

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Higher Education Committee

BILL: CS/SB 2698

INTRODUCER: Committee on Higher Education and Senators Lawson, Atwater, and Ring

SUBJECT: Community College and Career Center Student Financial Assistance

DATE: April 11, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Carrouth</u>	<u>Matthews</u>	<u>ED</u>	<u>Fav/CS</u>
2.	_____	_____	<u>HI</u>	_____
3.	_____	_____	_____	_____
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5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill creates the Florida Public Community College Career Center Working Student Assistance Program (Program) to provide financial support for working students whose employment income makes them ineligible to receive state or federal grants.

To qualify, students must enroll a minimum of six semester hours or 10 hours per week of adult vocational training per term. Additionally, students are required to complete the Free Application for Federal Student Aid (FAFSA) and meet other eligibility criteria as determined by the institution. The additional criteria must include, at a minimum, the extent to which family members may contribute financial support and the student's ability to repay loans. Community colleges and school districts, which operate career centers, would award funds annually to eligible students in an amount to be determined by the institution, but not to exceed an amount specified in the General Appropriations Act.

The Department of Education (DOE) is tasked with developing methods to distribute funds and to adopt rules necessary to administer the program.

The bill revises the determination of residency for tuition purposes by providing new definitions of a dependent, parent, and the time period required to establish residency prior to enrolling in an institution of higher education. Additionally, the bill provides for a reclassification procedure for persons who demonstrate residency for 12 consecutive months and that the residency is not for the purpose of enrolling in an institution of higher education. The bill further requires the institutions to accept the residency classification made by other institutions under certain conditions.

Finally, the bill adds certain U.S. citizens and eligible non-U.S. citizens¹ as residents for tuition purposes, provided such students attended a state public high school for the two years immediately preceding postsecondary enrollment. The State Board of Education (SBE) and the Board of Governors (BOG) must adopt rules to establish residency classifications in conformance with the bill.

This bill creates an undesignated section and amends sections 1009.21 and 1009.50 of the Florida Statutes.

II. Present Situation:

The Legislature appropriates funds annually for the Florida Student Assistance Grant Program (FSAG) to provide need-based student financial assistance to degree-seeking, resident undergraduate students who demonstrate substantial need and are enrolled in participating institutions.² Student awards are determined by institution and range from \$200 to \$1,672 per year.³ In order to qualify, students must fill out the Free Application for Federal Student Aid (FAFSA) to be eligible for state or federal financial aid. The FAFSA requires students to report family income regardless of whether the family is able to contribute to education expenses, forcing many students to take out loans. Working students, such as those provided for in the bill, may not be eligible for the FSAG due to earned income.

During the 2004-05 academic year, community college students in Florida were awarded \$39 million in Florida Student Assistance Grants and received \$276 million in federal student loans.⁴ Based on a 2006 study of the Florida Community College System, 58 percent of Florida's community college students are independent.⁵ Currently, an independent student with no dependents earning \$7.50 per hour with a yearly income of \$15,140 and expected family contribution of \$3,870 would not qualify for federal or state need-based aid.⁶

Currently, students enrolled in vocational education programs are not eligible to receive the Florida Student Assistance Grant (FSAG).⁶

Determining Residency for Tuition Purposes at Institutions of Higher Education

Framework

Section 1009.21, F.S., prescribes the manner in which students are determined to be residents or nonresidents for tuition purposes at the state's universities and community colleges. Students who are residents for tuition purposes qualify for the in-state tuition rate. Traditionally, the Legislature subsidizes 75 percent of the in-state tuition rate. Generally, to qualify as a resident for tuition purposes, a student, or the student's parent if the student is a dependent child, must have established legal residence in this state and maintained that legal residence for at least 12 months immediately prior to the student's qualification for residency. A dependent child is

¹ http://www.facts.org/html_sw/residencyGuidelines.html

² <https://www.floridastudentfinancialaid.org/SSFAD/pdf/FSAG.06-07.pdf>

³ http://www.fafsa.com/states_fl.htm

⁴ Department of Education, March 12, 2007.

⁵ *Id.*

⁶ *Id.*

⁶ *Id.*

defined to mean any person, 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. Each student applicant for admission to a state university or college is required to make a statement that includes that the purpose of the student's presence, or his or her parents if the student is a dependent child, in the state during the qualifying period has been to establish and maintain a bona fide domicile rather than for the purpose of enrolling in a postsecondary institution. Additionally, the law sets out certain other avenues for establishing legal residency for tuition purposes including active military duty, employment at certain educational institutions, or participation in certain designated scholarship or exchange programs.

