

- SUBJECT:** Eligibility to qualify as a state resident for higher-education tuition rates
- COMMITTEE:** Higher Education — committee substitute recommended
- VOTE:** 8 ayes — Rangel, F. Brown, Farabee, Goolsby, J. Jones, Morrison, E. Reyna, West
0 nays
1 absent — Uher
- WITNESSES:** For — Lourdes Aguinaco; Maria Bautista; Olivia Bautista; Joseph P. Berra, Mexican American Legal Defense and Educational Fund; Olga Lidia Cardoso; Edyael Casaperalta; Francisco Chavez, San Francisco de Asis Episcopal Church; Felicia Escobar, National Council of La Raza; Dulce Ibarra; Lissette Moreno; Felipe Reyes; Lico Reyes, LULAC District III, Civil Rights Division; Alem Tewoldeberhan; Rosendo Ticas; Dr. Angela Valenzuela; Dr. J. William Wenrich, Dallas County Community College District; Mahendra Mohite
Against — None
- BACKGROUND:** Education Code, sec. 54.051 establishes tuition rates charged to resident and nonresident students at the state’s higher education institutions.

Education Code, sec. 54.052 sets forth guidelines for determining a student’s status as a resident or nonresident student for attendance purposes at the state’s higher education institutions. Out-of-state students are considered resident students after residing in Texas for the 12-month period immediately preceding their registration for enrollment.

Education Code, sec. 54.057 provides that an alien who is living in this country under a visa permitting permanent residence or who has filed with the proper federal immigration authorities a declaration of intention to become a citizen be treated as a resident student for fee purposes. According to Texas Higher Education Coordinating Board (THECB) rules, in certain cases, aliens can be treated as residents while the Immigration and

Naturalization Service (INS) is processing their immigration applications. These rules also provide that students with certain types of visas or holding certain classifications by the INS can be treated as residents of the state for tuition purposes. THECB rules also require that undocumented alien students be considered nonresidents for tuition purposes.

Education Code, sec. 54.060 authorizes Mexican students to pay in-state tuition and fees at certain schools near the border when financial need is established.

DIGEST:

CSHB 1043 would amend Education Code, sec. 54.057 to require that an alien who is living in the U.S. and has applied to or has a petition pending with the INS to attain lawful status under federal immigration law be treated in the same manner as a U.S. citizen for purposes of determining eligibility to qualify for resident status for tuition and fee purposes.

CSHB 1403 would amend Education Code, sec. 54.052 to classify as a Texas resident for purposes of attendance at the state's higher education institutions a student who was living with his or her parent, guardian, or conservator while attending a public or private high school in the state. The following three criteria also would have to be met:

- ! the student graduated from a public or private high school or received the equivalent of a high school diploma in the state;
- ! the student lived in the state for a minimum of one year between the date when the student started attending a public or private high school in the state and the date that student graduated or received the equivalency of a high school diploma; and
- ! the student registered as an entering student in a higher education institution no earlier than the 2001 fall semester.

CSHB 1043 would amend Education Code, sec. 54.060 to exempt from payment of the foreign student tuition fee foreign students who:

- ! were citizens of a nation situated adjacent to Texas;
- ! registered in any general academic teaching institution or public junior college; and
- ! met the qualifications for Texas residency provided by the bill.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2001. The changes to the law that would be made by CSHB 1043 only would apply to tuition for a term or semester beginning on or after the effective date of the Act.

SUPPORTERS
SAY:

CSHB 1403 would make higher education more affordable and accessible for immigrant students who meet Texas residency and academic requirements. CSHB 1403 also would provide an opportunity for young people who have been living in Texas for some time and who plan to live, work, and raise their families in Texas to achieve their full potential and contribute more to the economy and society. Many of these students live in Texas because their parents brought them here. Many also may be in the process of having their immigration petitions reviewed by the INS, a process that frequently can take several years to complete.

