

By the Committees on Education Appropriations; Education; and
Senator Atwater

602-2352-05

1 A bill to be entitled
2 An act relating to the payment of instructional
3 costs for students; amending s. 1009.21, F.S.;
4 defining the term "initial enrollment" for
5 purposes of determining a postsecondary
6 student's residential status for tuition
7 purposes; providing duties of institutions of
8 higher education; providing conditions under
9 which a nonresident may be reclassified as a
10 resident of this state; requiring that
11 specified evidence of the legal residence and
12 dependent status of an individual be provided
13 as a prerequisite to classification as a
14 resident for tuition purposes; amending s.
15 1009.24, F.S.; providing that the Legislature
16 has the responsibility to establish tuition and
17 fees; providing that tuition and fees for
18 certain state university resident students are
19 established within the General Appropriations
20 Act or law; requiring each board of trustees to
21 set university tuition and fees under certain
22 circumstances; providing that such tuition and
23 fees may not exceed tuition and fees for
24 corresponding programs at certain public
25 institutions; requiring each university to
26 allocate a certain percentage amount raised by
27 tuition increases to financial aid for
28 students; providing that tuition and fees for
29 certain students are not subject to a cap;
30 amending s. 1009.40, F.S.; providing that
31 certain students are ineligible to receive more

1 than one state-funded tuition assistance grant;
2 providing an effective date.

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

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6 Section 1. Subsections (1), (2), and (3) of section
7 1009.21, Florida Statutes, are amended to read:

8 1009.21 Determination of resident status for tuition
9 purposes.--Students shall be classified as residents or
10 nonresidents for the purpose of assessing tuition in community
11 colleges and state universities.

12 (1) As used in this section, the term:

13 (a) ~~The term~~ "Dependent child" means any person,
14 whether or not living with his or her parent, who is eligible
15 to be claimed by his or her parent as a dependent under the
16 federal income tax code and who receives at least 51 percent
17 of the true cost-of-living expenses from his or her parent, as
18 further defined in rules of the department and postsecondary
19 residential guidelines.

20 (b) ~~The term~~ "Institution of higher education" means
21 any public community college or state university.

22 (c) A "legal resident" or "resident" means is a person
23 who has maintained his or her residence in this state for the
24 preceding year, has purchased a home which is occupied by him
25 or her as his or her residence, or has established a domicile
26 in this state pursuant to s. 222.17.

27 (d) ~~The term~~ "Parent" means the natural or adoptive
28 parent or legal guardian of a dependent child.

29 (e) A "resident for tuition purposes" means is a
30 person who qualifies as provided in subsection (2) for the
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1 in-state tuition rate; a "nonresident for tuition purposes" is
2 a person who does not qualify for the in-state tuition rate.

3 (f) "Initial enrollment" means the first day of class
4 at an institution of higher education.

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

6 1. A person or, if that person is a dependent child,
7 his or her parent or parents must have established legal
8 residence in this state and must have maintained legal
9 residence in this state for at least 12 consecutive months
10 immediately prior to his or her initial enrollment at an
11 institution of higher education ~~qualification~~.

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

22 3. Each institution of higher education must determine
23 whether an applicant who has been granted admission to that
24 institution is a dependent child.

25 4. Each institution of higher education must
26 affirmatively determine that an applicant who has been granted
27 admission to that institution as a Florida resident meets the
28 residency requirements of this section at the time of initial
29 enrollment.

30 (b) However, with respect to a dependent child living
31 with an adult relative other than the child's parent, such

1 child may qualify as a resident for tuition purposes if the
2 adult relative is a legal resident who has maintained legal
3 residence in this state for at least 12 consecutive months
4 immediately prior to the child's initial enrollment at an
5 institution of higher education ~~qualification~~, provided the
6 child has resided continuously with such relative for the 5
7 years immediately prior to the child's initial enrollment at
8 an institution of higher education ~~qualification~~, during which
9 time the adult relative has exercised day-to-day care,
10 supervision, and control of the child.

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

17 (d) An individual who is classified as a nonresident
18 for tuition purposes may become eligible for reclassification
19 as a resident for tuition purposes only if that individual, or
20 his or her parent if that individual is a dependent child,
21 supports permanent residency in this state by presenting
22 documentation of permanent, full-time employment in this state
23 and domicile in this state for 12 consecutive months while not
24 enrolled full-time at an institution of higher education.
25 However, if an individual and his or her parent moves to this
26 state while the individual is a high school student and the
27 individual graduates from a high school in this state, the
28 individual may become eligible for reclassification as a
29 resident for tuition purposes when the parent qualifies for
30 permanent residency, if the individual is a dependent child.

