

SUBJECT: Determination of residency for payment of higher education tuition

COMMITTEE: Higher Education — favorable, without amendment

VOTE: 7 ayes — Morrison, Goolsby, F. Brown, Dawson, Gallego, Harper-Brown, J. Jones

0 nays

2 absent — Giddings, Rose

SENATE VOTE: On final passage, May 2 — 31-0

WITNESSES: For — None

Against — None

On — Jane Caldwell, Jan Greenberg, Texas Higher Education Coordinating Board

BACKGROUND: Tuition at public institutions of higher education is charged at different rates for persons considered residents and those considered non-residents.

Education Code, ch. 54, establishes three categories of persons considered residents for tuition purposes:

- dependents and minors whose residence is based on a parent or court-appointed legal guardian;
- independent individuals 18 years of age or older who have their own claim to residence; and
- certain non-immigrant aliens.

DIGEST: SB 1528 would revise the guidelines used to determine who could pay resident tuition at public institutions of higher education. The Texas Higher Education Coordinating Board (THECB) would be required to consult with representatives of higher education institutions and issue rules including definitions related to residency status and tuition and fee exemptions and waivers. The bill would prohibit institutions from

requiring a person to provide evidence of resident status that was not required by a board rule.

Definition of residents. SB 1528 would establish common definitions and replace the current classifications for who was considered a resident for tuition purposes with three categories:

- those who established a permanent residence in Texas within one year of the census date of the academic term in which they were enrolled, and maintained that residence for the year preceding that date;
- dependents whose parents met the above qualification; and
- those who graduated from a Texas high school or received the equivalent of a high school diploma in Texas, maintained a continuous Texas residence for three years leading up to graduation or receiving the diploma, and resided in Texas for the year preceding their enrollment.

SB 1528 would establish the necessary information and documents to be submitted to an institution of higher education in order to establish resident status. Students would be classified as having continuing resident status in each subsequent academic term in which they enrolled, and by another institution in which the student subsequently enrolled unless:

- the student enrolled after two or more regular semesters out of higher education;
- information about the student's residency changed; or
- it was discovered that the institution erroneously misclassified the student.

The bill would establish procedures for adjusting tuition payments in these cases.

The Economic Development and Diversification waiver program and the NATO agreement program would be reestablished to allow certain students to pay tuition at the rate established for residents of the state.

The bill would repeal a provision enabling aliens living in the United States with petitions for permanent resident status pending with the federal Bureau of Citizenship and Immigration Services to qualify for resident tuition and fees until the time the Bureau approved their petition.

Students who were enrolled for any part of the 2005-2006 academic year and who were classified as a resident would be considered a resident as of the beginning of the 2006-2007 academic year. The bill would apply prospectively and would take effect September 1, 2005.

**SUPPORTERS
SAY:**

Current statutes regarding residency requirements for state-funded higher education institutions are inconsistent, complex, and outdated. Upon the advice and recommendation of THECB, SB 1528 is needed to eliminate the definitional ambiguity that exists with respect to a person's domicile and a person's temporary place of residence.

The bill would streamline the process for determining resident and non-resident tuition by tying residency requirements to the census residency regulations and eligibility for classification as a dependent based on federal income tax reports. Requirements and information regarding resident and non-resident tuition status would be consistent throughout the state higher education institutions.

Institutions and students would experience a positive effect because of clear definitions for terms such as tuition and mandatory fees. This should increase the consistency in the way current exemption and waiver programs are interpreted and applied to individual students. Establishing each term's census date as the deadline for establishing residency would help students and institutions know the cut-off date, no matter what institutions they attended.

The bill would allow students to retain their residency status once it had been established by requiring a receiving institution to use the prior institution's residency classifications for incoming transfer students. This would simplify the process of transferring from one institution to another. Students would apply for reclassification but would not have to prove residency every time they moved, unless they were out of school for two consecutive semesters. Receiving institutions would not have to perform the same extensive examination of student data to determine residency.

The bill also would give U.S. citizens and permanent residents the same opportunity to base residency on three years residence and high school graduation as is now allowed for international students. This significantly would simplify the residency determination of students whose parents recently had moved out of state while the student stayed behind to complete the student's education. Residency would be based on the

student's domicile, not that of the absent parent. Currently, a student who has never lived anywhere but Texas becomes a nonresident if the student's parent moves out of state before the student's enrollment in a public higher education institution.

The bill's changes would provide enough positive impact on institutions and students, by cutting the administrative costs institutions face in having to review documents and handle appeals, that it would outweigh any negative impact on a small group of international students.

**OPPONENTS
SAY:**

The bill would have a negative impact on the international students who have petitions pending with the federal Bureau of Citizenship and Immigration Services. Under current law, they are treated as if they were permanent residents as soon as they have submitted their initial petition for residency, and are paying resident tuition. These students likely would be forced to pay the higher tuition rate and could have to drop out of college.

NOTES:

According to the fiscal note, the state would see a gain in general revenue after fiscal year 2007 because the number of students paying non-resident tuition would increase and the state's formula funding would decrease. Total general revenue savings to the state would equal about \$3 million per year.