

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 851 Resident Status for Tuition Purposes

SPONSOR(S): Higher Education & Workforce Subcommittee; Nuñez and others

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Higher Education & Workforce Subcommittee	12 Y, 0 N, As CS	Sherry	Sherry
2) Education Appropriations Subcommittee		Garner	Heflin

SUMMARY ANALYSIS

The bill revises provisions relating to the determination of resident status for tuition purposes.

The bill provides that a United States citizen who is a dependent child may not be denied classification as a resident for tuition purposes based solely upon the immigration status of his or her parent. It amends the definitions of “dependent child” and “parent” regarding establishing residency for tuition purposes.

The bill also clarifies that postsecondary institutions may satisfy the verification requirement of documents by accepting an affidavit that requires the person claiming residence to submit specific information. Furthermore, once any institution of higher education in the state classifies a student as a resident for tuition purposes or verifies that a student meets specific criteria established in law, an institution of higher education would not be required to reevaluate the classification status of a student so long as there is no inconsistent information suggesting an erroneous classification and there is no break in the student’s enrollment of 12 months or longer.

The bill clarifies that a student who resides in Florida may be classified as a resident for tuition purposes if he or she marries a person who qualifies as a resident for tuition purposes. It also allows a student who has been classified as a nonresident to reclassify as a resident upon subsequently marrying a person who already qualifies as a resident for tuition purposes.

For a dependent child living with an adult relative who is a Florida resident and who is not the child’s parent, the bill reduces the amount of time the child must live with the relative in order to use the relative’s documentation to establish residency for tuition purposes from five years to three years.

The bill removes the classification of certain types of students as residents for tuition purposes and instead provides that these students are not required to pay out-of-state fees. The bill also adds the following types of students to those who are not required to pay out-of-state fees:

- Individuals who receive certain tuition waivers and exemptions under Florida law;
- Veterans of the United States Armed Forces, including reserve components, who physically reside in Florida while enrolled in a Florida postsecondary institution; and
- Students who attend a Florida high school for 3 consecutive years and enroll in a postsecondary institution within 24 months after graduation, provided they submit their high school transcript as documentary evidence of attendance and graduation.

Students who are not required to pay out-of-state fees under the new provisions may be reported for purposes of state funding and may be eligible for state financial aid or tuition assistance grants if they meet specific eligibility requirements for federal financial aid.

The bill clarifies that the Board of Governors must adopt regulations, instead of rules, to implement the section.

The fiscal impact of the bill is indeterminate at this time.

The bill provides an effective date of July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Current law requires students to be classified as residents or nonresidents for the purpose of assessing tuition in postsecondary educational programs offered by charter technical career centers, career centers operated by school districts, Florida College System institutions, and state universities. Students pay differing tuition rates based on their status as a resident or nonresident of Florida.¹

Applicants to a postsecondary institution must meet certain qualifying standards in order to be classified as a resident of Florida for tuition purposes. The applicant, or in the case of a dependent child, his or her parents,² must establish legal residence in Florida and must have maintained legal residence for at least 12 consecutive months immediately prior to the applicant's enrollment in a postsecondary institution.³

Each postsecondary institution determines the residency status of the students who apply for admission to the institution.⁴ Each applicant must provide to the institution a statement of length of residence and establish that his or her presence in the state is for the purpose of maintaining a bona fide domicile and not as a temporary residence or residence incident to enrollment.⁵

Documentation of residency for tuition purposes

An applicant seeking an initial determination of residency must submit two or more documents evidencing residency to the institution. For students who are eligible to be claimed as a dependent under the federal income tax code (regardless of whether they are claimed or not), the applicant's parent (not the applicant) must submit documentation evidencing length of residency in Florida. No one document, alone, may be considered as conclusively establishing Florida residency for tuition purposes.⁶ At least one of the following must be provided by the applicant or the applicant's parent if the applicant is a dependent:

- A Florida voter's registration card;
- A Florida driver's license;
- A State of Florida identification card;
- A Florida vehicle registration;
- Proof of a permanent home in Florida which is occupied as a primary residence by the individual or by the individual's parent if the individual is a dependent child;
- Proof of a homestead exemption in Florida;
- Transcripts from a Florida high school for multiple years if the Florida high school diploma or GED was earned within the last 12 months; or
- Proof of permanent full-time employment in Florida for at least 30 hours per week for a 12-month period.⁷

One or more of the following documents may be provided by the applicant:

¹ See Sections 1009.22, 1009.23, and 1009.24, F.S. Out-of-state tuition is established by each university board of trustees, subject to the approval of the BOG. Section 1009.24(4)(c), F.S.

