

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 1273 Out-of-state Fee Waiver for Nonresident Students

**SPONSOR(S):** Education & Employment Committee, Higher Education Appropriations Subcommittee, Maney and others

**TIED BILLS:** None **IDEN./SIM. BILLS:** CS/SB 1728

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Post-Secondary Education & Lifelong Learning Subcommittee	11 Y, 3 N	Kiner	Kiner
2) Higher Education Appropriations Subcommittee	15 Y, 0 N, As CS	Crowley	Smith
3) Education & Employment Committee	21 Y, 0 N, As CS	Kiner	Hassell

### SUMMARY ANALYSIS

Beginning with the 2022-2023 academic year, and to attract talented out-of-state students, the bill provides an out-of-state fee waiver for top-performing, out-of-state high school graduates who have a grandparent that is a Florida resident.

Pursuant to the bill, a “grandparent” is “a person who has a legal relationship to a student’s parent as the natural or adoptive parent or legal guardian of the student’s parent.”

The out-of-state fee waiver is applicable for up to 110 percent of the number of required credit hours of the degree program for which the student is enrolled. This means that for a 120-credit hour state university baccalaureate degree program, the waiver is applicable for up to 132 credit hours.

The bill provides the number of fee waivers granted may not exceed 350 students systemwide each academic year. Each state university must annually report to the Board of Governors the number and value of fee waivers granted pursuant to the bill’s provisions.

The Board of Governors must adopt regulations to administer the granting of the waiver.

The bill provides that the 2021-2022 academic year is the final year for out-of-state students to receive initial Benacquisto Scholarship awards. However, such students would remain eligible to have their scholarship awards renewed.

The bill’s fiscal impact is negative, but indeterminate.

The bill is effective July 1, 2021.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

Recent census data shows that one in five of Florida's residents is aged 65 years of age or older.<sup>1</sup> This percentage is the second highest in the nation.<sup>2</sup> Florida's senior population, which includes the Baby Boomer generation, impacts Florida's economy through the purchase of homes and automobiles, and through the payment of property, sales, and other taxes.

#### State-Funded Scholarship Programs for High-Academic Achievers

The Florida Bright Futures Scholarship Program rewards Florida high school graduates who merit recognition for high academic achievement and who enroll in a degree program, certificate program, or applied technology program at an eligible Florida public or private postsecondary education institution.<sup>3</sup>

The Bright Futures Scholarship Program consists of four awards: the Florida Academic Scholarship (FAS)<sup>4</sup>, the Florida Medallion Scholarship (FMS)<sup>5</sup>, the Florida Gold Seal Career and Professional Education (CAPE) Scholarship, and the Florida Gold Seal Vocational Scholarship.<sup>6</sup>

The minimum required SAT score for the FAS award is no lower than the 89<sup>th</sup> national percentile on the SAT.<sup>7</sup> For the FMS award, the minimum required SAT score is no lower than the 75<sup>th</sup> national percentile on the SAT.<sup>8</sup> The required ACT scores for each must be made concordant to the required SAT scores, using the latest published national concordance table developed jointly by the College Board and ACT, Inc.<sup>9</sup>

Florida high school students who wish to qualify for the Florida Academic Scholar (FAS) awards or the Florida Medallion Scholars (FMS) awards must graduate from a Florida public high school with a standard high school diploma, graduate from a registered Florida Department of Education private high school, earn a general education diploma (GED), complete a home education program, or graduate from a non-Florida high school as an eligible student.<sup>10</sup>

#### Tuition and Out-of-State Fees

Under Florida law, 'tuition' is defined as the basic fee charged to a student for instruction provided by a public postsecondary educational institution in the state.<sup>11</sup> A student who is classified as a "resident for tuition purposes" is a student who qualifies for the in-state tuition rate.<sup>12</sup>

An 'out-of-state fee' is the additional fee for instruction provided by a public postsecondary education institution in the state, and is charged to a student who does not qualify for the in-state tuition rate.<sup>13</sup>

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<sup>1</sup> See U.S. Census Bureau website at: <https://www.census.gov/newsroom/press-releases/2020/65-older-population-grows.html> (Last viewed April 18, 2021).

<sup>2</sup> See Population Reference Bureau website at: <https://www.prb.org/which-us-states-are-the-oldest/> (Last viewed April 18, 2021).

<sup>3</sup> s. 1009.53(1), F.S.

<sup>4</sup> The award amount is 100 percent of tuition and applicable fees and \$300 for both fall and spring semesters for additional educational expenses.

<sup>5</sup> The award amount is 75 percent of tuition and applicable fees.

<sup>6</sup> s. 1009.53(2), F.S.

<sup>7</sup> s. 1009.531(6)(c), F.S.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> s. 1009.531(1), F.S.

<sup>11</sup> s. 1009.01(1), F.S. Additionally, the definition states that "[a] charge for any other purpose shall not be included within this fee."

<sup>12</sup> s. 1009.21(1)(g), F.S.