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1 (3) An individual ~~may shall~~ not be classified as a
2 resident for tuition purposes and, thus, is ineligible shall
3 ~~not be eligible~~ to receive the in-state tuition rate until he
4 or she has provided such evidence related to legal residence
5 and its duration or, if that individual is a dependent child,
6 documentation of his or her parent's legal residence and its
7 duration, as well as documentation confirming his or her
8 status as a dependent child, as may be required by law and by
9 officials of the institution of higher education from which he
10 or she seeks the in-state tuition rate.

11 Section 2. Subsection (3) of section 1009.24, Florida
12 Statutes, is amended to read:

13 1009.24 State university student fees.--

14 (3)(a) The Legislature has the responsibility to
15 establish tuition and fees.

16 (b) Undergraduate tuition and fees for state
17 university resident students are established within proviso in
18 the General Appropriations Act or law.

19 (c) Except as otherwise provided by law, each board of
20 trustees shall set university tuition and fees for graduate,
21 graduate professional, and nonresident students. Tuition and
22 fees for graduate, graduate professional, and nonresident
23 students may not exceed the average full-time tuition and fees
24 for corresponding programs at public institutions that are
25 members of the Association of American Universities. The
26 annual percentage increase in tuition and fees established by
27 each board of trustees pursuant to this paragraph for students
28 enrolled prior to the fall of 2005 shall not exceed the annual
29 percentage increase approved by the Legislature for resident
30 undergraduate students. At least 20 percent of the amount
31 raised by tuition increases imposed pursuant to this paragraph

1 shall be allocated by each university to need-based financial
2 aid for students. ~~Within proviso in the General Appropriations~~
3 ~~Act and law, each board of trustees shall set university~~
4 ~~tuition and fees.~~

5 (d) The sum of the activity and service, health, and
6 athletic fees a student is required to pay to register for a
7 course shall not exceed 40 percent of the tuition established
8 in law or in the General Appropriations Act. The tuition and
9 fees established in paragraph (c) for graduate, graduate
10 professional, or nonresident students are not subject to the
11 40-percent cap. ~~A No~~ university ~~is not shall be~~ required to
12 lower any fee in effect on the effective date of this act in
13 order to comply with this subsection. Within the 40 percent
14 cap, universities may not increase the aggregate sum of
15 activity and service, health, and athletic fees more than 5
16 percent per year unless specifically authorized in law or in
17 the General Appropriations Act. A university may increase its
18 athletic fee to defray the costs associated with changing
19 National Collegiate Athletic Association divisions. Any such
20 increase in the athletic fee may exceed both the 40 percent
21 cap and the 5 percent cap imposed by this subsection. Any such
22 increase must be approved by the athletic fee committee in the
23 process outlined in subsection (11) and cannot exceed \$2 per
24 credit hour. Notwithstanding the provisions of ss. 1009.534,
25 1009.535, and 1009.536, that portion of any increase in an
26 athletic fee pursuant to this subsection that causes the sum
27 of the activity and service, health, and athletic fees to
28 exceed the 40 percent cap or the annual increase in such fees
29 to exceed the 5 percent cap shall not be included in
30 calculating the amount a student receives for a Florida
31 Academic Scholars award, a Florida Medallion Scholars award,

1 or a Florida Gold Seal Vocational Scholars award. This
2 subsection does not prohibit a university from increasing or
3 assessing optional fees related to specific activities if
4 payment of such fees is not required as a part of registration
5 for courses.

6 Section 3. Subsection (1) of section 1009.40, Florida
7 Statutes, is amended, and subsection (5) is added to that
8 section, to read:

9 1009.40 General requirements for student eligibility
10 for state financial aid.--

11 (1)(a) The general requirements for eligibility of
12 students for state financial aid awards consist of the
13 following:

14 1. Achievement of the academic requirements of and
15 acceptance at a state university or community college; a
16 nursing diploma school approved by the Florida Board of
17 Nursing; a Florida college, university, or community college
18 which is accredited by an accrediting agency recognized by the
19 State Board of Education; any Florida institution the credits
20 of which are acceptable for transfer to state universities;
21 any career center; or any private career institution
22 accredited by an accrediting agency recognized by the State
23 Board of Education.

