



1997 ASSEMBLY BILL 595

November 11, 1997 - Introduced by Representatives KREIBICH, HASENOHRL, SCHAFFER, BRANDEMUEHL, CULLEN, FREESE, GARD, GREEN, GROTHMAN, HAHN, HUBER, HUTCHISON, KELSO, F. LASEE, MEYER, MUSSER, OLSEN, PLOUFF, PORTER, POWERS, SERATTI, UNDERHEIM, WARD, L. YOUNG and SYKORA, cosponsored by Senators DARLING, DRZEWIECKI, FARROW, ROESSLER, ROSENZWEIG, WEEDEN and ZIEN. Referred to Committee on Colleges and Universities.

1 **AN ACT to repeal** 16.24 (3) (c); **to renumber and amend** 16.24 (7) (a) to (e), 16.24
2 (7) (f) and 16.24 (12) (b); **to amend** 16.24 (3) (a) (intro.), 1. and 2., 16.24 (3) (d),
3 16.24 (4), 16.24 (5) (a) and 16.24 (6) (a) (intro.); **to repeal and recreate** 16.24
4 (3) (a) 3. and 4.; and **to create** 16.24 (7) (a) (intro.), 16.24 (7m) and 16.24 (12)
5 (b) 2. of the statutes; **relating to:** the college tuition prepayment program.

Analysis by the Legislative Reference Bureau

The department of administration (DOA) currently administers the college tuition prepayment program. Under the program, an individual may contract with DOA to purchase tuition units on behalf of a beneficiary named in the contract. DOA may not enter into more than one contract on behalf of the same beneficiary. Either the individual or the beneficiary must be a Wisconsin resident, and the beneficiary must be the child or grandchild of the individual. To the extent possible, the cost of each tuition unit, which is determined by DOA, must be an amount that, in the academic year in which the beneficiary intends to enroll in an accredited institution of higher education, is equal to 1% of the weighted average tuition of bachelor's degree-granting institutions within the University of Wisconsin (UW) System. When the beneficiary enrolls in an accredited institution of higher education in the United States, each tuition unit purchased on his or her behalf entitles the beneficiary to apply toward tuition at the institution an amount equal to 1% of the weighted average tuition of bachelor's degree-granting institutions within the UW System in that academic year, as estimated at the time of purchase.

ASSEMBLY BILL 595

This bill makes the following changes to the program:

1. The bill allows an individual to purchase tuition units on his or her own behalf; allows a legal guardian to purchase on behalf of a child who is under the legal guardianship of the legal guardian; and allows a trust to purchase on behalf of the beneficiary of the trust.

2. The bill requires that the beneficiary or the individual purchasing the units be a Wisconsin resident; if the purchaser is a legal guardian that is not an individual, the legal guardian must be organized under the laws of this state; and if the purchaser is a trust, the trust must be created under the laws of this state.

3. The bill allows a purchaser to purchase a sufficient number of tuition units to cover the cost of mandatory student fees in addition to the cost of tuition.

4. The bill allows DOA to adjust the value of a tuition unit based on actual earnings, less expenses, if the beneficiary wishes to use the unit in a year other than the year specified in the purchase contract, or if the beneficiary or the purchaser wishes to receive a refund in a year other than the one specified in the purchase contract.

5. The bill allows DOA to impose penalties or to increase the specified penalties for refunds if DOA determines that such action is necessary to maintain the program's status as a qualified state tuition program under federal law. Under a qualified state tuition program, federal income taxes on program earnings are deferred.

6. The bill allows DOA to keep personal and financial information pertaining to a purchaser or to a beneficiary closed to the public.

7. Finally, the bill eliminates the prohibition against DOA entering into more than one contract on behalf of the same beneficiary.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 16.24 (3) (a) (intro.), 1. and 2. of the statutes are amended to read:

2 16.24 (3) (a) (intro.) ~~Except as provided under par. (c), the~~ The department shall
3 contract with an individual, a trust or a legal guardian for the sale of tuition units
4 to that individual, trust or legal guardian if all of the following apply:

5 1. The individual purchaser pays a \$50 nonrefundable enrollment fee.