The State Board of Education requires consistent policies and practices for the classification of students as residents for tuition purposes.⁷ Additionally, the Board of Regents⁸ mandated that universities must require evidence such as voter registration, driver's license, automobile registration, the location of a bank account, rent receipts or any other relevant materials as evidence that the applicant has maintained 12 months residence immediately before qualification as a bona fide domicile.⁹ To determine if a student is a dependent child, a university must require evidence such as copies of the above listed documents.¹⁰ Additionally, the university may require a notarized copy of the parent's IRS return.¹¹ A student classified as a nonresident for purposes of tuition may petition for reclassification.¹²

In addition, the Articulation Coordinating Committee adopted postsecondary residency guidelines that specify the type of documentation necessary to prove state residency such as declaration of domicile, voter registration, driver's license, vehicle registration, and permanent employment in the state.¹³ No single document may be conclusive; rather, institutions should use a preponderance of the evidence standard to determine if the student has supplied sufficient documentation to establish eligibility for residency for tuition purposes.¹⁴ Finally, any documents should be dated at least 12 months before the first day of classes of the term for which residency is sought.¹⁵

The State Board of Education and the Board of Governors have established comprehensive residency guidelines for purposes of tuition and this guidelines include certain non-United States citizens.¹⁶

Office of Program Policy Analysis and Government Accountability (OPPAGA) Report¹⁷

In response to a legislative request, the Office of Program Policy Analysis and Government Accountability (OPPAGA) reviewed the process used by the state universities and community

⁷ Rule 6A-10.044, F.A.W.

⁸ The Board of Regents no longer exists pursuant to s. 3, ch. 2001-170, L.O.F.

⁹ Rule 6C-7.005, F.A.W.

¹⁰ Id.

¹¹ Id.

¹² Id.

¹³ *Florida Residency Guidelines for Tuition Purposes*, Articulation Coordinating Committee, May 19, 2000.

¹⁴ Id.

¹⁵ Id.

¹⁶ http://www.facts.org/html_sw/Residency_Guidelines_Appendix_B.html

¹⁷ *Non-Residents Qualify Too Easily for Much Lower Resident Tuition Rates*, Office of Program Policy Analysis and Government Accountability, Report No. 03-29, April 2003.

colleges to determine whether students qualify for in-state tuition rates. Upon review, OPPAGA made the following principal findings:

- Residency criteria and documentation requirements are unclear and inconsistently applied;
- Dependency status criteria and documentation requirements provide insufficient guidance and are inconsistently applied; and
- Postsecondary institutions frequently misclassify nonresidents as residents.

OPPAGA estimates that if reclassifications for purposes of in-state tuition were eliminated, the state could save an additional \$28.2 million in tuition revenues if the reclassified individuals remained enrolled.

Residency criteria and documentation requirements are unclear and inconsistently applied

OPPAGA found that between 1998-1999 and 2000-2001, 28 percent of students in the community college system and 25 percent of the students in the state university system were reclassified from nonresident to resident for tuition purposes. Moreover, of those students who were reclassified as residents, 72 percent and 60 percent of the students in the community college system and state university system respectively were reclassified after they had lived in the state for 12 months. Because the law, rules, and guidelines are unclear as to whether students can gain in-state residency if they claim that they moved to the state for reasons other than to attend school, the postsecondary institutions face a difficult challenge of determining a student's intent for moving to the state. In the absence of clear criteria, postsecondary institutions have developed varying standards for deciding when to reclassify students as state residents. As a result, students with similar circumstances may receive different residency classifications depending on what institution they attend. For example, some postsecondary institutions have a practice of reclassifying students as residents if they submit one or two basic state documents such as a driver's license or voter registration. In contrast, other postsecondary institutions require additional proof such as employment records, the purchase of a home in the state, or proof of a homestead exemption.

OPPAGA found that several states define the 12-month eligibility period based on the time spent in the state before enrollment or registration and not prior to qualification. Students enrolling in these states are, in general, not eligible for reclassification during their continuous enrollment. For example, Texas provides that students who are gainfully employed for 12 months before enrollment are eligible for residency if other evidence indicates establishment of domicile in the state.

Dependency status criteria and documentation requirements provide insufficient guidance and are inconsistently applied

Although the law defines dependency based on whether parents may claim the student as a dependent under the federal income tax code, the legal framework does not require institutions to consistently verify dependency status by examining income tax records or other indicators of financial status. In practice, postsecondary institutions use very different criteria and standards when deciding whether or not to verify a student's independent status. OPPAGA found that some officials of several institutions said they considered all students who are 18 years or older

as independent regardless of whether they are financially dependent on their parents. Other institutions indicated that their practice was to routinely verify the independence of the students, especially students under the age of 24. Postsecondary institutions also varied in the minimum income level they required to classify a student as financially independent, ranging from \$5,000 to \$10,000 annually.

Other states have established more explicit criteria regarding independence determinations. California, for example, requires that a student be entirely self-supporting and present in the state for more than one year immediately preceding the residency determination date to be entitled to resident classification.

Postsecondary institutions frequently misclassify nonresidents as residents

OPPAGA found that postsecondary institutions frequently misclassify certain students even when criteria are clearly delineated in law and rule. The most significant problems in misclassifications occurred for transfer students and those students who changed their residency status from nonresident to resident after living in the state for at least 12 months. According to OPPAGA, misclassifications occurred largely due to three (3) errors:

- Some postsecondary institutions failed to require at least one (1) legal document for students who did not graduate from a high school in this state and whose addresses were not in this state;
- Some postsecondary institutions did not require copies of documentation for statutory exemptions to residency requirements as instructed in the residency guidelines; and
- Some postsecondary institutions accepted documents that did not meet the 12-month residency requirement.

