



2003 ASSEMBLY BILL 683

November 20, 2003 - Introduced by Representatives MONTGOMERY, STONE, AINSWORTH, LADWIG, OLSEN, SCHOOFF, MUSSER, BIES, JENSEN, HINES, F. LASEE, VRAKAS, GOTTLIEB, WEBER, PETROWSKI, OTT, SERATTI, LOTHIAN, SUDER, KRAWCZYK, LOEFFELHOLZ, ZEPNICK and TAYLOR, cosponsored by Senators REYNOLDS, ROBSON, STEPP and SCHULTZ. Referred to Committee on Colleges and Universities.

1 **AN ACT** *to renumber and amend* 16.255 (1) and 16.255 (2); *to amend* 14.64 (2)
2 (e), 14.64 (2) (g), 16.255 (title), 16.255 (3) (intro.) and 25.85; and *to create*
3 16.255 (1d), 16.255 (1g), 16.255 (1m) (g), 16.255 (1m) (h), 16.255 (1m) (i), 16.255
4 (1m) (j), 16.255 (2) (a), 16.255 (2) (b), 16.255 (2) (c) and 16.255 (3) (e) of the
5 statutes; **relating to:** the selection of one or more financial institutions to serve
6 as vendors of the college savings program and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law, the College Savings Program Board (board) administers a college savings program, commonly referred to as "EdVest," under which a person may establish and contribute money to a college savings account to cover tuition, fees, and the costs of room and board, books, supplies, and equipment required for the enrollment or attendance of a beneficiary at an accredited institution of higher education anywhere in the United States. Under current law, the Department of Administration (DOA) is required to select a nongovernmental person to serve as the vendor of EdVest based on factors determined by DOA, including certain factors specified under current law.

This bill permits DOA to select more than one vendor of EdVest. The bill also defines "vendor" as a bank, savings bank, savings and loan association, credit union, insurance company, trust company, investment company, investment adviser, or any other similar entity that is authorized to do business in this state and that provides

ASSEMBLY BILL 683

or proposes to provide administrative, investment management, and sales, marketing, and distribution services for EdVest. In addition, the bill permits the board to approve more than one kind of investment instrument to be offered through EdVest. Under the bill, any decision on the use of multiple vendors of EdVest or multiple investment instruments to be offered under EdVest shall take into account the requirements for qualifying as a qualified tuition program under the Internal Revenue Code, differing needs of account owners regarding the risk and potential return of different investment instruments, and the administrative costs and burdens that may result from the decision.

The bill also requires DOA to select as vendors of EdVest the vendor or vendors that demonstrate the most advantageous combination, to account owners, beneficiaries, and this state, of the factors determined by DOA, including certain additional factors specified in the bill. Those additional factors are as follows:

1. The financial stability and integrity of the vendor.
2. The safety of the investment instruments being offered by the vendor, taking into account any insurance provided with respect to those investment instruments.
3. The ability of the investment instruments being offered by the vendor to track future higher education costs as estimated by the board.
4. Any other benefits to account owners, beneficiaries, and this state offered by the vendor.

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.** 14.64 (2) (e) of the statutes is amended to read:

2 14.64 **(2)** (e) Promulgate rules to implement and administer this section,
3 including rules that determine whether a withdrawal from a college savings account
4 is a qualified or nonqualified withdrawal, as defined under 26 USC 529, and rules
5 that impose more than a de minimis penalty, as defined under 26 USC 529, for
6 nonqualified withdrawals, and rules to prevent contributions on behalf of a
7 beneficiary that are in excess of those necessary to pay the qualified higher education
8 expenses, as defined in 26 USC 529 (e) (3), of the beneficiary.

9 **SECTION 2.** 14.64 (2) (g) of the statutes is amended to read:

ASSEMBLY BILL 683

1 14.64 (2) (g) Ensure that, if the department of administration ~~changes vendors~~
2 terminates the authority of a vendor, as defined in s. 16.255 (1d) (d), the balances of
3 the college savings accounts held by that vendor are promptly transferred to another
4 vendor that has been selected by the department of administration under s. 16.255
5 (2) and are transferred into investment instruments that are as similar to the
6 original investment instruments as possible.

7 **SECTION 3.** 16.255 (title) of the statutes is amended to read:

8 **16.255** (title) **College savings program vendor vendors.**

9 **SECTION 4.** 16.255 (1) of the statutes is renumbered 16.255 (1m) and amended
10 to read:

11 16.255 (1m) The department shall determine the factors to be considered in
12 selecting a vendor of the program ~~under s. 14.64 vendors under sub. (2),~~ which shall
13 include:

14 (a) The ~~person's~~ ability of the vendor to satisfy record-keeping and reporting
15 requirements.

16 (b) The fees, if any, that the ~~person~~ vendor proposes to charge account owners.

17 (c) The ~~person's~~ plan of the vendor for promoting the college savings program
18 and the investment that the ~~person~~ vendor is willing to make to promote the college
19 savings program.

20 (d) The minimum initial contribution or minimum contributions that the
21 ~~person~~ vendor will require.