6 2. The individual purchaser is purchasing the tuition units on behalf of a
7 beneficiary named in the contract.

ASSEMBLY BILL 595

1 **SECTION 2.** 16.24 (3) (a) 3. and 4. of the statutes are repealed and recreated to
2 read:

3 16.24 (3) (a) 3. When the contract is executed, at least one of the following
4 applies:

- 5 a. The beneficiary is a resident of this state.
6 b. If the purchaser is an individual, he or she is a resident of this state.
7 c. If the purchaser is a legal guardian that is not an individual, the legal
8 guardian is organized under the laws of this state.
9 d. If the purchaser is a trust, the trust is created under the laws of this state.

10 4. At least one of the following applies:

- 11 a. The beneficiary is the purchaser.
12 b. If the purchaser is an individual, the beneficiary is the child or grandchild
13 of the individual or is a child who is under the legal guardianship of the individual.
14 c. If the purchaser is a legal guardian that is not an individual, the beneficiary
15 is a child who is under the legal guardianship of the legal guardian.
16 d. If the purchaser is a trust, the beneficiary is the beneficiary of the trust.

17 **SECTION 3.** 16.24 (3) (c) of the statutes is repealed.

18 **SECTION 4.** 16.24 (3) (d) of the statutes is amended to read:

19 16.24 (3) (d) The department shall promulgate rules authorizing ~~an individual~~
20 a person who has entered into a contract under this subsection to change the
21 beneficiary named in the contract.

22 **SECTION 5.** 16.24 (4) of the statutes is amended to read:

23 16.24 (4) NUMBER OF TUITION UNITS PURCHASED. ~~An individual~~ A person who
24 enters into a contract under sub. (3) may purchase tuition units at any time and in
25 any number, except that the total number of tuition units purchased on behalf of a

ASSEMBLY BILL 595**SECTION 5**

1 single beneficiary may not exceed the number necessary to pay for 4 years of
2 full-time attendance, including mandatory student fees, as a resident
3 undergraduate at the institution within the University of Wisconsin System that has
4 the highest resident undergraduate tuition, as determined by the department, in the
5 anticipated academic years of their use.

6 **SECTION 6.** 16.24 (5) (a) of the statutes is amended to read:

7 16.24 (5) (a) If Except as provided in sub. (7m), if an individual named as
8 beneficiary in a contract under sub. (3) attends an institution of higher education in
9 the United States, each tuition unit purchased on his or her behalf entitles that
10 beneficiary to apply toward the payment of tuition at the institution an amount equal
11 to 1% of the anticipated weighted average tuition of bachelor's degree-granting
12 institutions within the University of Wisconsin System for the year of attendance,
13 as estimated under sub. (2) in the year in which the tuition unit was purchased.

14 **SECTION 7.** 16.24 (6) (a) (intro.) of the statutes is amended to read:

15 16.24 (6) (a) (intro.) A contract under sub. (3) may be terminated by the
16 ~~individual person~~ entering into the contract if any of the following occurs:

17 **SECTION 8.** 16.24 (7) (a) (intro.) of the statutes is created to read:

18 16.24 (7) (a) (intro.) Except as provided in sub. (7m), the department shall do
19 all of the following:

20 **SECTION 9.** 16.24 (7) (a) to (e) of the statutes are renumbered 16.24 (7) (a) 1. to
21 5. and amended to read:

22 16.24 (7) (a) 1. When a beneficiary completes the program in which he or she
23 is enrolled, if the beneficiary has not used all of the tuition units purchased on his
24 or her behalf, ~~the department shall~~ refund to the individual person who entered into
25 the contract an amount equal to 1% of the anticipated weighted average tuition in

ASSEMBLY BILL 595

1 the academic year in which the beneficiary completed the program, as estimated
2 under sub. (2) in the year in which the tuition units were purchased, multiplied by
3 the number of tuition units purchased by the individual person and not used by the
4 beneficiary.