² The legal residence of a dependent child's parents is prima facie evidence of the dependent child's residence. Section 1009.21(4), F.S.

³ Section 1009.21(2)(a)1., F.S. A legal resident, for purposes of tuition, is a person who has maintained his or her residence in Florida for the preceding year, has purchased a home which is occupied by him or her as his or her residence, or has established a domicile in Florida pursuant to s. 222.17, F.S. Section 1009.21(1)(d), F.S.

⁴ Section 1009.21(3)(c), F.S.

⁵ Section 1009.21(2)(a)2., F.S. Each institution must also establish a residency appeal committee under s. 1009.21(12), F.S.

⁶ Section 1009.21(3)(c), F.S.

⁷ Section 1009.21(3)(c)1., F.S.

- A declaration of domicile in Florida;
- A Florida professional or occupational license;
- Florida incorporation;
- A document evidencing family ties in Florida;
- Proof of membership in a Florida-based charitable or professional organization; or
- Any other documentation that supports the student's request for resident status, including, but not limited to, utility bills and proof of 12 consecutive months of payments, a lease agreement and proof of 12 consecutive months of payments, or an official state, federal, or court document evidencing legal ties to Florida⁸

Implementation of Residency Requirements

Present Situation

The State Board of Education (SBE) and Florida Board of Governors (BOG) must adopt rules to implement the provisions of Section 1009.21, F.S.⁹ Accordingly, the SBE has adopted Rule 6A-10.044, F.A.C., "Residency for Tuition Purposes." The BOG has adopted a similar set of provisions under Rule 72.1001, F.A.C., also entitled "Residency for Tuition Purposes."¹⁰ Each rule establishes requirements for determining residency for tuition purposes.

Federal law provides that an "alien who is not lawfully present in the United States shall not be eligible on the basis of residence within a State (or a political subdivision) for any postsecondary education benefits unless a citizen or national of the United States is eligible for such a benefit (in no less an amount, duration, and scope) without regard to whether the citizen or national is such a resident."¹¹

Ruiz v. Robinson

In 2011, a group of five dependent, U.S. citizen residents of Florida filed a lawsuit against the SBE and the BOG challenging the above-referenced rule and regulation promulgated by both boards. The plaintiffs had applied to attend various postsecondary institutions in Florida,¹² but were denied residency status by the institutions application of the rules because the plaintiffs' parents could not establish legal immigration status.¹³ The plaintiffs claimed in their lawsuit that the rules are unconstitutional because they violate the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

The court held that the State cannot deny in-state residency status to a U.S. citizen resident of Florida based upon his or her parent's inability to prove their own legal presence in the country. While the court stated the definition of "legal resident" under Section 1009.21, F.S. is facially neutral; it found that the additional criteria set forth in the challenged rules, as implemented by the institutions, denied the Plaintiffs the same benefits and opportunities as similarly situated individuals.¹⁴ Therefore, the rules, insofar as they require dependent United States citizen students who are residents of Florida to establish the immigration status of their Florida resident parents, were found to violate the Equal Protection Clause of the Fourteenth Amendment. The court also enjoined the BOG and the SBE from interpreting the rules in a way that would require such students to establish the immigration status of their Florida-resident parents.¹⁵

⁸ Section 1009.21(3)(c)2., F.S.

⁹ Section 1009.21(13), F.S.

¹⁰ The Florida Board of Governors also adopted Regulation 7.005 in 2011 with language that is identical to Rule 72.1001, F.A.C.

¹¹ 8 U.S.C. § 1623, Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

¹² The institutions included Florida International University, Miami-Dade College, and Palm Beach State College.

¹³ 892 F. Supp. 2d 1321 (S.D. Fla. 2012).

¹⁴ *Ruiz v. Robinson* at 1333.

¹⁵ Final Judgment in *Ruiz v. Robinson*. Docket Document 109, 1:11-cv-23776-KMM, Federal District Court, Southern District of Florida.