22 (e) The ability and willingness of the ~~person~~ vendor to accept electronic
23 contributions electronically, through payroll deduction plans, and through other
24 deposit plans.

ASSEMBLY BILL 683

1 (f) The ability of the ~~person~~ vendor to augment the college savings program
2 with additional, beneficial services related to the college savings program.

3 **SECTION 5.** 16.255 (1d) of the statutes is created to read:

4 16.255 (1d) In this section:

5 (a) “Board” means the college savings program board.

6 (b) “College savings program” means the college savings program under s.
7 14.64.

8 (c) “Financial institution” means a bank, savings bank, savings and loan
9 association, credit union, insurance company, trust company, investment company,
10 investment adviser, or any other similar entity that is authorized to do business in
11 this state.

12 (d) “Vendor” means a financial institution that provides or proposes to provide
13 administrative, investment management, and sales, marketing, and distribution
14 services for the college savings program.

15 **SECTION 6.** 16.255 (1g) of the statutes is created to read:

16 16.255 (1g) The board shall implement the college savings program through
17 the use of one or more vendors selected by the department under sub. (2). Under the
18 college savings program, an individual, trust, legal guardian, or entity described
19 under 26 USC 529 (e) (1) (C) may establish a college savings account through any
20 vendor selected by the department and may invest that account in one or more
21 investment instruments approved by the board.

22 **SECTION 7.** 16.255 (1m) (g) of the statutes is created to read:

23 16.255 (1m) (g) The financial stability and integrity of the vendor.

24 **SECTION 8.** 16.255 (1m) (h) of the statutes is created to read:

ASSEMBLY BILL 683

1 16.255 (1m) (h) The safety of the investment instruments being offered by the
2 vendor, taking into account any insurance provided with respect to those investment
3 instruments.

4 **SECTION 9.** 16.255 (1m) (i) of the statutes is created to read:

5 16.255 (1m) (i) The ability of the investment instruments being offered by the
6 vendor to track future higher education costs as estimated by the board.

7 **SECTION 10.** 16.255 (1m) (j) of the statutes is created to read:

8 16.255 (1m) (j) Any other benefits to account owners, beneficiaries, and this
9 state offered by the vendor.

10 **SECTION 11.** 16.255 (2) of the statutes is renumbered 16.255 (2) (intro.) and
11 amended to read:

12 16.255 (2) (intro.) The department shall solicit competitive sealed proposals
13 under s. 16.75 (2m) from nongovernmental persons to serve as vendor of the college
14 savings program. The department vendors and, from those proposals, shall select
15 the vendor based upon as vendors the vendor or vendors that demonstrate the most
16 advantageous combination, to account owners, beneficiaries, and this state, of the
17 factors determined by the department under sub. (1). (1m). The department may
18 select more than one vendor, and the board may approve more than one kind of
19 investment instrument to be offered through the college savings program. Any
20 decision on the use of multiple vendors or multiple investment instruments shall
21 take into account all of the following:

22 **SECTION 12.** 16.255 (2) (a) of the statutes is created to read:

23 16.255 (2) (a) The requirements for qualifying as a qualified tuition program
24 under 26 USC 529.

25 **SECTION 13.** 16.255 (2) (b) of the statutes is created to read:

ASSEMBLY BILL 683**SECTION 13**

1 16.255 (2) (b) Differing needs of account owners regarding the risk and
2 potential return of different investment instruments.

3 **SECTION 14.** 16.255 (2) (c) of the statutes is created to read:

4 16.255 (2) (c) The administrative costs and burdens that may result from the
5 decision.

6 **SECTION 15.** 16.255 (3) (intro.) of the statutes is amended to read:

7 16.255 (3) (intro.) The A contract between the department and the a vendor
8 shall ensure all of the following:

9 **SECTION 16.** 16.255 (3) (e) of the statutes is created to read:

10 16.255 (3) (e) That, if more than one vendor is selected under sub. (2), the
11 vendor provide the board with information to assist the board in determining
12 compliance with the rules promulgated by the board under s. 14.64 (2) (e) relating
13 to excess contributions on behalf of a beneficiary.

14 **SECTION 17.** 25.85 of the statutes is amended to read:

15 **25.85 College savings program trust fund.** There is established a separate
16 nonlapsible trust fund designated as the college savings program trust fund,
17 consisting of all revenue from enrollment fees for and contributions to college savings
18 accounts under s. 14.64 and from distributions and fees paid by the a vendor under
19 s. 16.255 (3).

20 **SECTION 18. Nonstatutory provisions.**

21 (1) If a vendor, as defined in section 16.255 (1d) (d) of the statutes, as created
22 by this act, is subject to a contract that is in effect on the effective date of this
23 subsection and that contains provisions that are inconsistent with section 16.255 of
24 the statutes, as affected by this act, then, notwithstanding section 16.255 of the
25 statutes, as affected by this act, the vendor may perform its obligations, and exercise

ASSEMBLY BILL 683

1 its rights, under that contract until the contract expires, or is extended, modified, or
2 renewed, whichever occurs first.

3 (END)