

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 119 CS Postsecondary Student Fees
SPONSOR(S): Zapata and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Colleges & Universities Committee</u>	<u>9 Y, 1 N, w/CS</u>	<u>Hatfield</u>	<u>Tilton</u>
2) <u>Education Appropriations Committee</u>	<u>11 Y, 1 N, w/CS</u>	<u>Hamon</u>	<u>Hamon</u>
3) <u>Education Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

This bill revises provisions relating to the determination of a student's residency status for tuition purposes by tying the statutorily-required minimum 12-month residency period to a student's initial enrollment in a Florida postsecondary institution and provides for reclassification as a resident for tuition purposes for students who meet certain criteria. The bill provides that in order to be classified a "dependent child" a student must receive at least 51 percent of the true cost-of-living expenses from his or her parent. The bill requires institutions of higher education to determine whether or not an admitted applicant is a dependent child and whether or not an admitted Florida resident applicant continues to meet the residency requirements at the time of initial enrollment.

The bill clarifies that dependent children of active duty military families who are stationed near a community college or university in a county contiguous to Florida are eligible for residency for tuition purposes. The bill extends residency status to full-time employees of specified international multilateral organizations based in Florida and their spouses and dependent children.

The bill also creates a limited number of exemptions from paying out-of-state fees at a community college or state university and requires the Department of Education (DOE) to administer the exemption program, develop an application form, and establish deadlines and guidelines for student participation. A student who meets certain requirements may be eligible for one of the exemptions.

For the 2006-2007 academic year, the DOE must distribute the exemptions: to the first 1,500 students currently enrolled in a community college or state university who have a cumulative grade point average of at least 2.0 and who submit an application to the DOE and meet the eligibility criteria; and to the top 500 students in academic performance in Florida public high schools who submit an application to the DOE and meet the eligibility criteria. Beginning in the 2007-2008 academic year the DOE must distribute no more than 500 new exemptions to the top 500 students in academic performance in Florida public high schools who submit an application to the DOE and meet the eligibility criteria. The DOE must issue the exemptions by August 31 of each year and notify the student and the postsecondary institution in which the student is enrolled.

In order for a student to retain the exemption, the bill requires a student to complete at least 12 semester credit hours or the equivalent in the previous academic year and maintain at least a 2.0 cumulative grade point average. The bill prohibits the exemption from being used for remedial courses, graduate level courses, or professional courses.

The overall fiscal impact of the bill is indeterminate at this time. See FISCAL COMMENTS for further details.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0119c.EDAS.doc
DATE: 4/19/2006

The bill provides an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government— The bill requires postsecondary institutions to affirmatively determine whether a student is a dependent child and whether or not a student granted Florida residency meets the requirements of s. 1009.21, F.S., at the time of initial enrollment. Additional responsibilities and administrative costs may be incurred by postsecondary institutions in order to accomplish these tasks. The bill also provides for a limited number of exemptions from paying out-of-state fees at a community college or state university and requires the Department of Education (DOE) to administer the exemption program.

Safeguard individual liberty—The bill provides a more affordable education to those students who apply and receive an out-of-state fee exemption. Those who previously could not afford a postsecondary education may now be able to attend a community college or state university if they receive an exemption. However, the revised conditions for determining initial enrollment and reclassification may increase the number of students not eligible for residency for tuition purposes, resulting in a more expensive education for others.

Empower Families— The bill provides a more affordable education to those students who apply and receive an out-of-state fee exemption. This may benefit families who do not have the financial means to send a family member to college at out-of-state prices. However, the revised conditions for determining initial enrollment and reclassification may increase the number of students not eligible for residency for tuition purposes, resulting in a more expensive education for others.

B. EFFECT OF PROPOSED CHANGES:

Background

Current law requires students to be classified as residents or nonresidents for the purpose of assessing tuition in community colleges and state universities.¹ Classification as a resident for tuition purposes is also an eligibility criteria for participation in certain financial assistance programs such as the Florida Bright Futures Scholarship Program, the Florida Student Assistance Grant (FSAG) Program, and the Florida Resident Assistance Grant (FRAG) Program.²

To qualify as a resident for tuition purposes, a student, or the student's parents if the student is a dependent, must have established legal residence in the state and maintained legal residence in the state for at least 12 months immediately prior to the student's qualification. Presence in the state must have been for the purpose of maintaining a bona fide domicile, rather than for the purpose of maintaining a mere temporary residence or abode incident to enrollment in an institution of higher education.

Current law designates certain categories of persons as residents for tuition purposes, such as active duty members of the Armed Services of the U.S. residing or stationed in Florida and their dependents, U.S. citizens living on the Isthmus of Panama who have completed 12 consecutive months of college work at the FSU Panama Canal Branch and their dependents, and active duty members of a foreign

¹ Section 1009.21, F.S.