CSHB 1403 would provide more equitable treatment for all students who are motivated to pursue a higher education in Texas. Pursuant to current THECB rules, undocumented alien students are allowed to attend the state's public institutions of higher education, but they must be considered nonresidents for tuition purposes. As a result, these students are forced to pay nearly three times more in tuition and fees than their resident peers, regardless of how many years they have lived in Texas. For example, the tuition and fees for a resident undergrad enrolled in 12 semester hours at UT-Austin was \$1,484.28 for the spring 2001 semester versus \$4,064.28 for a nonresident student.

Due to their immigration status, these students also do not qualify for federal financial aid. As a result, the state's undocumented students frequently are "priced out" of obtaining a higher education, despite being highly motivated for school. Thus, due to financial constraints, they frequently are unable to pursue a higher education.

HB 1403 would help decrease the number of students dropping out of Texas' public schools by providing an incentive for students to advance and pursue their higher education goals. The realization that they will be unable to pursue their academic goals frequently contributes to these students' dropping out of high school. The state should recover this valuable economic

and intellectual resource that currently is being discarded and help these students gain the tools they need to be successful, independent, and productive members of society.

The cost of not helping motivated students to attend college is greater than the cost of helping them. The long term implications of high rates of attrition to the state include a growing unskilled, undereducated workforce, accompanied by increased spending on social programs, higher rates of crime, and decreased opportunities for a higher quality of life. According to statistics from the Intercultural Development Research Association, in 1986, about 86,000 students dropped out of Texas public schools, costing the state \$17.12 billion. By 1998, the estimated number of Texas school dropouts had risen to more than 1.2 million, costing the state approximately \$319 billion.

Although the implementation of CSHB 1403 would have long term costs, the benefits obtained by allowing undocumented students to pursue their higher education goals would far outweigh them. According to the Comptroller, every dollar invested in our state's higher education system pumps more than five dollars into our Texas economy. In addition, according to the Texas Guaranteed Student Loan Corporation, higher levels of education correlate to higher median earnings, lower unemployment, and lower poverty rates.

CSHB 1403 would generate increased tuition revenue at the state's universities and colleges due to increased participation by these students. This would defray any loss to the institutions incurred by offering lower tuition.

Some community college districts in the state already allow Texas high school graduates to enroll regardless of their immigration status if they meet county residence requirements. CSHB 1403 merely would extend this practice to all the state's higher education institutions and would treat all students in the state equally regardless of their immigration status.

Finally, the role of policing the nation's borders and enforcing U.S. immigration laws is a federal responsibility, not one for the state or the state's higher education institutions. CSHB 1403 would allow the state's university and college admissions officers to focus on education rather than

immigration matters that are better left to the judgment of the INS.

OPPONENTS
SAY:

CSHB 1403 essentially would result in the state's turning a blind eye to individuals who have been living in the United States without proper documentation. Only students who reside lawfully in this country should be eligible to qualify for resident tuition.

CSHB 1403 also would result in significant cost to the state. According to the fiscal note, the probable negative impact on general-revenue related funds would be \$17.4 million in fiscal 2004 and would reach \$22.2 million by fiscal 2006.

NOTES:

The committee substitute modified HB 1403 as filed by limiting the application of the bill to individuals who register as entering students in higher education institutions on or after the 2001 fall semester. The substitute also removed the provision in the original version that would have entitled a foreign student who was a citizen of Mexico and who registered in a specified institution, college, or system in a county located wholly or partly within 100 miles of Mexico or in a county having a population of 100,000 or more to pay tuition at a rate prescribed for a Texas resident.

CSHB 1043 modified the original bill by providing that the foreign student tuition fee does not apply to a foreign student who is a citizen of Mexico, who registers in any general academic teaching institution or public junior college, and who meets the residency qualifications established by the provisions of the bill.

CSHB 1403 also modified the original by removing provisions in the original bill that would have required THECB to adopt rules governing a pilot project to be established at general academic teaching institutions and at components of the Texas State Technical College System and to adopt rules to determine the number of students who may participate in the program.

The companion bill, SB 1526 by Van de Putte, is pending in the Senate Education Committee.