for a prudent and*
27 *stable reserve.*

28 70025. (a) The board shall deposit all moneys paid by eligible
29 purchasers into the fund. Deposits and interest thereon accumulated
30 on behalf of participants in the fund may be used for payments to
31 any institution of higher education.

32 (b) The fund shall consist of payments received from purchasers
33 of tuition units and funds received from other sources, public or
34 private. The fund shall be credited with all investment income
35 earned by the fund.

36 (c) Moneys in the fund shall be available for expenditure, upon
37 appropriation, for the purposes specified in this article.

38 70026. (a) The board may invest, reinvest, manage, contract,
39 sell, or exchange investment money in the fund. All earnings from
40 the investment of the money shall be retained by the fund.

1 (b) The investment policy shall be consistent with the written
2 statement of investment policy adopted by the board pursuant to
3 subparagraph (B) of paragraph (2) of subdivision (a) of Section
4 69984.

5 (c) As the board deems appropriate, money in the fund may be
6 commingled for investment with other funds subject to investment
7 by the board.

8 (d) The board may establish all policies relating to the fund
9 other than the investment policies as set forth in subdivisions (a)
10 to (c), inclusive.

11 70027. (a) The board shall annually evaluate, and cause to be
12 evaluated by a nationally recognized actuary, the soundness of the
13 fund and determine the additional assets needed, if any, to defray
14 the obligations of the fund.

15 (b) If funds are not sufficient to ensure the actuarial soundness
16 of the fund, the board shall adjust the price of subsequent tuition
17 credit purchases to ensure its soundness.

18 (c) If there are insufficient numbers of new purchases to ensure
19 the actuarial soundness of the fund, the board shall request those
20 funds from the Legislature as are required to ensure the integrity
21 of the program. Funds may be appropriated directly to the fund or
22 appropriated under the condition that they be repaid at a later date.
23 The repayment shall be made at that time that the fund is again
24 determined to be actuarially sound.

25 70028. (a) If the Legislature determines that the program is
26 not financially feasible, or for any other reason, it may declare the
27 discontinuance of the program. At the time of that declaration, the
28 board shall cease to accept any further tuition unit contracts or
29 purchases.

30 (b) The remaining tuition units for all beneficiaries who have
31 either enrolled in higher education or who are within four years
32 of graduation from a secondary school shall be honored until those
33 tuition units have been exhausted, or for 10 fiscal years from the
34 date that the program has been discontinued, whichever comes
35 first. All other contractholders shall receive a refund equal to the
36 value of the current tuition units in effect at the time that the
37 program was declared discontinued.

38 (c) At the end of the 10-year period, any tuition units remaining
39 unused by currently active beneficiaries enrolled in higher

1 education shall be refunded at the value of the current tuition unit
2 in effect at the end of that 10-year period.

3 (d) At the end of the 10-year period, all other funds remaining
4 in the fund not needed to make refunds or to pay for administrative
5 costs, shall be deposited into the state General Fund.

6 (e) The board may make refunds under other exceptional
7 circumstances as it deems fit, however, no tuition units shall be
8 honored after the end of the 10th fiscal year following the
9 declaration of discontinuance of the program.

10 70029. (a) The board, in planning and devising the program,
11 shall consult with the Treasurer, the Department of Finance, and
12 ~~state institutions of higher education~~ *the University of California,*
13 *the California State University, the California Community*
14 *Colleges, and representatives of California independent and private*
15 *institutions.*

16 (b) The board may seek the assistance of the state agencies
17 named in subdivision (a), private financial institutions, and any
18 other qualified party with experience in the areas of accounting,
19 actuary, risk management, or investment management to assist
20 with preparing an accounting of the program and ensuring the
21 fiscal soundness of the fund.

22 ~~(e) State agencies and institutions of higher education shall fully~~
23 ~~cooperate with the board in matters relating to the program in order~~
24 ~~to ensure the solvency of the fund and ability of the board to meet~~
25 ~~outstanding commitments.~~

26 70030. (a) The purpose of the program is to redeem tuition
27 units for attendance at an institution of higher education. *Tuition*
28 *and fee payments made under this article shall be made directly*
29 *to the appropriate institution of higher education, in the name of*
30 *the beneficiary.*

31 (b) Refunds shall be issued *to the person or persons who entered*
32 *into the tuition unit contract* under specific conditions that include,
33 but are not *necessarily* limited to, all of the following:

34 (1) Certification that the beneficiary, who is 18 years of age or
35 older, will not attend an institution of higher education, will result
36 in a refund not to exceed the current value, as determined by the
37 board, in effect at the time of that certification, minus a penalty at
38 the rate established by the board. The refund shall be made no
39 sooner than 90 days after the date of that certification, less any
40 administrative processing fees assessed by the board.