² Section 1009.40, F.S.

nation's military who are serving as liaison officers and are residing or stationed in this state and their dependents.³

OPPAGA Recommendations Regarding Residency for Tuition Determinations

OPPAGA Report No. 03-29⁴ found that although Florida law and rules are intended to enable universities and community colleges to accurately and consistently classify students for in-state and out-of-state residency, the process is substantially flawed. OPPAGA found that institutions were using inconsistent screening criteria and procedures creating the potential for misclassifications and variations in the threshold a student must meet to qualify for residency. OPPAGA identified three costly weaknesses in the current criteria and procedures used in classifying students as residents for tuition purposes:

1. Current law and rules do not provide adequate criteria governing under what specific circumstances students should be reclassified as Florida residents.
2. Current criteria do not adequately specify the determination of students' dependency status.
3. Institutions are applying varying standards for documenting residency.

The report recommends that to improve the residency classification process, the Legislature should amend current law to require that students (or their parents if the students are dependents) must maintain legal residence in the state for at least 12 months immediately prior to the student's initial enrollment or registration at a Florida public postsecondary institution to be eligible for classification for in-state residency. OPPAGA also recommended that Legislature more clearly define when a non-resident student could be eligible for reclassification as a resident.

OPPAGA estimates that institutions could receive an additional \$28.2 million in tuition revenues from out-of-state students if reclassifications were eliminated and these individuals remained enrolled.

Effect of Proposed Changes

Residency Status

The bill revises residency criteria to require that a person reside in-state for 12 months immediately prior to initial enrollment in a postsecondary education program in Florida. The term "initial enrollment" is defined as the first day of classes. A student is eligible to be reclassified from nonresident to resident if the student provides documentation that supports the student's permanent residency in the state such as documentation of permanent full-time employment for a minimum of 12 months or purchase of a home in this state and residence in said home for a minimum of 12 months. If the student is a dependent child, the residency requirements apply to the student's parent. The bill provides that to be classified a "dependent child" one must receive at least 51 percent of the true cost-of-living expenses from his or her parent.

The bill requires institutions of higher education to determine whether or not an admitted applicant is a dependent child and whether or not an admitted Florida resident applicant continues to meet the residency requirements at the time of initial enrollment.

The bill clarifies that dependent children of active duty military families who are stationed near a community college or university in a county contiguous to Florida are eligible for residency for tuition purposes.

³ Section 1009.21(10), F.S.

⁴ Report 03-29, OPPAGA Special Review, *Non-Residents Qualify Too Easily for Much Lower Resident Tuition Rates*

The bill updates an obsolete reference to the North American Aerospace Defense Command (NORAD) agreement.

The bill extends the categories of persons that are classified as residents for tuition purposes to include full-time employees of international multilateral organizations based in Florida that are recognized by the U.S. Department of State and their spouses and dependent children. In March 2005, the Director of the Florida Branch of the Office of Foreign Missions indicated that the International Organization for Migration is the only international multilateral organization currently based in Florida. The Office of Foreign Missions is a department within the U.S. Department of State. At that time, it was estimated that there were currently less than ten people who might qualify under this provision of the bill.⁵

Out-of-state fee exemption

The bill also creates a limited number of exemptions from paying out-of-state fees at a community college or state university. A student who meets all of the following requirements may be eligible for one of the exemptions:

- Has resided in Florida with a parent for at least 3 consecutive years immediately preceding the date the student received a high school diploma, or its equivalent, and has attended a Florida public high school for at least 3 consecutive years during such time.
- Has been accepted by and enrolls in a community college or state university within 12 months of receiving the high school diploma.
- Has submitted an application for the exemption to the Department of Education (DOE), in the manner prescribed by the DOE by the deadline established by the DOE.

For the 2006-2007 academic year, the DOE is required to distribute the exemptions in the following manner:

- To the first 1,500 students currently enrolled in a community college or state university who have a cumulative grade point average of at least 2.0 and who submit an application to the DOE and meet the eligibility criteria.
- To the top 500 students in academic performance in Florida public high schools who submit an application to the DOE and meet the eligibility criteria.

Beginning with the 2007-2008 academic year, the DOE can issue up to 500 new exemptions per year to the top 500 students in academic performance in Florida public high schools who submit an application to the DOE and meet all eligibility criteria.

The bill provides that in order for a student to retain the exemption, a student must complete at least 12 semester credit hours, or the equivalent, in the previous academic year and maintain at least a 2.0 cumulative grade point average.

The DOE is required to administer the exemption program, develop an application form, and establish deadlines and guidelines for student participation. The DOE must issue the exemptions by August 31 of each year and must notify the student and the community college or state university in which the student is enrolled.

The bill prohibits the exemption from being used for remedial courses, graduate-level courses, or professional-level courses.

The bill provides an effective date of July 1, 2006.

⁵ Florida Department of Education 2005 Legislative Bill Analysis, HB 119, March 1, 2005, at 6.