Recommendations

OPPAGA recommended the following major changes to the law, rules, and guidelines:

- Amend state 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 their initial enrollment or registration at a state postsecondary institution to be eligible for classification for in-state residency;
- Amend state law to require that a nonresident student may be reclassified as a resident if the individual can provide evidence of having established a permanent domicile in the state for a 12-month period during which the individual was not enrolled in an educational institution. Evidence of domicile should include the purchase of a home, gainful employment in the state, or financial independence supporting 51 percent of the true cost of living expenses;
- Amend state law to require that students under the age of 25 claiming to be independent should be required to provide copies of tax returns showing that they have not been claimed as dependents by their parents or others for income and employment records showing that they are financially self-supporting;
- Amend rules to require postsecondary institutions to establish internal reviews;
- Amend rules to establish minimum documentation standards for residency applications;

- Modify the Postsecondary Residency Guidelines to clarify the minimum documentation requirements;
- Modify the standard residency application form to include questions about filed taxes or earned wages;
- Develop standards to evaluate students' independent status; and
- Compile results from internal reviews by postsecondary institutions of residency determinations to identify problem areas needing correction as well as best practices.

III. Effect of Proposed Changes:

Florida Public Community College and Career Working Student Assistance Program

This bill creates a program to provide financial support for working students at community colleges and career centers who do not qualify for a federal Pell Grant or state need-based aid, and who otherwise face an unreasonable burden of student loans. However, the bill does not define the term “unreasonable burden,” presumably leaving the community college or school district to establish eligibility criteria in this regard. Students must enroll a minimum of six semester hours or 10 hours per week of adult vocational training per term. Additionally, the bill allows institutions to develop other factors for considering an award.

Ultimately, the bill may benefit certain working students who otherwise would not qualify for need-based grants, possibly improving their rate of access to and completion of postsecondary programs. The bill does not clarify whether a student could receive both FSAG and the new program award.

Community colleges would consider Pell Grant entitlement for an award, but entitlement is not a condition prerequisite for receiving an award.

Under the bill, the Department of Education (DOE) is tasked with developing methods to distribute funds and to adopt rules necessary to administer the program. However, the bill does not provide any criteria for establishing the funding distribution methodology, such as enrollment per institution or eligible students per institution.

Determination of Residency for Tuition Purposes

The bill revises the determination of residency for tuition purposes. The bill defines an “independent person” as an individual who meets independence criteria established in federal law¹⁸ or who provides for 50 percent or more of his or her own support. The bill further defines parent or guardian to include stepparents, and requires the parent or guardian to provide housing to the student or provide more than 50 percent of the student's financial support for purposes of using the residence of the parent to establish state residency for tuition purposes.

The bill further requires a putative student to establish state residency for 12 months immediately preceding the time of initial enrollment. The bill allows a person classified as a nonresident to reclassify as a state resident for tuition purposes if the person, or the person's parent as appropriate, provides evidence of permanent residency for 12 consecutive months in the state and that the residency was not for higher education enrollment purposes.

¹⁸ Title IV of the Higher Education Act of 1965, as amended – <http://www.ed.gov/policy/highered/leg/hea98/index.html>

The State Board of Education and the Board of Governors must adopt rules establishing the residency determination in conformance with the bill. Additionally, institutions of higher education must accept the residency determination of another state institution of higher education if the student has attended the institution making the classification within the last 12 months; the residency is noted on the student's transcript; and there is no information in the student's application which suggests an erroneous classification was made or the student's situation has changed.

The bill adds U.S. citizens and eligible non-U.S. citizens as residents for tuition purposes, provided the students attended a Florida public high school for the two years immediately preceding postsecondary enrollment and submit their high school graduation transcript before initial enrollment.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may benefit certain working students who otherwise would not qualify for need-based grants, possibly improving their rate of access to and completion of postsecondary programs. Florida businesses and the state economy could benefit from the bill by providing a more educated and skilled workforce.

Students who were improperly classified as state residents may be required to pay the appropriate cost of attending the state's postsecondary institutions.

C. Government Sector Impact:

According to the DOE's Community College Fall 2006 report, approximately 360,000 community college students took credit hours and approximately 54 percent of them would have financial need but are not eligible for a Pell Grant or the Florida Student

Assistance Grant. Therefore, about 195,000 students may qualify for an award under the grant established in the bill. Each student's need would vary depending upon the student's cost of attendance, expected family contribution, and the number of hours enrolled. The number of eligible students enrolled in adult vocational career centers is unknown. The Legislature would annually establish the cost of the program in the General Appropriations Act.

OPPAGA estimates that tuition revenues could increase by \$28.2 million annually if clearer criteria were established and applied consistently to residency determinations by post-secondary institutions thereby preventing students from being improperly qualified for in-state tuition rates.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
