

CHAPTER 571

S.B. No. 511

AN ACT

relating to the student loan program administered by the Texas Higher Education Coordinating Board.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Subchapter D, Chapter 52, Education Code, is amended by adding Section 52.501 to read as follows:

*Sec. 52.501. DEFINITIONS. In this chapter:*

- (1) "Board" means the Texas Higher Education Coordinating Board.
- (2) "Board interest and sinking fund" means an interest and sinking fund established by the board under Section 52.03 of this code.
- (3) "Board student loan fund" means a student loan fund established by the board under Section 52.04 of this code.
- (4) "Bond" means a general obligation bond issued by the board under Article III, Section 50b, 50b-1, 50b-2, or 50b-3, of the Texas Constitution.
- (5) "Student loan program" means the student loan program administered by the board under this chapter.

SECTION 2. Section 52.01, Education Code, is amended to read as follows:

Sec. 52.01. ADMINISTRATION. The Texas Higher Education Coordinating Board, ~~[Texas College and University System,]~~ or its successors, shall administer the student loan program authorized by this chapter pursuant to Article III, Sections ~~[Section]~~ 50b, 50b-1, 50b-2, and 50b-3, of the Texas Constitution. Personnel and other expenses required to properly administer this chapter shall be funded by:

- (1) ~~[provided in]~~ the general appropriations acts; or
- (2) any other source of revenue received by the board in connection with the operation of the student loan program.

SECTION 3. Subchapter A, Chapter 52, Education Code, is amended by adding Section 52.011 to read as follows:

*Sec. 52.011. ADMINISTRATIVE EXPENSES FROM REPAYMENT OF LOANS. If there are insufficient funds from Sections 52.01(1) and (2) of Section 52.01 to cover annual costs to administer the program, revenues received from repayment of student loans issued*

*under this chapter may be used to administer this chapter, provided that the amount used from loan repayments may not exceed 0.5 percent of the total outstanding student loans. This section expires September 1, 1995.*

SECTION 4. Subchapter A, Chapter 52, Education Code, is amended by adding Sections 52.03 and 52.04 to read as follows:

*Sec. 52.03. BOARD INTEREST AND SINKING FUNDS. (a) The board by resolution may establish one or more interest and sinking funds as accounts in the state treasury.*

*(b) A board interest and sinking fund established under this section consists of deposits made by the board as provided by this chapter.*

*(c) A board interest and sinking fund established under this section may be used for any purpose related to the student loan program.*

*(d) The board by resolution may create and provide the terms of administration and use of one or more accounts in a board interest and sinking fund established under this section.*

*Sec. 52.04. BOARD STUDENT LOAN FUNDS. (a) The board by resolution may establish one or more board student loan funds as accounts in the state treasury.*

*(b) A board student loan fund established under this section consists of deposits made by the board as provided by this chapter.*

*(c) A board student loan fund established under this section may be used for any purpose related to the student loan program.*

*(d) The board by resolution may create and provide the terms of administration and use of one or more accounts in a board student loan fund established under this section.*

SECTION 5. Section 52.11, Education Code, is amended by adding Subsection (n) to read as follows:

*(n) This section applies only to bonds issued under Article III, Section 50b, of the Texas Constitution.*

SECTION 6. Section 52.16, Education Code, is amended to read as follows:

*Sec. 52.16. PROCEEDS FROM BOND SALE. All proceeds from the sale of bonds authorized by Article III, Section 50b, 50b-1, or 50b-2 of the Texas Constitution shall be deposited in the state treasury in the Texas Opportunity Plan Fund.*

SECTION 7. Section 52.17, Education Code, is amended to read as follows:

*Sec. 52.17. INTEREST AND SINKING FUNDS [FUND]. (a) Each fiscal year a sufficient portion of the funds received by the board as repayment of student loans granted under this chapter, [and] as interest on the loans, and as other available funds relating to the student loan program shall be deposited in the state treasury in the Texas college interest and sinking fund or a board interest and sinking fund [College Student Loan Bonds Interest and Sinking Fund, referred to in this chapter as the interest and sinking fund,] to pay the interest and principal coming due during the ensuing fiscal year and to establish and maintain a reserve in the interest and sinking fund equal to the average annual principal and interest requirements of all outstanding bonds issued under this chapter that are secured by funds in the Texas college interest and sinking fund or a board interest and sinking fund.*

*(b) If in any year funds are received in excess of the foregoing requirements, then the excess may [shall] be:*

*(1) deposited in the Texas Opportunity Plan Fund, the student loan auxiliary fund, or a board interest and sinking fund;*

*(2) used to pay any costs of the board related to the operation of the student loan program;*

*(3) used for any lawful purpose related to the student loan program; or*

*(4) [and may be] used for the same purposes and upon the same terms and conditions prescribed for the proceeds derived from the sale of the bonds [Texas College Student Loan Bonds].*

*(c) In the event that funds received by the board in any fiscal year as repayment of student loans and as interest on the loans are insufficient to pay the interest coming due and the principal maturing on the bonds during the ensuing fiscal year, the state treasurer shall*

transfer into the *Texas college* interest and sinking fund and each board interest and sinking fund out of the first money coming into the treasury, which is not otherwise appropriated by the constitution, an additional amount sufficient to pay the interest coming due and the principal maturing on the bonds during the ensuing fiscal year.