C. SECTION DIRECTORY:

Section 1: Amends s. 1009.21, F.S., revising provisions relating to determination of resident status for tuition purposes; revising definitions; tying the qualification period for determining residency to the student's initial enrollment in a postsecondary education program in Florida; providing conditions for reclassification as a resident for tuition purposes; requiring that evidence be provided relating to legal residency and dependent status; providing duties of institutions of higher learning; updating obsolete terminology; and classifying as residents for tuition purposes certain employees of international multilateral organizations.

Section 2: Creates s. 1009.255, F.S., providing an out-of-state fee exemption; providing eligibility criteria; providing for distribution of the exemption; limiting participation in the program; requiring the Department of Education to administer the exemption program; and prohibiting use of the exemption for certain purposes.

Section 3: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS section.

2. Expenditures:

See FISCAL COMMENTS section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Students who, in the past, may have been unable to afford a postsecondary education will have expanded educational opportunities if they fall into the new category within which students may be classified as residents for tuition purposes or if they receive one of the out-of-state fee exemptions. However, the revised conditions for determining initial enrollment and reclassification may increase the number of students not eligible for residency for tuition purposes, resulting in a more expensive education for others.

D. FISCAL COMMENTS:

OPPAGA has estimated that if Florida eliminated the reclassification of nonresident students completely, institutions could receive \$28.2 million in additional tuition revenue from nonresidents if these individuals remained enrolled at a Florida public postsecondary institution.⁶

Expanding the categories of students who may be classified as residents for tuition purposes (the new category of full-time employees of international multilateral organizations based in Florida) and creating

an out-of-state fee exemption may increase the number of students who enroll in state universities and community colleges because of the reduced cost to such students; therefore, these institutions may experience an increase in tuition and fee revenues. However, to the extent a student may have attended a state university or community college even if classified as an out-of-state student; an institution could experience a loss in tuition and fee revenues. Expanding the categories of students who may be classified as residents for tuition purposes and the creation of an exemption for out-of-state fees could also result in the state funding more of the cost to provide instruction to such students.

The fiscal impact of the additional new residency for tuition purposes category (for full-time employees of international multilateral organizations based in Florida) on funding required or award amount for programs such as Bright Futures, FSAG, and FRAG is indeterminate.

The bill requires postsecondary institutions to affirmatively determine whether a student is a dependent child and whether or not a student granted Florida residency meets the requirements of s. 1009.21, F.S., at the time of initial enrollment. Additional responsibilities and administrative costs may be incurred by postsecondary institutions in order to accomplish these tasks.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to spend funds or to take any action requiring the expenditure of funds.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill provides that a "dependent child" receive at least 51 percent of the true cost-of-living expenses from his or her parent, as further defined in rules of the State Board of Education. "True cost-of-living expenses" may be problematic terminology as there is no set definition for what expenses this entails.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 7, 2006, the Colleges and Universities Committee adopted a strike-all amendment to HB 119. The bill was reported favorably with a Committee Substitute (CS). The CS differs from the original bill in the following ways:

- Removes the word "exemption" from the catch-line to correct a drafting error.
- Includes an affidavit requirement for undocumented students that meet the eligibility requirements for residency for tuition purposes.
- Removes the financial aid section from the bill.

On April 17, 2006, the Education Appropriations Committee adopted an amendment to HB 119. The bill was reported favorably with a Committee Substitute. This Committee Substitute differs from the previous Committee Substitute by removing a provision relating to the determination of a student's residency status for tuition purposes and creating a new section of law that provides a limited number of exemptions from paying out-of-state fees at a community college or state university. The Committee Substitute requires the

Department of Education (DOE) to administer the exemption program and provides that a student who meets all of the following requirements may be eligible for one of the exemptions:

- Has resided in Florida with a parent for at least 3 consecutive years immediately preceding the date the student received a high school diploma, or its equivalent, and has attended a Florida public high school for at least 3 consecutive years during such time.
- Has been accepted by and enrolls in a community college or state university within 12 months of receiving the high school diploma.
- Has submitted an application for the exemption to the Department of Education (DOE), in the manner prescribed by the DOE by the deadline established by the DOE.

The Committee Substitute provides that for the 2006-2007 academic year only, the DOE must distribute the exemptions to the first 1,500 students currently enrolled in a community college or state university who have a cumulative grade point average of at least 2.0 and who submit an application to the DOE. For the 2006-2007 academic year and each year thereafter, the DOE must distribute the exemptions to the top 500 students in academic performance in Florida public high schools who submit an application and meet the eligibility criteria. The DOE must issue the exemptions by August 31 of each year and notify the student and the postsecondary institution in which the student is enrolled.

In order for a student to retain the exemption, the Committee Substitute requires a student to complete at least 12 semester credit hours or the equivalent in the previous academic year and maintain at least a 2.0 cumulative grade point average. The Committee Substitute prohibits use of the exemption for remedial courses, graduate level courses, or professional level courses.