

By the Committee on Commerce, Economic Opportunities, and Consumer Services; and Senators Bennett and Bullard

310-2272-04

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

A bill to be entitled
An act relating to postsecondary student fees;
amending s. 1009.21, F.S.; providing that the
dependent children of active duty members of
the Armed Services of the United States are
classified as residents for tuition purposes;
providing an exemption from payment of
nonresident tuition and out-of-state fees for
certain dependent children of migrant
farmworkers who meet specified requirements;
providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 1009.21, Florida Statutes, is amended to read:

1009.21 Determination of resident status for tuition purposes; exemption.--Students shall be classified as residents or nonresidents for the purpose of assessing tuition in community colleges and state universities.

(1) As used in this section:

(a) The term "dependent child" means 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.

(b) The term "institution of higher education" means any public community college or state university.

(c) A "legal resident" or "resident" is a person who has maintained his or her residence in this state for the preceding year, has purchased a home which is occupied by him

1 or her as his or her residence, or has established a domicile
2 in this state pursuant to s. 222.17.

3 (d) The term "parent" means the natural or adoptive
4 parent or legal guardian of a dependent child.

5 (e) A "resident for tuition purposes" is a person who
6 qualifies as provided in subsection (2) for the in-state
7 tuition rate; a "nonresident for tuition purposes" is a person
8 who does not qualify for the in-state tuition rate.

9 (2)(a) To qualify as a resident for tuition purposes:

10 1. A person or, if that person is a dependent child,
11 his or her parent or parents must have established legal
12 residence in this state and must have maintained legal
13 residence in this state for at least 12 months immediately
14 prior to his or her qualification.

15 2. Every applicant for admission to an institution of
16 higher education shall be required to make a statement as to
17 his or her length of residence in the state and, further,
18 shall establish that his or her presence or, if the applicant
19 is a dependent child, the presence of his or her parent or
20 parents in the state currently is, and during the requisite
21 12-month qualifying period was, for the purpose of maintaining
22 a bona fide domicile, rather than for the purpose of
23 maintaining a mere temporary residence or abode incident to
24 enrollment in an institution of higher education.

25 (b) However, with respect to a dependent child living
26 with an adult relative other than the child's parent, such
27 child may qualify as a resident for tuition purposes if the
28 adult relative is a legal resident who has maintained legal
29 residence in this state for at least 12 months immediately
30 prior to the child's qualification, provided the child has
31 resided continuously with such relative for the 5 years

1 immediately prior to the child's qualification, during which
2 time the adult relative has exercised day-to-day care,
3 supervision, and control of the child.

4 (c) The legal residence of a dependent child whose
5 parents are divorced, separated, or otherwise living apart
6 will be deemed to be this state if either parent is a legal
7 resident of this state, regardless of which parent is entitled
8 to claim, and does in fact claim, the minor as a dependent
9 pursuant to federal individual income tax provisions.

10 (3) An individual shall not be classified as a
11 resident for tuition purposes and, thus, shall not be eligible
12 to receive the in-state tuition rate until he or she has
13 provided such evidence related to legal residence and its
14 duration as may be required by officials of the institution of
15 higher education from which he or she seeks the in-state
16 tuition rate.

17 (4) With respect to a dependent child, the legal
18 residence of such individual's parent or parents is prima
19 facie evidence of the individual's legal residence, which
20 evidence may be reinforced or rebutted, relative to the age
21 and general circumstances of the individual, by the other
22 evidence of legal residence required of or presented by the
23 individual. However, the legal residence of an individual
24 whose parent or parents are domiciled outside this state is
25 not prima facie evidence of the individual's legal residence
26 if that individual has lived in this state for 5 consecutive
27 years prior to enrolling or reregistering at the institution
28 of higher education at which resident status for tuition
29 purposes is sought.

30 (5) In making a domiciliary determination related to
31 the classification of a person as a resident or nonresident

1 for tuition purposes, the domicile of a married person,
2 irrespective of sex, shall be determined, as in the case of an
3 unmarried person, by reference to all relevant evidence of
4 domiciliary intent. For the purposes of this section:

5 (a) A person shall not be precluded from establishing
6 or maintaining legal residence in this state and subsequently
7 qualifying or continuing to qualify as a resident for tuition
8 purposes solely by reason of marriage to a person domiciled
9 outside this state, even when that person's spouse continues
10 to be domiciled outside of this state, provided such person
11 maintains his or her legal residence in this state.

12 (b) A person shall not be deemed to have established
13 or maintained a legal residence in this state and subsequently
14 to have qualified or continued to qualify as a resident for
15 tuition purposes solely by reason of marriage to a person
16 domiciled in this state.

17 (c) In determining the domicile of a married person,
18 irrespective of sex, the fact of the marriage and the place of
19 domicile of such person's spouse shall be deemed relevant
20 evidence to be considered in ascertaining domiciliary intent.

