



S.B. 172

124th General Assembly
(As Passed by the Senate)

Sens. Oelslager, Robert Gardner, Mead, Harris, Spada, Armbruster, Carnes, White, Mumper

BILL SUMMARY

- Establishes the CollegeAdvantage Savings Plan as the common name for the Guaranteed College Savings Program and the Variable College Savings Program operated by the Ohio Tuition Trust Authority.
- States that the value of a tuition unit under the Guaranteed College Savings Program is 1% of the weighted average tuition at four-year state universities "unless otherwise specified."
- Creates the Variable Operating Fund for the operation and administration of the Variable College Savings Program.
- Requires the Authority to impose a service charge on the Variable College Savings Program to reimburse the Guaranteed College Savings Program for the start-up costs of the Variable Program.
- Grants explicit authorization to the Authority to contract for the sale of tuition units.
- Clarifies that the costs to be paid from the Ohio Tuition Trust Fund include compensation paid to employees, vendors, and any other individual or entity responsible for investments.
- Specifies that no advance notice is required for an adjustment in the price of tuition units.
- Permits the rollover of an account under the Guaranteed College Savings Program into the Variable College Savings Program.
- Changes the method of calculating refunds under the Guaranteed College Savings Program when an account is terminated due to the rollover of the

account into another state tuition program or a miscellaneous reason allowed by the Authority.

- Eliminates the restriction under the Guaranteed College Savings Program of one request for an account statement per year.
- Eliminates the current procedure for refunding accounts in the college savings programs when a beneficiary withdraws from school.
- Makes other administrative changes to the college savings programs.

CONTENT AND OPERATION

Background

Under section 529 of the federal Internal Revenue Code, states may establish and maintain a state tuition program under which a person (1) may purchase credit toward tuition on behalf of a designated beneficiary that entitles the beneficiary to the waiver or payment of qualified higher education expenses or (2) may make contributions to an account set up for the purpose of meeting the qualified higher education expenses of the designated beneficiary of the account. Such programs receive favorable federal and state tax treatment for the programs' assets and distributions to beneficiaries. In Ohio, under continuing law, the Ohio Tuition Trust Authority operates two college savings programs that correspond to the types permitted by federal law: (1) a guaranteed savings program and (2) a variable savings program. Each program allows beneficiaries to acquire savings toward the future payment of college tuition. A person may participate in one or both of the savings programs.

Guaranteed College Savings Program

Contributors to the Guaranteed College Savings Program purchase tuition units on behalf of a designated beneficiary at approximately 1% of the weighted average tuition charged at public four-year universities in Ohio for the year the units are purchased, although the actual cost may be higher if the Authority determines that a price adjustment is necessary to maintain the actuarial soundness of the program.¹ Each unit may be redeemed upon enrollment of the beneficiary at

¹ "Weighted average tuition" is the tuition cost resulting from the following calculation: (1) the addition of the products of the annual undergraduate tuition charged to Ohio residents at each four-year state university multiplied by that institution's total number of undergraduate fiscal year equated students and (2) the division of the resulting gross total from (1) by the total number of undergraduate fiscal year equated students attending four-year state universities (sec. 3334.01(I)).

a college, university, or other institution of higher education anywhere in the United States for 1% of the weighted average tuition charged at public four-year universities in Ohio for the year in which the units are spent for college expenses. Tuition units under the guaranteed savings program are backed by the full faith and credit of the State of Ohio. The program is based upon the assumption that 100 tuition units equal one year of college tuition so that contributors may be reasonably certain of the percentage of future college tuition costs that will be covered by the units they acquire.

Variable College Savings Program

Under the Variable College Savings Program, rather than purchasing tuition units, an individual contributes money to an investment account managed by the state, or its agent, for the benefit of the beneficiary. Assets of the variable savings program are invested in savings accounts, life insurance or annuity contracts, securities, bonds, or other investment products in accordance with a plan adopted by the Authority. Because the program is market-based, it generally provides a variable rate of return and contributors assume all investment risk.

