Legislative Analysis

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MICHIGAN EDUCATION TRUST AMENDMENTS

House Bill 5783 as enrolled
Public Act 388 of 2004
Sponsor: Rep. Gene DeRossett
House Committee: Tax Policy
Senate Committee: Finance

Second Analysis (12-27-04)

BRIEF SUMMARY: The bill would amend the Michigan Education Trust Act to permit charitable organizations to enter into MET contracts, exempt certain information from disclosure under the Freedom of Information Act, and provide the MET with greater flexibility in offering contracts.

FISCAL IMPACT: The bill would have no significant fiscal impact on the state or local governments.

THE APPARENT PROBLEM:

The Michigan Education Trust Act (Public Act 316 of 1986) permits an individual to enter into a contract with the Michigan Education Trust (MET) and pay tuition in advance for a qualified beneficiary to attend a state institution of higher education; the beneficiary subsequently can attend the school without further tuition costs. The program, the first of its kind in the country, covers most tuition costs and mandatory fees, but does not cover non-mandatory fees, room and board, and books. Beneficiaries enrolled in the program who eventually choose to attend an in-state independent (private) college or university or an out-of-state college or university are eligible to receive a refund based on the weighted average tuition of the state's four-year universities.

The MET provides three levels of educational benefits. Under the University Full Benefits Plan Contract, the MET provides in-state tuition and mandatory fees to a state university or in-district or out-of district tuition and mandatory fees at a state community college. The plan provides tuition up to the number of credits typically required for baccalaureate degree (generally 120 semester credit hours). The University Limited Benefits Plan Contract provides tuition and mandatory fees at colleges or universities whose tuition does not exceed 105 percent of the weighted average tuition of all state four-year universities. Students attending a university whose tuition exceeds the threshold will receive benefits for a fewer number of credits. Finally, the Community College Plan Contract provides in-district tuition and fees at the state's community colleges. Students attending an out-of district college are responsible for the difference in tuition costs.

As is the case with the Michigan Education Savings Program, a purchaser may deduct the amount paid for a MET contract from his or her federal adjusted gross income (AGI) when determining Michigan taxable income.

Since the program's inception in 1986, more than 70,000 contracts have been purchased, accounting for more than $960 million in assets. According to information on the MET's web site, more than 12,000 contracts are in payment status, with more than 9,300 beneficiaries attending state four-year universities (7,843) and community colleges (1,545). Despite the program's relative success, some people believe it can be improved. In 1988, shortly after the program's inception, more than 40,000 contracts were purchased. However, in 2003, only approximately 4,400 contracts were purchased. A series of amendments to the Michigan Education Trust Act have been introduced, intended in part to increase participation.

THE CONTENT OF THE BILL:

The Michigan Education Trust Act permits individuals to enter into a contract with the MET for the advance payment of tuition for qualified beneficiaries to attend a state institution of higher education, without further tuition costs to the beneficiary. The program generally does not cover certain required fees, room and board, and books.

The act provides that the contract between the MET and purchaser shall specify the name and age of the qualified beneficiary. The bill would add an exception for contracts purchased by a state or local governmental agency or an tax exempt organization under 501(c)(3) of the federal Internal Revenue Code.

The act requires the trust to offer two types of contracts (known as Plan A and Plan B). The bill would permit, but not require, the trust to offer the two plans. Both plans generally provide the following: (1) the purchaser is required to make payments on behalf of a qualified beneficiary; (2) if a contract is terminated before the beneficiary earns a high school diploma or reaches 18 years of age, the amount of payments are refunded, less any administrative costs; and (3) the trust provides tuition for the beneficiary for the number of credit hours for an baccalaureate degree at a state institution of higher education or provides tuition for a fixed number of credit hours, but less than the number required for a baccalaureate degree by the institution. The two plans generally have different refund provisions. Plan A provides that the purchaser is refunded the face value of payments but not any investment income attributable to the payments. Plan B provides that the purchaser is refunded the face value of payments and is refunded all or a portion of the investment income, as provided for in the contract.