The court clarified that the order would not preclude the State from requiring proof of Florida residency from a student and the student's parents in order to classify the student as a resident for tuition purposes.¹⁶

The court also noted that the SBE or BOG could not use the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PROWRA) as justification for requiring proof of a parent's legal presence in the country because that law merely precludes unlawful *aliens*, not U.S. citizens, from receiving tuition benefits. Since the children in this case were U.S. citizens and the tuition benefit accrues to the child and not the parent, PROWRA was inapplicable.¹⁷

Effect of Proposed Changes

The bill provides that a United States citizen, who is a dependent child, may not be denied classification as a resident for tuition purposes based solely upon the immigration status of his or her parent. This, in effect, codifies the holding in *Ruiz v. Robinson*.¹⁸

Definitions

Present Situation

A "dependent child" is defined as any person, whether or not living with his or her parent, who is eligible to be claimed by his or her parent as a dependent under the federal income tax code.¹⁹ A "parent," in the context of establishing residency for tuition purposes, is defined as the natural or adoptive parents or legal guardian of a dependent child.²⁰ However, the federal income tax code allows a stepparent to claim a stepson or stepdaughter as a dependent.²¹

For purposes of determining eligibility for federal financial aid, an independent student is one of the following: at least 24 years old, married, a graduate or professional student, a veteran, a member of the armed forces, an orphan, a ward of the court, someone with legal dependents other than a spouse, an emancipated minor, or someone who is homeless or at risk of becoming homeless.²²

Effect of Proposed Changes

The bill amends the definition of "dependent child" to include any person who is not deemed an independent for purposes of federal financial aid. This would help to promote consistency and avoid discrepancy between the determination of dependent or independent status for residency purposes and the determination of such status for federal financial aid purposes. It also amends the definition of "parent" to include stepparents to align with the federal income tax code definition.

Verification of documents by postsecondary institutions

Present Situation

Public postsecondary institutions must affirmatively determine that an applicant granted admission to that institution meets the residency requirements.²³ Residency determination must be documented by

¹⁶ *Id.* at 8-9.

¹⁷ *Id.* at 9.

¹⁸ 892 F. Supp. 2d 1321 (S.D. Fla. 2012).

¹⁹ Section 1009.21(1)(a), F.S.

²⁰ Section 1009.21(1)(f), F.S.

²¹ 26 U.S.C. s. 152.

²² U.S. Department of Education, *Federal Student Aid Glossary*, available at <http://studentaid.ed.gov/glossary> (last visited Feb. 27, 2014).

²³ Section 1009.21(3)(c), F.S.

the submission of written or electronic verification that includes two or more documents including either a Florida voter registration card, a Florida driver's license, a State of Florida identification card, a Florida vehicle registration, proof of a permanent home in Florida occupied as a primary residence, proof of a homestead exemption, a Florida high school transcript, or proof of permanent full-time employment in Florida.²⁴

Currently, the residency affidavit submitted by applicants provides for the person claiming residency to verify his or her voter registration card, driver's license, identification card, or vehicle registration by the state of issuance, number, original issue date and current issue date. In lieu of requiring the claimant to produce verified documents from the various state agencies responsible for issuing the documents, which could result in great expense and delay to the student and the claimant, postsecondary institutions have been using the residency affidavit to satisfy the electronic verification requirement in the statute.²⁵ There have been differing interpretations by some state auditors as to what constitutes "electronic verification" of this information.

Effect of Proposed Changes

The bill clarifies that postsecondary institutions may satisfy the verification requirement for documents by accepting an affidavit that requires the person claiming residence to submit specific information.

Children who reside with an adult (non-parent) relative

Present Situation

A dependent child living with an adult relative, who is not the child's parent, may be classified as a resident for tuition purposes if the child has lived with the adult relative for five consecutive years immediately prior to initial enrollment at an institution of higher education and the adult relative must have maintained legal residence in Florida for at least 12 months prior to the child's enrollment.²⁶

Effect of Proposed Changes

For a dependent child living with an adult relative who is not the child's parent, the bill reduces from five years to three years the amount of time the child must live with the relative in order to use the adult relative's documentation to qualify as a resident for tuition purposes. The three year requirement aligns with other time periods established in the bill.

Effect of marital status on residency for tuition purposes

Present Situation

A student may not be denied legal resident status solely by reason of marriage to a person domiciled in another state, so long as the student remains a legal resident of Florida.²⁷ Conversely, a student cannot establish legal residence in this state solely by reason of marriage to a person domiciled in this state.²⁸ Florida law also provides that, upon becoming a legal resident, a student may reclassify as a resident for tuition purposes if his or her spouse is already a legal resident.²⁹

Effect of Proposed Changes

²⁴ *Id.*

²⁵ Email, State University System of Florida, Board of Governors (Feb. 5, 2014).