Change of name to the CollegeAdvantage Savings Plan

(sec. 3334.02(E))

Under the bill, the Guaranteed College Savings Program and the Variable College Savings Program are collectively referred to as the CollegeAdvantage Savings Plan. Although the bill unites the two programs under a common name, they retain their status as independent programs to provide college savings options for contributors. The bill specifically states that the CollegeAdvantage Savings Plan is intended to be a qualified state tuition program under section 529 of the federal Internal Revenue Code for the purposes of determining the eligibility and need for student loans, grants, or other aid programs.

Value of tuition unit

(sec. 3334.09(B))

Current law stipulates that each tuition unit purchased through the Guaranteed College Savings Program entitles the beneficiary to an amount equal to 1% of the weighted average tuition at four-year state universities when the tuition unit is redeemed. Under the bill, the beneficiary is entitled to such an amount "unless otherwise specified." The bill does not indicate who is responsible for specifying an alternative amount. There is also no provision for where or when such information must be made available.

Other administrative changes in the bill

The bill makes several administrative changes to the college savings programs operated by the Ohio Tuition Trust Authority. Some of these changes facilitate the integration of the administration of the Guaranteed College Savings Program and the Variable College Savings Program so that their terminology and procedures are more consistent with each other. Other changes affecting the operation of the savings programs are discussed below.

Application of service charge to the Variable College Savings Program and establishment of the Variable Operating Fund

(secs. 3334.08(A)(23) and 3334.19 (F) and (G))

As mandated by Am. Sub. S.B. 161 of the 123rd General Assembly, the Authority established the Variable College Savings Program in October 2000. The initial costs of starting and running the new program were borne by the Guaranteed College Savings Program. Consequently, the bill requires the Authority to apply a "reasonable" service charge in a "nondiscriminatory" manner to the Variable College Savings Program for the express purpose of reimbursing the Guaranteed College Savings Program for the expenses it incurred during the early phase of the variable program. (Sec. 3334.08(A)(23).)

In addition, the bill creates the Variable Operating Fund from which all future costs of the operation and administration of the Variable College Savings Program must be paid. Any fees, charges, and other costs imposed or collected by the Authority in operating the variable program must be deposited into the Fund. (Sec. 3334.19(G).) Under continuing law, the Authority must spend assets of the variable program in the following order of priority: (1) to make payments on behalf of participants, (2) to make refunds upon the termination of individual savings accounts, and (3) to pay the costs of administering the program. The bill further requires the Authority to use moneys from the Variable Operating Fund for any other expenditures the Authority considers "appropriate for the benefit of the CollegeAdvantage Savings Plan or the state and its citizens." However, such disbursements are allowed only after the Variable College Savings Program fulfills its top three priorities. (Sec. 3334.19(F).)

Investment costs incurred in the operation of the Guaranteed College Savings Program

(sec. 3334.11(A))

Continuing law requires that the assets of the Ohio Tuition Trust Authority reserved for payment of the Authority's obligations under the Guaranteed College Savings Program be deposited into the Ohio Tuition Trust Fund. All investment

fees and other costs incurred by the Authority in connection with its powers to invest the assets of the Ohio Tuition Trust Fund must be paid from the Fund. The bill clarifies that such investment costs include compensation paid to employees, vendors, and any other individual or entity.

Adjustment of price of tuition units

(sec. 3334.07(B))

Continuing law requires the Authority to annually establish the price of tuition units under the Guaranteed College Savings Program for the ensuing twelve-month period. Currently, if the Authority determines during that period that the price of tuition units is insufficient to ensure the actuarial soundness of the Ohio Tuition Trust Fund, then the Authority may adjust the price accordingly. The bill stipulates instead that the Authority may, at its discretion, make a price adjustment whenever it determines that the current price will "have an impact on" the actuarial soundness of the Fund. It also specifies that no advance notice is required for such a price adjustment.

