

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 119 w/CS Determination of resident status for tuition purposes

SPONSOR(S): Zapata

TIED BILLS: None

IDEN./SIM. BILLS: SB 2344 (i); SB 1852 (s)

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Higher Education (Sub)	6 Y, 0 N	Tilton	Bohannon
2) Education K-20	24 Y, 0 N w/CS	Tilton	Bohannon
3) Judiciary			
4) Education Appropriations (Sub)			
5) Appropriations			

SUMMARY ANALYSIS

Current law requires students to be classified as residents or nonresidents for the purpose of assessing tuition in community colleges and state universities. 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 Program, and the Florida Resident Access Grant Program.

This bill amends current statutory provisions relating to determination of residency for tuition purposes to provide an exemption from paying nonresident tuition at public postsecondary institutions to any student, other than a nonimmigrant alien within the meaning of Title 8 U.S.C. s. 1101(a)(15), who meet the following requirements:

1. The student has resided in Florida for at least three consecutive years immediately preceding the date the student received a high school diploma or its equivalent and has attended a Florida high school for at least three consecutive school years during such time.
2. The student has provided the community college or state university an affidavit stating that the student will file an application to become a permanent resident of the United States at the earliest opportunity the student is eligible to do so.

Section 1623 of Title 8 U.S. Code, prohibits undocumented immigrants from receiving, on the basis of their residence within a state, "any postsecondary 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." Other states have, however, drafted or enacted policies similar to that proposed in this bill.

The fiscal impact of the bill is indeterminate. Public schools in Florida are specifically prohibited from collecting information on the immigration status of foreign-born students. There is also no estimate of the number of students who have graduated from Florida high schools in the past and would now meet the requirements of this bill. Consequently, complete information on the number of individuals who may be covered by the provisions of this bill is not available.

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

STORAGE NAME: h0119c.edk.doc

DATE: April 7, 2003

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |

For any principle that received a “no” above, please explain:

Increased administrative costs may be incurred in determining whether or not a student meets the criteria and is eligible to receive the exemption provided by the bill.

B. EFFECT OF PROPOSED CHANGES:

Current law requires students to be classified as residents or nonresidents for the purpose of assessing tuition in community colleges and state universities. 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 Access Grant (FRAG) Program.

This bill amends current statutory provisions relating to determination of residency for tuition purposes to provide an exemption from paying nonresident tuition at public postsecondary institutions to any student, other than a nonimmigrant alien within the meaning of Title 8 U.S.C. s. 1101(a)(15), who meets the following requirements:

1. The student has resided in Florida for at least three consecutive years immediately preceding the date the student received a high school diploma or its equivalent and has attended a Florida high school for at least three consecutive school years during such time.
2. The student has provided the community college or state university an affidavit stating that the student will file an application to become a permanent resident of the United States at the earliest opportunity the student is eligible to do so.

Section 1101 of Title 8 U.S. Code provides definitions for terms relating to aliens and nationality and defines the term “immigrant” to mean every alien except an alien who falls into one of a series of classes described as nonimmigrant aliens.

Section 1623 of Title 8 U.S. Code, prohibits undocumented immigrants from receiving, on the basis of their residence within a state, “any postsecondary 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.” According to the Florida Department of Education (D.O.E.), other states have drafted or enacted policies similar to that proposed in this bill. Texas has defined such individuals as “Texas residents”. California, Utah, New Jersey, and Oklahoma have drafted legislation that waives or exempts students who meet the criteria from having to pay out-of-state fees. Eligibility of such students to participate in state aid programs in these states varies.

Public schools in Florida are specifically prohibited from inquiring, recording, and maintaining information on the immigration status of foreign-born students. There is also no estimate of the number of students who have graduated from Florida high schools in the past and would now meet the

requirements of this bill. Consequently, complete information on the number of individuals who may be covered by the provisions of this bill is not available.

C. SECTION DIRECTORY:

Section 1. Amends s. 1009.21, F.S., to provide certain students an exemption from paying nonresident tuition.

Section 2. Reenacts paragraph (a) of subsection (1) of s. 1009.40, F.S., regarding general requirements for student eligibility for state financial aid, for the purposes of incorporating the amendment to s. 1009.21, F.S., in a reference thereto.

Section 3. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

To the extent that new students enroll in state universities and public community colleges because of the reduced cost to such students, public institutions may experience an increase in fee revenues.

2. Expenditures:

The extent to which new students who choose to enroll represent a workload increase for public postsecondary institutions is indeterminate. The impact of such students on funding required or award amount for programs such as Bright Futures, FSAG, and FRAG is also indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

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.

D. FISCAL COMMENTS:

The fiscal impact of the bill is indeterminate.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take action which requires the expenditure of funds.

2. Other:

Constitutional or legal issues, if any, relating to this bill will be reviewed by the staff of a subsequent committee of reference.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 24, 2003, the Subcommittee on Higher Education adopted a strike-all amendment that narrows the group of students that would be covered by the provisions of HB 119 and provides these students an exemption from paying nonresident tuition at public postsecondary institutions rather than expanding the categories of students classified as residents for tuition purposes to include such students. The bill as amended was reported favorably by the subcommittee.