²⁶ Section 1009.21(2)(b), F.S.

²⁷ Section 1009.21(5)(a), and (6)(d), F.S.

²⁸ Section 1009.21(5)(b), F.S.

²⁹ Section 1009.21,(6)(d), F.S. The student must submit evidence of his or her own residency in this state, evidence of his marriage to the spouse, and evidence of the spouse's legal residency in the state for at least 12 consecutive months immediately preceding the application for reclassification.

The bill clarifies when a person may be classified or reclassified, due to marriage, as a resident for tuition purposes. A person residing in Florida may be classified as a resident for tuition purposes if he or she marries a person who meets the 12-month residency requirement and otherwise qualifies as a resident for tuition purposes. A person may be reclassified as a resident for tuition purposes if the person submits evidence of: his or her own physical residence in the state and marriage to a person who qualifies as a resident for tuition purposes.

Reevaluation of residency status

Present Situation

Currently, if the parents of a dependent student establish a domicile in another state after the student has been classified as a Florida resident for tuition purposes, the student loses his or her resident status. However, the student is provided a one-year grace period, measured from the date the circumstances resulting in the loss of residency status arose, during which the student continues to maintain in-state tuition rates.³⁰

Effect of Proposed Changes

The bill provides that once any institution of higher education in the state classifies a student as a resident for tuition purposes or verifies that a student meets specific criteria established in law, an institution of higher education would not be required to reevaluate the classification status of a student so long as there is no inconsistent information suggesting an erroneous classification and there is no break in the student's enrollment of 12 months or longer.

Residency of individuals eligible for tuition exemptions and waivers

Present Situation

Under current law, certain persons are eligible for tuition exemptions and waivers, including:

- Individuals who are homeless;³¹
- Individuals who were in the custody of the Department of Children and Families at the time they reached 18 years of age;³²
- Individuals who were in the custody of a relative under s. 39.5085, F.S., at the time they reached 18 years of age or who were adopted from the Department of Children and families after May 5, 1997;³³
- Individuals who have been wrongfully incarcerated;³⁴
- Dependents or spouses of firefighters killed in the line of duty;³⁵ and
- Dependents or spouses of law enforcement, correctional, or correctional probation officers killed in the line of duty.³⁶

Although these individuals are legal residents of Florida, it can be difficult, or even impossible, for them to compile and provide documentation establishing their residence in Florida for tuition purposes. Consequently, institutions may grant the exemption or waiver to the student as a non-resident student. Currently, there are no provisions under Florida law automatically classifying persons eligible for these tuition exemptions and waivers as residents for tuition purposes.

Effect of Proposed Changes

³⁰ Section 1009.21(8), F.S.

³¹ Section 961.06(1)(b), F.S.

³² Section 1009.25(1)(c), F.S.

³³ Section 1009.25(1)(d), F.S.

³⁴ Section 1009.25(1)(f), F.S.

³⁵ Section 112.191(3), F.S.

³⁶ Section 112.19(3), F.S.

Under the bill, individuals who receive a tuition exemption or waiver are no longer classified as residents for tuition purposes. However, such students are not required to pay out-of-state fees so long as they remain eligible for the exemption or waiver. This would eliminate the burden borne by students and institutions regarding classification of residency based on the submission of various documents to which these individuals may not have access. The bill also stipulates that these students may be reported for purposes of state funding and may be eligible for state financial aid awards and tuition assistance grants provided that they are U.S. citizens, permanent residents, or have lawful immigration status.