24 2. Residency in this state for no less than 1 year
25 preceding the award of aid for a program established pursuant
26 to s. 1009.50, s. 1009.51, s. 1009.52, s. 1009.53, s. 1009.54,
27 s. 1009.56, s. 1009.57, s. 1009.60, s. 1009.62, s. 1009.63, s.
28 1009.68, s. 1009.72, s. 1009.73, s. 1009.76, s. 1009.77, ~~or~~ s.
29 1009.89, or s. 1009.891. Residency in this state must be for
30 purposes other than to obtain an education. Resident status
31 for purposes of receiving state financial aid awards or

1 tuition assistance grants shall be determined in the same
2 manner as resident status for tuition purposes pursuant to s.
3 1009.21 and rules of the State Board of Education implementing
4 s. 1009.21 and the postsecondary guidelines of the department.

5 3. Submission of certification attesting to the
6 accuracy, completeness, and correctness of information
7 provided to demonstrate a student's eligibility to receive
8 state financial aid awards. Falsification of such information
9 shall result in the denial of any pending application and
10 revocation of any award currently held to the extent that no
11 further payments shall be made. Additionally, students who
12 knowingly make false statements in order to receive state
13 financial aid awards shall be guilty of a misdemeanor of the
14 second degree subject to the provisions of s. 837.06 and shall
15 be required to return all state financial aid awards
16 wrongfully obtained.

17 (b)1. Eligibility for the renewal of undergraduate
18 financial aid awards shall be evaluated at the end of the
19 second semester or third quarter of each academic year. As a
20 condition for renewal, a student shall:

21 a. Have earned a minimum cumulative grade point
22 average of 2.0 on a 4.0 scale; and

23 b. Have earned, for full-time study, 12 credits per
24 term or the equivalent for the number of terms for which aid
25 was received.

26 2. A student who earns the minimum number of credits
27 required for renewal, but who fails to meet the minimum 2.0
28 cumulative grade point average, may be granted a probationary
29 award for up to the equivalent of 1 academic year and shall be
30 required to earn a cumulative grade point average of 2.0 on a
31 4.0 scale by the end of the probationary period to be eligible

1 for subsequent renewal. A student who receives a probationary
2 award and who fails to meet the conditions for renewal by the
3 end of his or her probationary period shall be ineligible to
4 receive additional awards for the equivalent of 1 academic
5 year following his or her probationary period. Each such
6 student may, however, reapply for assistance during a
7 subsequent application period and may be eligible for an award
8 if he or she has earned a cumulative grade point average of
9 2.0 on a 4.0 scale.

10 3. A student who fails to earn the minimum number of
11 credits required for renewal shall lose his or her eligibility
12 for renewal for a period equivalent to 1 academic year.
13 However, the student may reapply during a subsequent
14 application period and may be eligible for an award if he or
15 she has earned a minimum cumulative grade point average of 2.0
16 on a 4.0 scale.

17 4. Students who receive state student aid and
18 subsequently fail to meet state academic progress requirements
19 due to verifiable illness or other emergencies may be granted
20 an exception from the academic requirements. Such students
21 shall make a written appeal to the institution. The appeal
22 shall include a description and verification of the
23 circumstances. Verification of illness or other emergencies
24 may include but not be limited to a physician's statement or
25 written statement of a parent or college official. The
26 institution shall recommend exceptions with necessary
27 documentation to the department. The department may accept or
28 deny such recommendations for exception from the institution.

29 (5) A student who is attending a nonpublic for-profit
30 or nonprofit institution is ineligible to receive more than
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1 one state award that is a tuition assistance grant during a
2 single semester.

3 Section 4. This act shall take effect July 1, 2005.

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5 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
6 COMMITTEE SUBSTITUTE FOR
7 CS for Senate Bill 2264

8 The committee substitute for CS/SB 2264 specifies that the
9 cost of living expenses used in determining whether a student
10 is a dependent as part of residency determination for tuition
11 purposes shall be defined in departmental rules and
12 postsecondary education guidelines. The committee substitute
13 also specifies that in residency determination, resident
14 months in Florida prior to enrollment are to be consecutive
15 and that residency guidelines do not apply solely to
16 undergraduates.

17 The committee substitute also addresses the setting of tuition
18 and fees within the state university system. It states that
19 the Legislature has the responsibility to establish tuition
20 and fees. Undergraduate tuition and fees are to be
21 established in proviso within the General Appropriations Act
22 or law. Each university's Board of Trustees may set tuition
23 and fees for graduate, graduate professional, and nonresident
24 students, unless otherwise provided by law. Increases are to
25 be governed by the average tuition and fees at public members
26 of the Association of American Universities and increases
27 affecting students enrolled prior to the fall of 2005 shall
28 not exceed the annual percentage increase approved by the
29 Legislature for resident undergraduate students.

30 The committee substitute also prohibits a student enrolled at
31 a private postsecondary institution from receiving more than
one state tuition assistance grant during a single semester.