<sup>13</sup> s. 1009.01(2), F.S. Adding that "[a] charge for any other purpose shall not be included within this fee."

Residents for tuition purposes are charged in-state rates for tuition while non-residents pay out-of-state fees in addition to tuition, unless these costs are exempted or waived.<sup>14</sup>

The resident undergraduate tuition rate for the SUS is currently set in statute at \$105.07 per credit hour.<sup>15</sup> The average cost of resident and nonresident tuition and fees per credit hour is shown below<sup>16</sup>:

<b>State University Tuition &amp; Fees<sup>17</sup></b>				
<b>Undergraduate Baccalaureate</b>	<b>Standard Tuition (Per Credit Hour)</b>	<b>Average Tuition &amp; Fees (Per Credit Hour)</b>	<b>Standard Tuition (Per 30 Credit Hours)</b>	<b>Average Tuition &amp; Fees (Per 30 Credit Hours)</b>
<b>Resident</b>	\$105.07	\$199.72	\$3,152.10	\$5,991.79
<b>Non-Resident</b>	\$105.07	\$690.63	\$3,152.10	\$20,719.07
<b>Difference</b>	-	\$490.91	-	\$14,727.28

### Fee Exemptions and Fee Waivers

Florida law authorizes school districts that provide workforce education programs, state colleges, and state universities to grant fee exemptions<sup>18</sup> and fee waivers<sup>19</sup> to qualified students that meet specified criteria. A number of fee exemptions and fee waivers are permissive<sup>20</sup> while others are mandatory.<sup>21</sup> There is a limitation on the number of permissive fee waivers a school district providing workforce education programs or a state college may grant;<sup>22</sup> however, this limit does not apply to mandatory fee waivers.

### Legal Residency in Florida

With respect to tuition and fees at postsecondary institutions, a legal Florida resident is someone who has maintained his or her residence in this state for the preceding year, has purchased a home which is occupied by him or her as his or her residence, or has established a domicile in this state.<sup>23</sup>

### State University System Out-of-State Student Enrollment

By regulation, the Board of Governors of the State University System limits the system-wide enrollment of out-of-state students at ten percent.<sup>24</sup> The ten percent limit on out-of-state student enrollment applies system-wide and not at each individual institution.

### Benacquisto Scholarship Program

<sup>14</sup> s. 1009.24(2), F.S.

<sup>15</sup> s. 1009.24(4)(a), F.S.

<sup>16</sup> See State University System of Florida, Tuition and Required Fees, 2020-211.

<sup>17</sup> *Id.*

<sup>18</sup> s. 1009.25, F.S.

<sup>19</sup> s. 1009.26, F.S.

<sup>20</sup> s. 1009.25(2), F.S. (authorizing each state college to grant additional fee exemptions “up to 54 full-time equivalent students or 1 percent of [an] institution’s total full-time equivalent enrollment, whichever is greater at each institution”); ss. 1009.26(1)-(4), (6), (9), (10), (11), F.S.

<sup>21</sup> ss. 1009.25(1)(a)-(g), and 1009.26(5), (7), (8), F.S.

<sup>22</sup> s. 1009.26(1), F.S.

<sup>23</sup> s. 1009.21(1)(d), F.S.

<sup>24</sup> BOG Regulation 7.006

The Benacquisto Scholarship Program (scholarship)<sup>25</sup> was created in 2014 to reward a Florida high school graduate who achieves recognition as a National Merit Scholar (NMS)<sup>26</sup> and enrolls in a baccalaureate degree program at an eligible Florida public or independent postsecondary educational institution.<sup>27</sup>

The scholarship is available to both resident and non-resident students. Resident student scholarship recipients who attend a public postsecondary institution receive an award equal to the institutional cost of attendance minus the sum of the student's Florida Bright Futures Scholarship (if receiving Bright Futures) and their NMS award. Non-resident scholarship recipients attending a public postsecondary institution receive an award equal to the institutional cost of attendance for a Florida resident minus the student's NMS award. Nonresident student scholarship recipients are also exempt from the payment of out-of-state fees. Resident and non-resident scholarship recipients that attend an independent postsecondary educational institution receive an award equal to the highest cost of attendance for a state resident enrolled at a Florida public university, as reported by the Board of Governors, minus the sum of the student's Florida Bright Futures Scholarship and NMS award.

For the 2019-2020 fiscal year, \$21.6 million in scholarship funds were distributed to 1,377 students, of which 202 were non-Florida residents.<sup>28</sup> The average award was \$15,650.<sup>29</sup>

### Effect of Proposed Changes

Beginning with the 2022-2023 academic year, the bill requires a state university to waive the out-of-state fee for an out-of-state student who has a grandparent who is a legal Florida resident and who meets the following criteria:

- Earns a high school diploma that is comparable to a standard Florida high school diploma, or its equivalency, or completes a home education program;
- Achieves an SAT combined score no lower than the 89<sup>th</sup> national percentile, an equivalent ACT score, or, if the university accepts it for admission purposes, an equivalent score on the Classic Learning Test (CLT) exam, if a state university accepts the CLT for admission purposes<sup>30</sup>; and
- Enrolls as a full-time undergraduate student at a state university in the fall academic term immediately following high school graduation.