21 (6) Any nonresident person, irrespective of sex, who
22 marries a legal resident of this state or marries a person who
23 later becomes a legal resident may, upon becoming a legal
24 resident of this state, accede to the benefit of the spouse's
25 immediately precedent duration as a legal resident for
26 purposes of satisfying the 12-month durational requirement of
27 this section.

28 (7) A person shall not lose his or her resident status
29 for tuition purposes solely by reason of serving, or, if such
30 person is a dependent child, by reason of his or her parent's
31 or parents' serving, in the Armed Forces outside this state.

1 (8) A person who has been properly classified as a
2 resident for tuition purposes but who, while enrolled in an
3 institution of higher education in this state, loses his or
4 her resident tuition status because the person or, if he or
5 she is a dependent child, the person's parent or parents
6 establish domicile or legal residence elsewhere shall continue
7 to enjoy the in-state tuition rate for a statutory grace
8 period, which period shall be measured from the date on which
9 the circumstances arose that culminated in the loss of
10 resident tuition status and shall continue for 12 months.
11 However, if the 12-month grace period ends during a semester
12 or academic term for which such former resident is enrolled,
13 such grace period shall be extended to the end of that
14 semester or academic term.

15 (9) Any person who ceases to be enrolled at or who
16 graduates from an institution of higher education while
17 classified as a resident for tuition purposes and who
18 subsequently abandons his or her domicile in this state shall
19 be permitted to reenroll at an institution of higher education
20 in this state as a resident for tuition purposes without the
21 necessity of meeting the 12-month durational requirement of
22 this section if that person has reestablished his or her
23 domicile in this state within 12 months of such abandonment
24 and continuously maintains the reestablished domicile during
25 the period of enrollment. The benefit of this subsection shall
26 not be accorded more than once to any one person.

27 (10) The following persons shall be classified as
28 residents for tuition purposes:

29 (a) Active duty members of the Armed Services of the
30 United States residing or stationed in this state, their
31 spouses, and dependent children, and active members of the

1 Florida National Guard who qualify under s. 250.10(7) and (8)
2 for the tuition assistance program.

3 (b) Active duty members of the Armed Services of the
4 United States and their spouses and dependent children
5 attending a public community college or state university
6 within 50 miles of the military establishment where they are
7 stationed, if such military establishment is within a county
8 contiguous to Florida.

9 (c) United States citizens living on the Isthmus of
10 Panama, who have completed 12 consecutive months of college
11 work at the Florida State University Panama Canal Branch, and
12 their spouses and dependent children.

13 (d) Full-time instructional and administrative
14 personnel employed by state public schools, community
15 colleges, and institutions of higher education, as defined in
16 s. 1000.04, and their spouses and dependent children.

17 (e) Students from Latin America and the Caribbean who
18 receive scholarships from the federal or state government.
19 Any student classified pursuant to this paragraph shall
20 attend, on a full-time basis, a Florida institution of higher
21 education.

22 (f) Southern Regional Education Board's Academic
23 Common Market graduate students attending Florida's state
24 universities.

25 (g) Full-time employees of state agencies or political
26 subdivisions of the state when the student fees are paid by
27 the state agency or political subdivision for the purpose of
28 job-related law enforcement or corrections training.

29 (h) McKnight Doctoral Fellows and Finalists who are
30 United States citizens.

31

1 (i) United States citizens living outside the United
2 States who are teaching at a Department of Defense Dependent
3 School or in an American International School and who enroll
4 in a graduate level education program which leads to a Florida
5 teaching certificate.

6 (j) Active duty members of the Canadian military
7 residing or stationed in this state under the North American
8 Air Defense (NORAD) agreement, and their spouses and dependent
9 children, attending a community college or state university
10 within 50 miles of the military establishment where they are
11 stationed.

12 (11) A dependent child who has attended a high school
13 in this state for at least 3 months per school year for 2
14 school years is exempt from paying nonresident tuition and
15 out-of-state fees at community colleges and state
16 universities, if one of his or her parents is:

17 (a) A United States citizen or is otherwise eligible
18 under federal law for employment in the United States; and

19 (b) Currently employed in this state as a migrant
20 farmworker as defined in s. 381.008(4).

21 (12)~~(11)~~ The State Board of Education shall by rule
22 designate classifications of students as residents or
23 nonresidents for tuition purposes at community colleges and
24 state universities.

25 Section 2. This act shall take effect July 1, 2004.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 1182

The committee substitute specifies that the dependent children of certain active duty service members are residents for tuition purposes. The committee substitute also clarifies that a migrant farmworker must be a United States citizen or otherwise eligible under federal law for employment in the United States to be of "legal status," for purposes of the farmworker's dependent child receiving an exemption from paying nonresident tuition and out-of-state fees.