

BILL ANALYSIS

Senate Research Center
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S.B. 1631
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Higher Education
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, public institutions of higher education provide reduced resident tuition rates for some students who are not lawfully present in the state. Considering the current budget shortfall, added with the fact that these students will not be eligible for legal employment in the United States upon graduation, the state could better allocate these resources.

In December 2010, the House Research Organization issued a report that estimated, based on figures from the Texas Higher Education Coordinating Board (THECB), that "the state allocated about \$23.6 million in direct aid for these students in fiscal 2009, including funding allocated to institutions and financial aid," whereas these students only "paid a net total of about \$9.5 million out of pocket for higher education in fiscal 2009."

Additionally, the legality of the Texas statute has been called into question. For instance, the *Congressional Research Service* reported last year that under federal law, enacted in 1996, "an unauthorized alien 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." Moreover, as to the intent of the federal legislation, a related conference report contained language that described the section as "providing that illegal aliens are not eligible for in-state tuition rates at public institutions of higher education."

S.B. 1631 removes legislative authority for an institution of higher education to offer a reduced resident tuition rate to a student on the sole basis of the student having been present in the state for three years and having graduated from a Texas high school, regardless of immigration status.

As proposed, S.B. 1631 amends current law relating to the determination of resident status of students by public institutions of higher education.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 54.052, Education Code, as follows:

Sec. 54.052. DETERMINATION OF RESIDENT STATUS. (a) Provides that subject to the other applicable provisions of this subchapter governing the determination of resident status, the following persons are considered residents of this state for purposes of this title:

- (1) a person who established a domicile in this state not later than one year before the census date of the academic term in which the person is enrolled in an institution of higher education, and maintained that domicile continuously for the year preceding that census date; and

(2) a dependent whose parent established a domicile in this state not later than one year before the census date of the academic term in which the dependent is enrolled in an institution of higher education, and maintained that domicile continuously for the year preceding that census date.

Deletes existing Subdivision (3) providing that subject to the other applicable provisions of this subchapter governing the determination of resident status, among the persons who are considered residents of this state for purposes of this title, is a person: who graduated from a public or private high school in this state or received the equivalent of a high school diploma in this state; and maintained a residence continuously in this state for the three years preceding the date of graduation or receipt of the diploma equivalent, as applicable, and the year preceding the census date of the academic term in which the person is enrolled in an institution of higher education.

Makes a nonsubstantive change.

SECTION 2. Amends Section 54.053, Education Code, as follows:

Sec. 54.053. INFORMATION REQUIRED TO ESTABLISH RESIDENT STATUS. Requires a person to submit the following information to an institution of higher education to establish resident status under this subchapter:

(1) if the person applies for resident status under Section 54.052(a)(1):

(A) a statement of the dates and length of time the person has resided in this state, as relevant to establish resident status under this subchapter; and

(B) a statement by the person that the person's presence in this state for that period was for a purpose of establishing and maintaining a domicile; or

(2) if the person applies for resident status under Section 54.052(a)(2):

(A) a statement of the dates and length of time any parent of the person has resided in this state, as relevant to establish resident status under this subchapter; and

(B) a statement by the parent or, if the parent is unable or unwilling to provide the statement, a statement by the person that the parent's presence in this state for that period was for a purpose of establishing and maintaining a domicile.

Deletes existing Subdivision (3) requiring a person to submit to an institution of higher education to establish resident status under this subchapter if the person applies for resident status under Section 54.052(a)(3): a statement of the dates and length of time the person has resided in this state, as relevant to establish resident status under this subchapter; and if the person is not a citizen or permanent resident of the United States, an affidavit stating that the person will apply to become a permanent resident of the United States as soon as the person becomes eligible to apply.

Makes a nonsubstantive change.

SECTION 3. Authorizes a public institution of higher education, notwithstanding Subchapter B (Tuition Rates), Chapter 54 (Tuition and Fees), Education Code, for any semester or academic term, before the beginning of that semester or academic term, to reclassify as a nonresident a student classified as a resident of this state by the institution or another public institution of higher education in this state under Section 54.052(a)(3), Education Code, as that section existed

before amendment by this Act, if the student is not otherwise eligible to be classified as a resident of this state under Subchapter B, Chapter 54, Education Code.

SECTION 4. Effective date: September 1, 2011.