5 2. If a contract is terminated under sub. (6) (a) 1., 2. or 3., ~~the department shall~~
6 refund to the individual person who entered into the contract an amount equal to 1%
7 of the anticipated weighted average tuition in the academic year in which the
8 contract is terminated, as estimated under sub. (2) in the year in which the tuition
9 units were purchased, multiplied by the number of tuition units purchased by the
10 individual person and not used by the beneficiary.

11 3. If a contract is terminated under sub. (6) (a) 4. or (b), ~~the department shall~~
12 refund to the individual person who entered into the contract an amount equal to
13 99% of the amount determined under ~~par. (b) subd. 2.~~ If a contract is terminated
14 under sub. (6) (a) 4., the department may not issue a refund for one year following
15 receipt of the notice of termination and may not issue a refund of more than 100
16 tuition units in any year.

17 4. If a contract is terminated under sub. (6) (a) 5., ~~the department shall~~ refund
18 to the individual person who entered into the contract the amount under ~~par. (b)~~
19 subd. 2 or under ~~par. (e) subd. 3,~~ as determined by the department.

20 5. If the beneficiary is awarded a scholarship, tuition waiver or similar subsidy
21 that cannot be converted into cash by the beneficiary, ~~the department shall~~ refund
22 to the individual person who entered into the contract, upon ~~his or her~~ the person's
23 request, an amount equal to the value of the tuition units that are not needed because
24 of the scholarship, waiver or similar subsidy and that would otherwise have been

ASSEMBLY BILL 595**SECTION 9**

1 paid by the department on behalf of the beneficiary during the semester in which the
2 beneficiary is enrolled.

3 **SECTION 10.** 16.24 (7) (f) of the statutes is renumbered 16.24 (7) (b) and
4 amended to read:

5 16.24 (7) (b) Except as provided under par. ~~(e)~~ (a) 3., the department shall
6 determine the method and schedule for the payment of refunds under this
7 subsection.

8 **SECTION 11.** 16.24 (7m) of the statutes is created to read:

9 16.24 (7m) TUITION UNIT VALUE ADJUSTMENT; REFUND ADJUSTMENT. (a) The
10 department may adjust the value of a tuition unit based on the actual earnings
11 attributable to the tuition unit less the costs of administering the program under this
12 section that are attributable to the tuition unit if any of the following applies:

13 1. The individual named as the beneficiary in a contract under sub. (3) wishes
14 to use the tuition unit for the payment of tuition in a year other than the anticipated
15 academic year of attendance, as specified in the contract.

16 2. The individual named as the beneficiary in a contract under sub. (3), or the
17 person who entered into the contract, wishes to receive a refund under sub. (7) in a
18 year other than the anticipated academic year of the beneficiary's attendance, as
19 specified in the contract.

20 (b) The department may not increase the value of a tuition unit under par. (a)
21 to an amount that exceeds the value of a tuition unit that was purchased at a similar
22 time, held for a similar period and used or refunded in the anticipated academic year
23 of the beneficiary's attendance, as specified in the contract.

24 (c) The department may promulgate rules imposing or increasing penalties for
25 refunds under sub. (7) (a) if the department determines that such rules are necessary

ASSEMBLY BILL 595

1 to maintain the status of the program under this section as a qualified state tuition
2 program under section 529 of the Internal Revenue Code, as defined in s. 71.01 (6).

3 **SECTION 12.** 16.24 (12) (b) of the statutes is renumbered 16.24 (12) (b) (intro.)
4 and amended to read:

5 16.24 (12) (b) (intro.) The department may ~~contract~~ do any of the following:

6 1. Contract with any person for the management and operation of the program
7 or any part of the program under this section.

8 **SECTION 13.** 16.24 (12) (b) 2. of the statutes is created to read:

9 16.24 (12) (b) 2. Keep personal and financial information pertaining to a
10 purchaser of tuition units or a beneficiary of tuition units closed to the public.

11 **SECTION 14. Initial applicability.**

12 (1) This act first applies to contracts entered into under section 16.24 of the
13 statutes, as affected by this act, on the effective date of this subsection.

14 (END)