(d) The resolution authorizing the issuance of the bonds may provide for the deposit, from bond proceeds, of not more than 24 months' interest, and may provide for the use of bond proceeds as a reserve for the payment of principal of and interest on the bonds.

(e) Amounts paid to the board by the federal Lender's Special Allowance program may be deposited in the *Texas college* interest and sinking fund, a board interest and sinking fund, or used for the administration of student loan and grant programs and the Teacher Loan Program and Future Teacher Loan Program authorized under House Bill 72, 68th Legislature, 2nd Called Session, 1984, or other programs administered by the board as specified by the legislature in the General Appropriations Act.

(f) With respect to loans granted under this chapter, the board shall file semiannually with the bond review board established under Chapter 1078, Acts of the 70th Legislature, Regular Session, 1987 (Article 717k-7, Vernon's Texas Civil Statutes), a report on the performance of the loans, ~~and~~ the *Texas college* interest and sinking fund, and each board interest and sinking fund. The bond review board shall review the reports filed by the board under this subsection to assess the performance of the loans under this chapter, ~~and~~ the *Texas college* interest and sinking fund, and each board interest and sinking fund. The filing dates and the contents of the reports must comply with any rules adopted by the bond review board.

SECTION 8. Section 52.19, Education Code, is amended to read as follows:

Sec. 52.19. INVESTMENT OF FUNDS. All money in the *Texas college* ~~reserve portion of the~~ interest and sinking fund and in each board interest and sinking fund, including the reserve portion, and all money in the Texas Opportunity Plan Fund and in the student loan auxiliary fund in excess of the amount necessary for student loans, and all money in each board student loan fund shall be invested by the state treasurer in the investments prescribed by board resolution. The board shall furnish to the state treasurer a copy of the resolution prescribing authorized investments. The board may sell any instruments owned in the *Texas college* interest and sinking fund, a board interest and sinking fund, ~~or in~~ the Texas Opportunity Plan Fund, the student loan auxiliary fund, or a board student loan fund at the prevailing market price. Income from these investments may ~~shall~~ be deposited in any of those funds ~~[the interest and sinking fund]~~.

SECTION 9. Subchapter B, Chapter 52, Education Code, is amended by adding Section 52.20 to read as follows:

Sec. 52.20. STUDENT LOAN NOTES. (a) Promissory notes evidencing student loans made by the board with proceeds from bonds may be deposited and held in any fund as directed by the board resolution that authorized the issuance of the bonds.

(b) The board may pledge and grant a security interest in all or any portion of those promissory notes to any person to further secure the payment of principal and interest on bonds issued under this chapter or of obligations under any contracts entered into by the board relating to the issuance of a series of bonds.

SECTION 10. Subsection (a), Section 52.36, Education Code, is amended to read as follows:

(a) The board shall from time to time fix the interest to be charged for any student loan at a rate sufficient to pay the interest on outstanding bonds, ~~plus~~ any expenses incident to their issuance, sale, and retirement, and all or a portion of the board's expenses related to the operation of the student loan program. Interest shall be postponed by the board as long as a student is enrolled at a participating institution and may be postponed at the board's discretion as long as a student is enrolled at any other higher educational institution, provided that the total interest paid is to be equal to that fixed at the time the note evidencing the loan is executed.

SECTION 11. Subsection (d), Section 52.52, Education Code, is amended to read as follows:

~~(d) The board may approve and enter into agreements that are necessary for the operation of the student loan program or that relate to the issuance of bonds [On or before September 1, 1995, the board shall terminate the contract referenced in Subsection (c) of this section. After that date, the board may not make an agreement with a guarantor concerning any insured student loans the board authorizes that requires the board to file suit or take other action to collect on a defaulted loan if the guarantor does not impose that requirement on other lenders making the same kind of insured student loans].~~

SECTION 12. Subsection (b), Section 52.83, Education Code, is amended to read as follows:

(b) The bonds must be dated and bear interest at a rate or rates prescribed by the board in accordance with the resolution for the issuance of the bonds, except that the rate may not exceed the maximum net effective rate allowed by law. The resolution may provide for:

- (1) any type of rate, including a fixed, variable, floating, or adjustable rate; and
- (2) any arrangement for the periodic determination of interest rates, including a formula, index, or contract.

SECTION 13. Subsections (b) and (c), Section 52.89, Education Code, are amended to read as follows:

(b) The fund consists of proceeds from the sale of the bonds *deposited in accordance with this section*, [and] gifts or grants made to the board for purposes of the fund, *and deposits made as authorized by this chapter*.

(c) The board shall deposit the proceeds from the sale of bonds in the fund, *excluding any accrued interest on the bonds which shall be deposited in the board interest and sinking fund relating to the bonds*.

SECTION 14. Not later than December 31, 1994, the Texas Higher Education Coordinating Board shall prepare and submit to the Legislative Budget Board, the State Auditor, the Senate Finance Committee, and the House Appropriations Committee a cost and efficiency management study of the administration and the administrative costs of the student loan program authorized by Chapter 52, Education Code.

SECTION 15. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on March 15, 1993: Yeas 30, Nays 0; the Senate concurred in House amendment on May 27, 1993: Yeas 31, Nays 0; passed the House, with amendment, on May 24, 1993, by a non-record vote.

Approved June 11, 1993.

Effective Aug. 30, 1993, 90 days after date of adjournment.