

Stephen F. Austin
State University

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May 7, 2002

RQ-0545-JC

FILE # ML-42597-02

I.D. # 42597

Opinions Division
Office of the Attorney General
P. O. Box 12548
Austin, Texas 78711-2548

Re: International Education Fee, TX Education Code Section 54.5132

Dear Sir or Madam:

I am requesting an Attorney General opinion concerning the interpretation of recent amendments made to the international education fee in Section 54.5132 of the Texas Education Code. House Bill 2218 was passed in the last legislative session and took effect on September 1, 2001. The Act reads as follows:

AN ACT

relating to the amount of the international education fee charged at certain institutions of higher education.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 54.5132(a), Education Code, is amended to read as follows:

a) The governing board of an institution of higher education, other than The University of Texas at Austin, may charge and collect from students registered at the institution a fee in an amount not less than [ef] \$1 and not more than \$4 for each semester or summer session. The amount of the fee may be increased only if the increase is approved by a majority vote of the students at the institution participating in an election called for that purpose.

SECTION 2. The change in law made by this Act applies only to a fee charged for a semester or summer session that begins on or after the effective date of this Act.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

Prior to this Legislation, the governing boards of all institutions of higher education, other than the University of Texas at Austin, which had separate statutory authority for such a fee, were authorized to create a \$1.00 student fee for each semester or summer session to fund an institutional international education financial aid fund. The new amendments allowed these

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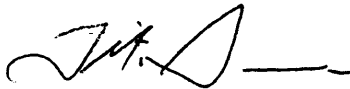
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institutions which had adopted international education fees to increase the fee level to an amount of not more than \$4.00 for each semester or summer session, but such increase could only be instituted if approved by a majority vote of the students at the institution participating in an election called for that purpose.

I have a question regarding the statutory construction of Section 54.5132 as amended, for institutions which had not previously adopted the \$1.00 international education fee without a student referendum. Are institutions which adopt an international education fee since the enactment of H.B. 2218 required to have a majority vote student referendum just to initiate such a fee, or only if there is an increase in the fee once it is established? Institutions adopting the fee for the first time since this legislation took effect would be under different footing if a student referendum was required just to initiate the fee, where it had not been required for other institutions. Please provide me with a legal opinion on this issue at your earliest convenience.

Thank you for your assistance.

Sincerely,



Tito Guerrero, III
President

Certified Mail,
RRR# 7099 3220 0009 8810 8978