Authority to contract for sale of tuition units

(sec. 3334.08(A)(10))

Under continuing law, the Authority may contract for services or goods needed by the Authority in carrying out its responsibilities. The bill explicitly states that this permission to contract with an outside entity may be used for the sale of tuition units under the Guaranteed College Savings Program.

Refunds under the Guaranteed College Savings Program

(sec. 3334.10(B))

Continuing law specifies how to calculate refunds to account owners upon termination of an account under the Guaranteed College Savings Program. The amount of the refund is calculated differently depending upon the reason for the termination. Reasons under current law for which an account may be terminated are the following: (1) the death or permanent disability of the beneficiary, (2) the decision of the beneficiary not to attend an institution of higher education and to request the termination of the account, (3) completion of a degree by the beneficiary, (4) the rollover of the account into an equivalent tuition program in another state, and (5) any other reason allowed by the Authority. The calculation of refunds in the case of termination for reasons (1), (2), or (3) remains the same in the bill, but refunds for reasons (4) and (5) must be determined in a new manner.

Current law requires that in the case of a miscellaneous reason allowed by the Authority under (5) above, the amount of the refund must be determined by the

authority under one of the following two options: (1) at least 1% of the weighted average tuition in the academic year the refund is paid, multiplied by the number of tuition units purchased and not used, minus any reasonable charges and fees provided for by the Authority (or a lesser sum if necessary to comply with penalty requirements in federal law) or (2) the greater of (a) 1% of the weighted average tuition in the academic year the refund is paid, multiplied by the number of tuition units purchased and not used or (b) the total purchase price of all tuition units purchased for the beneficiary and not used (or a lesser sum if necessary to comply with penalty requirements in federal law). The bill drops the two options, and provides instead that the amount of any refund for the miscellaneous termination of an account must be determined by the Authority, in accordance with the following criteria: (1) the maintenance of the actuarial soundness of the Guaranteed College Savings Program and (2) refund penalty requirements for qualified state tuition programs under federal law.

Currently, an account may be terminated due to a rollover of the funds into a tuition program in another state, in which case the entire balance of the account is refunded to the account owner for transfer to the new program. The bill makes two changes to this provision. First, the bill creates an opportunity for account owners to move funds within Ohio by permitting rollovers from the Guaranteed College Savings Program into the Variable College Savings Program and, potentially, the College Savings Bond Program.² Second, regardless of whether the rollover is into another Ohio program or into a similar program in another state, the account owner may not receive the entire account balance under the bill. Instead, as with refunds due to the termination of an account for a miscellaneous reason, the Authority must determine the amount of the refund for the rollover in accordance with the actuarial soundness of the Guaranteed College Savings Program and any refund penalty requirements under federal law.

Elimination of restriction on number of account statements

(sec. 3334.11(F)(1))

Continuing law requires the Authority, upon the request of a beneficiary or an account owner under the Guaranteed College Savings Program, to provide an account statement indicating, in the case of the beneficiary, the number of tuition units purchased on behalf of the beneficiary, or in the case of the account owner, the transactions of the account, including the number of tuition units purchased, used, or refunded. Currently, the beneficiary or account owner may only request one such account statement per year. This restriction is removed by the bill, effectively allowing any number of such requests in a single year.

² Section 3334.04 (not in the bill) and section 3334.06.

Refund of tuition in case of withdrawal from school

(sec. 3334.10(G))

Currently, if a beneficiary withdraws from an institution of higher education before the end of an academic term, a prorated share of any refund of tuition provided by the institution must be returned to the Authority. The share returned must equal the portion of tuition paid from the beneficiary's account under the Guaranteed College Savings Program or the Variable College Savings Program. This share (less any reasonable charges imposed by the Authority) must be credited to the beneficiary's account.

The bill eliminates this procedure for dealing with the early withdrawal of a beneficiary from an institution of higher education. Presumably, the beneficiary or the account owner would keep the tuition refund from the institution and the amount paid from a college savings program for that academic term would remain deducted from the beneficiary's account.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	10-03-01	p. 936
Reported, S. Education	01-16-02	p. 1319
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