



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5600

Introduced 2/15/2012, by Rep. Jim Durkin - Darlene J. Senger -
Kent Gaffney - Jim Sacia

SYNOPSIS AS INTRODUCED:

110 ILCS 979/15
110 ILCS 979/30
110 ILCS 979/35

Amends the Illinois Prepaid Tuition Act. Authorizes the Illinois Student Assistance Commission to enter into contracts only as specifically authorized by the Act for expenses associated with the administration of the Illinois prepaid tuition program (now, the Commission may enter into any contracts that are necessary to provide for the administration of the program). Deletes a provision that provides that charges and expenses shall be paid exclusively from the Illinois Prepaid Tuition Trust Fund. Deletes a provision that provides that nothing with respect to the prohibition on delegating management functions shall preclude the Commission from subscribing to general investment research services available for purchase or use by others and providing compensation for accounting, computing, and other necessary services. Prohibits certain administrative and promotional expenses from being paid from moneys in the Illinois Prepaid Tuition Trust Fund. Effective immediately.

LRB097 19053 NHT 64292 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Prepaid Tuition Act is amended by
5 changing Sections 15, 30, and 35 as follows:

6 (110 ILCS 979/15)

7 Sec. 15. Creation of Illinois prepaid tuition program.
8 There is created the Illinois prepaid tuition program to be
9 administered by the Illinois Student Assistance Commission.
10 This program is to be administered so that the full cost of
11 tuition and mandatory fees at Illinois public universities and
12 Illinois community colleges may be paid in advance of
13 enrollment through the prior purchase of an Illinois prepaid
14 tuition contract. The Commission may enter into contracts as
15 specifically authorized by the provisions of this Act for
16 expenses associated with ~~as may be necessary to provide for~~
17 administration of the program and shall develop and implement
18 rules and regulations necessary for the efficient
19 administration of the program.

20 All reasonable charges incidental to the administration of
21 the program by the Commission shall be paid in the initial
22 start-up period for the program's operation from the General
23 Revenue Fund, pursuant to appropriations made for that purpose

1 by the General Assembly. ~~Those charges and expenses in~~
2 ~~subsequent years shall be paid exclusively from the Illinois~~
3 ~~Prepaid Tuition Trust Fund established by Section 35 of this~~
4 ~~Act.~~

5 (Source: P.A. 90-546, eff. 12-1-97.)

6 (110 ILCS 979/30)

7 Sec. 30. Investment Advisory Panel duties and
8 responsibilities.

9 (a) Advice and review. The panel shall offer advice and
10 counseling regarding the investments of the Illinois prepaid
11 tuition program with the objective of obtaining the best
12 possible return on investments consistent with actuarial
13 soundness of the program. The panel is required to annually
14 review and advise the Commission on provisions of the strategic
15 investment plan for the prepaid tuition program. The panel is
16 also charged with reviewing and advising the Commission with
17 regard to the annual report that describes the current
18 financial condition of the program. The panel at its own
19 discretion also may advise the Commission on other aspects of
20 the program.

21 (b) Investment plan. The Commission annually shall adopt a
22 comprehensive investment plan for purposes of this Section. The
23 comprehensive investment plan shall specify the investment
24 policies to be utilized by the Commission in its administration
25 of the Illinois Prepaid Tuition Trust Fund created by Section

1 35. The Commission may direct that assets of those Funds be
2 placed in savings accounts or may use the same to purchase
3 fixed or variable life insurance or annuity contracts,
4 securities, evidence of indebtedness, or other investment
5 products pursuant to the comprehensive investment plan and in
6 such proportions as may be designated or approved under that
7 plan. The Commission shall invest such assets with the care,
8 skill, prudence, and diligence under the circumstances then
9 prevailing that a prudent man acting in a like capacity and
10 familiar with such matters would use in the conduct of an
11 enterprise of a like character with like aims, and the
12 Commission shall diversify the investments of such assets so as
13 to minimize the risk of large losses, unless under the
14 circumstances it is clearly prudent not to do so. Those
15 insurance, annuity, savings, and investment products shall be
16 underwritten and offered in compliance with applicable federal
17 and State laws, rules, and regulations by persons who are
18 authorized thereunder to provide those services. The
19 Commission shall delegate responsibility for preparing the
20 comprehensive investment plan to the Executive Director of the
21 Commission. Nothing in this Section shall preclude the
22 Commission from contracting with a private corporation or
23 institution to provide such services as may be a part of the
24 comprehensive investment plan or as may be deemed necessary for
25 implementation of the comprehensive investment plan,
26 including, but not limited to, providing consolidated billing,

1 individual and collective record keeping and accounting, and
2 asset purchase, control, and safekeeping.