Veterans in Florida

Present Situation

Florida law also classifies certain individuals as Florida residents for tuition purposes without requiring the individuals to submit the above-described documentation under Section 1009.21(3)(c), F.S. Such individuals include:

- Active duty members of the Armed Services of the United States residing or stationed in this state, their spouses, and dependent children, and active drilling members of the Florida National Guard.
- Active duty members of the Armed Services of the United States and their spouses and dependents attending a Florida College System institution or state university within 50 miles of the military establishment where they are stationed, if such military establishment is within a county contiguous to Florida.
- United States citizens living on the Isthmus of Panama, who have completed 12 consecutive months of college work at the Florida State University Panama Canal Branch, and their spouses and dependent children.
- Full-time instructional and administrative personnel employed by state public schools and institutions of higher education and their spouses and dependent children.
- Students from Latin America and the Caribbean who receive scholarships from the federal or state government. Any student classified pursuant to this paragraph shall attend, on a full-time basis, a Florida institution of higher education.
- Southern Regional Education Board's Academic Common Market graduate students attending Florida's state universities.
- Full-time employees of state agencies or political subdivisions of the state when the student fees are paid by the state agency or political subdivision for the purpose of job-related law enforcement or corrections training.
- McKnight Doctoral Fellows and Finalists who are United States citizens.
- United States citizens living outside the United States who are teaching at a Department of Defense Dependent School or in an American International School and who enroll in a graduate level education program which leads to a Florida teaching certificate.
- Active duty members of the Canadian military residing or stationed in this state under the North American Air Defense (NORAD) agreement, and their spouses and dependent children, attending a Florida College System institution or state university within 50 miles of the military establishment where they are stationed.
- Active duty members of a foreign nation's military who are serving as liaison officers and are residing or stationed in this state, and their spouses and dependent children, attending a Florida College System institution or state university within 50 miles of the military establishment where the foreign liaison officer is stationed.³⁷

³⁷ Section 1009.21(10), F.S.
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Under current law, however, veterans must meet the residency requirements set forth under s. 1009.21(2), F.S., in order to be eligible for in-state tuition rates.³⁸

Section 1.01(14), F.S., defines the term veteran as:

a person who served in the active military, naval, or air service and who was discharged or released therefrom under honorable conditions only or who later received an upgraded discharge under honorable conditions, notwithstanding any action by the United States Department of Veterans Affairs on individuals discharged or released with other than honorable discharges.

Florida is tied with Texas for the second largest population of veterans in the nation at 1.6 million. Only California has a larger population of veterans, at 2 million.³⁹

Effect of Proposed Changes

Under the bill, veterans of the Armed Services of the United States, including reserves, who physically reside in Florida while enrolled in a Florida institution of higher education, are not required to pay the out-of-state fees ordinarily charged to non-resident students. Consequently, veterans would not have to maintain legal residence for 12 months prior to enrollment in order to qualify for in-state tuition.

Florida High School Graduates

Present Situation

Currently, transcripts from a Florida high school for multiple years may be used as one piece of documentation for students trying to establish residency for tuition purposes.⁴⁰ However, in addition to the high school transcripts, students who are dependents must provide a second piece of documentation that attests to the residency of their parents or legal guardians. This may be difficult for students whose parents are estranged, unwilling to provide documentation, or are undocumented immigrants. Since no one document, alone, may be considered as conclusively establishing Florida residency for tuition purposes,⁴¹ many Florida high school graduates who have lived in Florida for multiple years cannot provide the required documentation and are classified as out-of-state students. This has been a particularly difficult problem for students who are undocumented immigrants that were brought to the United States by their parents as a child.

Several states currently have laws, referred to as tuition equity, that permit certain undocumented students who have attended and graduated from their primary and secondary schools to pay the same tuition as their classmates at public institutions of higher education. A majority of America's undocumented immigrants live in these states, and several other states are considering similar policies.⁴²

Tuition equity laws generally allow students who attend and graduate from a high school in a state, and who meet other specified criteria, to pay in-state tuition rates, regardless of their immigration status. Currently, **17 states** have provisions allowing for in-state tuition rates for undocumented students. Fifteen states—California, Colorado, Connecticut, Illinois, Kansas, Maryland, Minnesota, Nebraska, New Jersey, New Mexico, New York, Oregon, Texas, Utah, and Washington— extend in-state tuition rates to undocumented students through state legislation. Two states—Oklahoma and Rhode Island—

³⁸ To establish residency for tuition purposes, a person, or if that person is a dependent child, his or her parent, to establish legal residence in Florida and maintain legal residence in Florida for at least 12 consecutive months immediately prior to initial enrollment in an institution of higher education. Section 1009.21(2)(a)1., F.S.

³⁹ United States Census Bureau, *A Snapshot of Our Nation's Veterans*, available at: <http://www.census.gov/how/infographics/veterans.html> (Last visited Feb. 14, 2014)

⁴⁰ Section 1009.21(3)(c), F.S.