1 (2) If there is certification of the death or disability of the
2 beneficiary, the refund shall be equal to 100 percent of any
3 remaining unused tuition units at the current value, as determined
4 by the board, at the time that the certification is submitted to the
5 board, less any administrative processing fees assessed by the
6 board.

7 (3) If there is certification by the student of graduation or
8 program completion, the refund shall be as great as 100 percent
9 of any remaining unused tuition units at the current value, as
10 determined by the board, at the time that the certification is
11 submitted to the board, less any administrative processing fees
12 assessed by the board. The board may, at its discretion, impose a
13 penalty if needed to comply with federal tax rules.

14 (4) If there is certification of ~~other~~ tuition and fee scholarships,
15 ~~which will cover the cost of tuition~~ *including, but not necessarily*
16 *limited to, awards made pursuant to this part, that are restricted*
17 *to payment of tuition and fees* for the eligible beneficiary, the
18 refund shall be equal to 100 percent of the current value of tuition
19 units, as determined by the board, in effect at the time of the refund
20 request, less any administrative processing fees assessed by the
21 board. The refund under this paragraph may not exceed the value
22 of the scholarship.

23 (5) Incorrect or misleading information provided by the
24 purchaser or beneficiaries may result in a refund of the purchaser's
25 investment, less any administrative processing fees assessed by
26 the board. The value of the refund shall not exceed the actual dollar
27 value of the purchaser's contributions.

28 (6) The board may determine other circumstances qualifying
29 for refunds of remaining unused tuition units and may determine
30 the value of that refund.

31 (7) *Certification that the beneficiary is enrolled in a California*
32 *public institution of higher education that charges mandatory*
33 *systemwide fees of an amount less than the amount charged by the*
34 *University of California, shall result in moneys being directed*
35 *toward other qualified expenses or toward a refund, to the extent*
36 *allowable under Section 529 of the federal Internal Revenue Code*
37 *of 1986, equal to the difference between the systemwide mandatory*
38 *fees charged by the University of California, and those charged*
39 *by the institution in which the beneficiary is enrolled, not to exceed*

1 *100 percent of the current value of tuition units, less any*
2 *administrative processing fees assessed by the board.*

3 (c) With the exception of *refunds made pursuant to* paragraphs
4 (1), (2), and (3) of subdivision (b), no refunds shall be made before
5 the units have been held for two years.

6 70031. In regard to bankruptcy filings and enforcement of
7 judgments under state bankruptcy law, tuition units purchased
8 more than two years before the date of filing or judgment shall be
9 considered excluded personal assets.

10 70032. (a) This article shall not be construed as a promise that
11 any beneficiary shall be granted admission to any institution of
12 higher education, will earn any specific or minimum number of
13 academic credits, or will graduate from ~~any such institution~~ *an*
14 *institution of higher education*. In addition, this article shall not
15 be construed as a promise of either course or program availability.

16 (b) Participation in this program does not guarantee an eligible
17 beneficiary the right to resident tuition and fees. To qualify for
18 resident and respective tuition subsidies, the eligible beneficiary
19 ~~must~~ *shall* meet the applicable requirements for resident fees at
20 an institution of higher education.

21 (c) This article shall not be construed to imply that the
22 redemption of tuition units shall be equal to any value greater than
23 the undergraduate ~~tuition and services and activities~~ *systemwide*
24 *mandatory* fees at the University of California, as computed under
25 this chapter. Eligible beneficiaries shall be responsible for payment
26 of any other fee ~~that does not qualify as a services and activities~~
27 ~~fee including, but not limited to, any expenses for tuition~~
28 ~~surcharges, tuition overload fees, laboratory fees, equipment fees,~~
29 ~~book fees, rental fees, room and board charges, or fines.~~ *or charge*
30 *that does not qualify as an allowable use of funds under Section*
31 *529 of the federal Internal Revenue Code of 1986.*

32 70033. The board shall establish a procedure by which an
33 account owner may use moneys paid into the trust under Article
34 19 (commencing with Section 69980) to purchase tuition units
35 under this article, without financial penalty.

O