3 (c) Program management. The Commission may not delegate its
4 management functions, but may arrange to compensate for
5 personalized investment advisory services rendered with
6 respect to any or all of the investments under its control an
7 investment advisor registered under Section 8 of the Illinois
8 Securities Law of 1953 or any bank or other entity authorized
9 by law to provide those services. ~~Nothing contained herein~~
10 ~~shall preclude the Commission from subscribing to general~~
11 ~~investment research services available for purchase or use by~~
12 ~~others. The Commission also shall have authority to compensate~~
13 ~~for accounting, computing, and other necessary services.~~

14 (d) Annual report. The Commission shall annually prepare or
15 cause to be prepared a report setting forth in appropriate
16 detail an accounting of all Illinois prepaid tuition program
17 funds and a description of the financial condition of the
18 program at the close of each fiscal year. Included in this
19 report shall be an evaluation by at least one nationally
20 recognized actuary of the financial viability of the program.
21 This report shall be submitted to the Governor, the President
22 of the Senate, the Speaker of the House of Representatives, the
23 Auditor General, and the Board of Higher Education on or before
24 March 1 of the subsequent fiscal year. This report also shall
25 be made available to purchasers of Illinois prepaid tuition
26 contracts and shall contain complete Illinois prepaid tuition

1 contract sales information, including, but not limited to,
2 projected postsecondary enrollment data for qualified
3 beneficiaries.

4 (e) Marketing plan. Selection of a marketing agent for the
5 Illinois prepaid tuition program must be approved by the
6 Commission. At least once every 3 years, the Commission shall
7 solicit proposals for marketing of the Illinois prepaid tuition
8 program in accordance with the Illinois Securities Law of 1953
9 and any applicable provisions of federal law. The entity
10 designated pursuant to this paragraph shall serve as a
11 centralized marketing agent for the program and shall have
12 exclusive responsibility for marketing the program. No
13 contract for marketing the Illinois prepaid tuition program
14 shall extend for longer than 3 years. Any materials produced
15 for the purpose of marketing the program shall be submitted to
16 the Executive Director of the Commission for approval before
17 they are made public. Any eligible institution may distribute
18 marketing materials produced for the program, so long as the
19 Executive Director of the Commission approves the distribution
20 in advance. Neither the State nor the Commission shall be
21 liable for misrepresentation of the program by a marketing
22 agent. In no event shall any expenses associated with
23 marketing, advertising, or promotion of the Illinois prepaid
24 tuition program be paid from the Illinois Prepaid Tuition Trust
25 Fund.

26 (f) Accounting and audit. The Commission shall annually

1 cause to be prepared an accounting of the trust and shall
2 transmit a copy of the accounting to the Governor, the
3 President of the Senate, the Speaker of the House, and the
4 minority leaders of the Senate and House of Representatives.
5 The Commission shall also make available this accounting of the
6 trust to any purchaser of an Illinois prepaid tuition contract,
7 upon request. The accounts of the Illinois prepaid tuition
8 program shall be subject to annual audits by the Auditor
9 General or a certified public accountant appointed by the
10 Auditor General.

11 (Source: P.A. 96-1282, eff. 7-26-10.)

12 (110 ILCS 979/35)

13 Sec. 35. Illinois Prepaid Tuition Trust Fund.

14 (a) The Illinois Prepaid Tuition Trust Fund is created as
15 the repository of all moneys received by the Commission in
16 conjunction with the Illinois prepaid tuition program. The
17 Illinois Prepaid Tuition Trust Fund also shall be the official
18 repository of all contributions, appropriations, interest and
19 dividend payments, gifts, or other financial assets received by
20 the Commission in connection with operation of the Illinois
21 prepaid tuition program. All such moneys shall be deposited in
22 the Illinois Prepaid Tuition Trust Fund and held by the State
23 Treasurer as ex-officio custodian thereof, outside of the State
24 Treasury, separate and apart from all public moneys or funds of
25 this State.