⁴¹ *Id.*

⁴² National Immigration Law Center, *Facts About In-state Tuition*, available at: <http://www.nilc.org/fsinstat.html> (Last visited Feb. 7, 2014)

allow in-state tuition rates to undocumented students through Board of Regents decisions.⁴³

The states that have passed laws to allow undocumented students to receive in-state tuition delineate requirements for eligibility. In general, students must live in state and attend high school for a specified period (1-4 years), and graduate or receive their GED. Students must be accepted to a public college or university, and must sign an affidavit stating their intention to file for legal immigration status. Only 3 states—California, New Mexico and Texas—currently allow undocumented students to receive state financial aid. Students without legal immigrant status are ineligible for federal financial aid.⁴⁴

The 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) states, “...an alien who is not lawfully present in the United States shall not be eligible on the basis of residence within a State (or a political subdivision) for any postsecondary education benefit unless a citizen or national of the United States is eligible for such a benefit (in no less an amount, duration, and scope) without regard to whether the citizen or national is such a resident.”⁴⁵

The states that have enacted laws granting in-state tuition rates to undocumented students have worded the legislation so that it is contingent on high school attendance and graduation, and not based on residency within the state. Since legal United States residents are also entitled to in-state tuition rates based on the same criteria, the states claim that their laws do not violate the IIRIRA. The California Supreme Court upheld California's law that grants in-state tuition rates to eligible undocumented students.⁴⁶

Effect of Proposed Changes

The bill provides that students who attend a Florida high school for 3 consecutive years and enroll in an institution of higher education within 24 months after graduation are not required to pay out-of-state fees, provided they submit their high school transcript as documentary evidence of attendance and graduation. While these students are not classified as residents for tuition purposes, they may be reported for purposes of state funding and may be eligible for state financial aid if they are able to show proof of U.S. citizenship, permanent resident status, or lawful immigration status.

Eligibility for State Financial Aid and Tuition Assistance Grants

Present Situation

Section 1009.40(1)(a), F.S., outlines the general requirements for student eligibility for state financial aid awards and tuition assistance grants. More specifically, classification as a Florida resident for tuition purposes is one of the requirements for eligibility for 13 different state financial aid awards or tuition assistance grants, including but not limited to need-based Florida student assistance grants, Bright Futures scholarships, and the Florida Resident Access Grant.⁴⁷

Effect of Proposed Changes

⁴³ National Council of State Legislatures, *Undocumented Student Tuition: Overview*, available at: <http://www.ncsl.org/research/education/undocumented-student-tuition-overview.aspx> (Last visited Feb. 7, 2014)

⁴⁴ National Council of State Legislatures, *Undocumented Student Tuition: State Action*, available at: <http://www.ncsl.org/research/education/undocumented-student-tuition-state-action.aspx> (Last visited Feb. 7, 2014)

⁴⁵ Pub. L. No. 104-208, 110 Stat. 3009-546 (Sept. 30, 1996).

⁴⁶ National Council of State Legislatures, *Undocumented Student Tuition: Federal Action*, available at: <http://www.ncsl.org/research/education/undocumented-student-tuition-federal-action.aspx> (Last visited Feb. 7, 2014)

⁴⁷ S. 1009.40(1)(a)2. Specifies that students must show proof of residency in this state for no less than 1 year preceding the award of aid or a tuition assistance grant for a program established pursuant to ss. 1009.50, 1009.505, 1009.51, 1009.52, 1009.53, 1009.56, 1009.60, 1009.62, 1009.72, 1009.73, 1009.77, 1009.89, and 1009.891, F.S.

Under the bill, students who are no longer classified as residents for tuition purposes and are not required to pay out-of-state fees may be reported for state funding and may be eligible for state financial aid or tuition assistance grants if they submit proof of United States citizenship, permanent resident status, or other immigration status that permits receipt of federal financial aid.

This limitation is consistent with the current federal policy that students without legal immigration status are not eligible for federal student aid. The limitation does not impact financial aid eligibility for students who are classified as residents for tuition purposes under existing law, but undocumented students who are unable to show proof of lawful immigration status would not be eligible for state financial aid awards or tuition assistance grants.