The act also provides that a contract shall not provide for the termination of the contract and the right to receive a refund if the qualified beneficiary has completed at least one-half of the credit hours required by the college or university for a baccalaureate degree. (This does not affect the termination and refund rights of a graduate of a community college.) Under the bill, instead, a contract could allow (but not require) the MET to deny payment of a refund upon termination if the qualified recipient has completed at least one-half of the required credit hours toward a baccalaureate degree.

In addition, the bill would exempt from disclosure under the Freedom of Information Act any writing or information provided to the trust by the purchaser, qualified beneficiary, or a person permitted to terminate a contract.

Also, the bill would permit the MET to offer a contract that does not provide a refund to a purchaser (an individual, a state or local governmental agency, or a tax-exempt organization) who is purchasing the contract as part of a scholarship program. The price of the contract would have to reflect the lack of a refund.

Finally, the bill would delete two obsolete sections of the act.

MCL 390.1426 et al.

BACKGROUND INFORMATION:

The Michigan Education Trust Act includes a lengthy list of findings and purposes. Specifically, the act states that the legislature finds that (1) it is an essential state function of state government to forever encourage school and the means of education; (2) it is a responsibility of state government to maintain state institutions of higher education; (3) it is an essential function of state government to encourage attendance at state institutions of higher education; (4) tuition costs at public institutions of higher education are difficult for many to afford and are difficult to predict in order to enable individuals and families to plan; (5) it is in the best interest of the people of this state to foster public higher education in order to provide well-educated citizens; (6) it is in the best interest of the people of this state to encourage state residents desiring a public higher education to enroll in state public institutions of higher learning; (7) it is in the best interest of the people of this state to enhance and foster the ability of Michigan residents to choose an independent, nonprofit higher education in order to provide well educated citizens and to encourage state residents desiring an independent higher education to enroll in an independent degree-granting college or university located in this state; (8) students in elementary and secondary schools tend to achieve to a higher standard of performance when the payment of tuition for their higher education is secured; and (9) providing assistance to assure the higher education of the citizens of this state is necessary and desirable for the public health, safety, and welfare.

Similarly, the act has the following stated purposes: (1) to encourage education and the means of education; (2) to maintain state institutions of higher education by helping to provide a stable financial base to these institutions; (3) to provide wide and affordable access to state institutions of higher education for the residents of this state; (4) to encourage attendance at state institutions of higher education; (5) to provide students and their parents economic protection against rising tuition costs; (6) to provide students and their parents financing assistance for postsecondary education at a Michigan institution of higher education of their choice; (8) to help provide the benefits of higher education to the people of this state; and (9) to encourage elementary and secondary students in this state to achieve high standards of performance.

ARGUMENTS:

For:

The bill makes several amendments designed to improve participation in the MET program and improve protections for contract purchasers. First, the bill would allow charitable organizations to purchase contracts for unnamed beneficiaries. Current law requires contracts to explicitly state the name of the beneficiary. This, however, presents a problem for charitable organizations seeking to provide financial assistance to needy or meritorious students, as the organization would have to identify the beneficiary several years before he or she attends college.

The bill also permits, but no longer requires, the MET to offer both Plan A and Plan B. According to the Department of Treasury, the MET board has never offered Plan A to contract purchasers, largely because its refund provision is not as attractive. .

In addition, the act prohibits the termination of a contract and the provision of a refund once a beneficiary has completed at least half of the credits necessary for a baccalaureate degree. Eliminating this provision enables beneficiaries to transfer remaining credits or to receive a refund.

Finally, the bill exempts information provided by the purchasers from disclosure under the Freedom of Information Act. Currently, the contract permits purchasers to check a box indicating whether they want their information to remain private. Adding a FOIA exemption provides the MET with the clear authority to prevent disclosure of such information and maintains the privacy of purchasers.

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