1 All interest or other earnings accruing or received on
2 amounts in the Illinois Prepaid Tuition Trust Fund shall be
3 credited to and retained by the Fund. Moneys, interest, or
4 other earnings paid into the Fund shall not be transferred or
5 allocated by the Commission, the State Treasurer, or the State
6 Comptroller to any other fund, nor shall the Governor authorize
7 any such transfer or allocation, while any contracts are
8 outstanding. The State Comptroller shall not offset moneys paid
9 to institutions from the Illinois Prepaid Tuition Trust Fund
10 (unless the Trust Fund moneys are used for child support). In
11 addition, no moneys, interest, or other earnings paid into the
12 Fund shall be used, temporarily or otherwise, for interfund
13 borrowing or be otherwise used or appropriated except as
14 expressly authorized in this Act.

15 The Illinois Prepaid Tuition Trust Fund and each individual
16 participant account that may be created in that Fund in
17 conjunction with the Illinois prepaid tuition program shall be
18 subject to audit in the same manner as funds and accounts
19 belonging to the State of Illinois and shall be protected by
20 the official bond given by the State Treasurer.

21 (b) The Commission from time to time shall direct the State
22 Treasurer to invest moneys in the Illinois Prepaid Tuition
23 Trust Fund that are not needed for immediate disbursement, in
24 accordance with provisions of the investment plan approved by
25 the Commission.

26 (c) The Executive Director of the Commission shall, at such

1 times and in such amounts as shall be necessary, prepare and
2 send to the State Comptroller vouchers requesting payment from
3 the Illinois Prepaid Tuition Trust Fund for: (i) registration
4 fee payments to eligible institutions on behalf of qualified
5 beneficiaries of Illinois prepaid tuition contracts, and (ii)
6 any other payments specifically authorized by the provisions of
7 this Act ~~associated with administration of the Illinois prepaid~~
8 ~~tuition program.~~

9 (d) The Governor shall indicate in a separate document
10 submitted concurrent with each annual State budget the
11 estimated amount of moneys in the Illinois Prepaid Tuition
12 Trust Fund which shall be necessary and sufficient, during that
13 State fiscal year, to discharge all obligations anticipated
14 under Illinois prepaid tuition contracts. The Governor also
15 shall indicate in a separate document submitted concurrent with
16 each annual State budget the amount of moneys from the Illinois
17 Prepaid Tuition Trust Fund necessary to cover anticipated
18 expenses associated with administration of the program. The
19 Commission shall obtain concurrence from a nationally
20 recognized actuary as to all amounts necessary for the program
21 to meet its obligations. These amounts shall be certified
22 annually to the Governor by the Commission no later than
23 January 30.

24 During the first 18 months of operation of the Illinois
25 prepaid tuition program, the Governor shall request an
26 appropriation to the Commission from general funds sufficient

1 to pay for start-up costs associated with establishment of the
2 program. This appropriation constitutes a loan that shall be
3 repaid to the General Revenue Fund within 5 years by the
4 Commission from prepaid tuition program contributions.
5 Subsequent program administrative costs shall be provided from
6 reasonable fees and charges equitably assessed to purchasers of
7 prepaid tuition contracts.

8 (e) If the Commission determines that there are
9 insufficient moneys in the Illinois Prepaid Tuition Trust Fund
10 to pay contractual obligations in the next succeeding fiscal
11 year, the Commission shall certify the amount necessary to meet
12 these obligations to the Board of Higher Education, the
13 Governor, the President of the Senate, and the Speaker of the
14 House of Representatives. The Governor shall submit the amount
15 so certified to the General Assembly as soon as practicable,
16 but no later than the end of the current State fiscal year.

17 (f) In the event the Commission, with the concurrence of
18 the Governor, determines the program to be financially
19 infeasible, the Commission may discontinue, prospectively, the
20 operation of the program. Any qualified beneficiary who has
21 been accepted by and is enrolled or will within 5 years enroll
22 at an eligible institution shall be entitled to exercise the
23 complete benefits specified in the Illinois prepaid tuition
24 contract. All other contract holders shall receive an
25 appropriate refund of all contributions and accrued interest up
26 to the time that the program is discontinued.

1 (Source: P.A. 96-1282, eff. 7-26-10.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.