B. SECTION DIRECTORY:

Section 1. Amends s. 1009.21, F.S., revising provisions relating to the establishment of residency for tuition purposes; reducing the five-year requirement for children living with resident, non-parent relatives; allowing students to maintain established resident status; amending the definition of “dependent child”; amending the definition of “parent”; providing that the state may not deny a U.S. citizen resident of Florida residency status for tuition purposes based solely on the immigration status of his or her parent; permitting institutions to satisfy document verification requirement based on submission of affidavit by person claiming residency; clarifying provisions on residency for tuition purposes pertaining to marital status; granting residency status to veterans of the U.S. Armed Forces who physically reside in Florida while enrolled in a Florida institution of higher learning; granting residency status to individuals eligible for certain tuition waivers and exemptions under Florida law; granting residency status for students who meet certain graduation, enrollment, and residency documentation requirements; requiring the Board of Governors to adopt regulations implementing the section.

Section 2. Provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The fiscal impact is indeterminate as it is difficult to identify the number of students who meet the criteria outlined in the bill, but are not currently enrolled in or who would be reclassified at an institution of higher education.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill would allow veterans and specified Florida high school graduates, who would otherwise be unable to establish Florida residency for tuition purposes, to pay lower, in-state tuition rates at state universities and Florida College System institutions.

Student Veterans of State Universities

For the 2013-2014 academic year, the average cost of SUS undergraduate tuition and fees for two semesters (30 credit hours) is \$6,155 for residents and \$21,434 for non-residents. For graduate students, the average cost of tuition and fees for two semesters (24 hours) is \$10,262 for residents and \$25,138 for non-residents. Thus, student veterans could expect savings in the amount of \$15,279 at the undergraduate level and \$14,876 at the graduate level for the 2013-2014 academic year.⁴⁸

The State University System reported 353 non-resident or unclassified undergraduate veteran students and 195 non-resident graduate level veteran students in 2013-2014.⁴⁹ Thus, universities would experience an estimated loss of \$8,294,307 in revenues from out-of-state tuition and fees.

Student Veterans of Florida College System Institutions

For 2013-14, the Florida College System reports the average cost for two semesters is \$3,124 for residents enrolled in non-baccalaureate degree programs and \$11,531 for non-residents. For students enrolled in the baccalaureate degree programs, the cost for two semesters is \$3,585 for residents and \$15,400 for non-residents. Thus, student veterans could expect savings in the amount of \$8,407 in non-baccalaureate degree programs and \$11,815 in baccalaureate degree programs for the 2013-14 academic year.⁵⁰

The Florida College System reported that there were 449 veteran students who were classified as non-residents in 2012-13.⁵¹ Thus, the colleges would experience an estimated loss of approximately \$5 million in revenues from out-of-state tuition and fees.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require municipalities or counties to expend funds or to take any action requiring the expenditure of funds, reduce the authority that municipalities or counties have to raise revenues in the aggregate, or reduce the percentage of state tax shared with municipalities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill requires the Board of Governors to adopt regulations to implement the provisions of the section. The SBE and BOG may need to amend any rules or regulations inconsistent with the provisions of the bill.

⁴⁸ State University System of Florida Board of Governors, *Tuition & Fees*, available at <http://www.flbog.edu/about/budget/tuition.php> (last visited Feb. 11, 2014).

⁴⁹ State University System of Florida Board of Governors, *Legislative Bill Analysis for HB 851* (2014).

⁵⁰ Email, Florida College System, Division of Florida Colleges (Feb. 12, 2014).

⁵¹ Email, Florida College System, Division of Florida Colleges (Feb. 12, 2014). Only GI Bill recipients are included in count.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 19, 2014, the Higher Education & Workforce subcommittee adopted 3 amendments and reported the bill favorably as a committee substitute.

The amendments:

- Removed the automatic classification of certain students as Florida residents for tuition purposes. Instead, the students who meet the criteria specified in subsection (10) are not required to pay out-of-state fees.
- Clarified that students who are not required to pay out-of-state fees under subsection (10) may qualify for state financial aid if they are eligible for federal financial aid.
- Clarified that once any postsecondary institution in the state classifies as student as a resident for tuition purposes or verifies that the student is not required to pay out-of-state fees under subsection (10), that institution or any other institution to which a student transfers is not required to reevaluate the student's classification unless there is evidence that the student was erroneously classified the first time or has broken enrollment at a postsecondary institution for a period of 12 months or longer.

This analysis is drafted to the committee substitute as passed by the Higher Education & Workforce subcommittee.