Pursuant to the bill, a "grandparent" is "a person who has a legal relationship to a student's parent as the natural or adoptive parent or legal guardian of the student's parent."

To assist state universities in administering the bill's provisions, the bill requires the student or the student's parent, if the student is a dependent child, to provide a written declaration attesting to the student's familial relationship to a grandparent who is a legal resident and any other corroborating documentation that is required by regulation of the Board of Governors. While the bill does not require a state university to independently verify the statements contained in each declaration, the bill authorizes

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<sup>25</sup> The scholarship was renamed in 2016 from the Florida National Merit Scholar Incentive Program to the Benacquisto Scholarship Program. Chapter 2016-237, s. 26, Laws of Fla.

<sup>26</sup> DOE, Office of Student Financial Assistance, *Annual Report to the Commissioner 2018-19* (2019) available at <https://www.floridastudentfinancialaidsg.org/pdf/annualreportcurrent.pdf>. The National Merit Scholarship Corporation (NMSC) is a private, not-for-profit organization that operates without government assistance to recognize and honor academically talented students. National Merit Scholarship Corporation, *Mission*, <https://www.nationalmerit.org/s/1758/interior.aspx?sid=1758&gid=2&pgid=395> (last visited April 19, 2021). NMSC organizes the National Merit Scholarship Program, which began in 1955 as an academic competition for recognition and scholarship. High school students enter the National Merit Program by taking the Preliminary SAT/National Merit Scholarship Qualifying Test (PSAT/NMSQT), which serves as an initial screen of approximately 1.5 million entrants each year, and meeting the program participation requirements. National Merit Scholarship Corporation, *National Merit Scholarship Program*, <https://www.nationalmerit.org/s/1758/interior.aspx?sid=1758&gid=2&pgid=424> (last visited April 19, 2021).

<sup>27</sup> Section 1009.893(2), F.S.

<sup>28</sup> DOE, Office of Student Financial Assistance, *End-of-Year Report, 2019-2020*, [https://www.floridastudentfinancialaidsg.org/PDF/PSI/FIS\\_2019\\_2020.pdf](https://www.floridastudentfinancialaidsg.org/PDF/PSI/FIS_2019_2020.pdf) (last visited April 19, 2021).

<sup>29</sup> DOE, Office of Student Financial Assistance, *End-of-Year Report, 2019-2020*, [https://www.floridastudentfinancialaidsg.org/PDF/PSI/FIS\\_2019\\_2020.pdf](https://www.floridastudentfinancialaidsg.org/PDF/PSI/FIS_2019_2020.pdf) (last visited April 19, 2021).

<sup>30</sup> According to information posted on the Classic Learning Initiatives website, the CLT is not currently accepted by any of Florida's state universities. See <https://www.cltexam.com/colleges> (last visited April 18, 2021).

a state university to refer any signed declaration suspected of containing fraudulent representations to law enforcement.

The waiver is applicable for up to 110 percent of the number of required credit hours of the degree program for which the student is enrolled. This means that for a 120-credit hour state university baccalaureate degree program, the waiver is applicable for up to 132 credit hours. The bill also specifies that state universities shall prioritize the enrollment of students eligible for the waiver over that of other non-resident applicants who are not eligible for an out-of-state fee waiver when the students have substantially similar academic and other credentials used in determining admission to the state university.

The bill provides the number of fee waivers granted may not exceed 350 students systemwide each academic year. Each state university must annually report to the Board of Governors the number and value of waivers granted pursuant to the bill's provisions.

The Board of Governors must adopt regulations to administer the granting of the waiver.

The bill provides that the 2021-2022 academic year is the final year for out-of-state students to receive initial Benacquisto Scholarship awards. However, such students would remain eligible to have their scholarship awards renewed.

**B. SECTION DIRECTORY:**

**Section 1.** Revises s. 1009.26, F.S., to provide an out-of-state fee waiver for certain out-of-state students.

**Section 2.** Revises s. 1009.893, F.S., relating to the Benacquisto Scholarship Program.

**Section 3.** Provides an effective date of July 1, 2021.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

Beginning with the 2022-2023 academic year, the bill may have a negative, but indeterminate impact on state university revenues. *See Fiscal Comments.*

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The bill provides in-state tuition for top-performing, out-of-state high-school graduates who have a grandparent that is a Florida resident, resulting in an average savings of \$490.91 per credit hour.

**D. FISCAL COMMENTS:**

Beginning with the 2022-2023 academic year, the bill may have an indeterminate fiscal impact due to the unknown number of students that will qualify for, and take advantage of, the out-of-state fee waiver.

University systemwide non-resident enrollment has increased steadily from 6.6% in 2015 to 9.0% in 2020.<sup>31</sup>

For each student that receives the out-of-state fee waiver, a state university would receive the in-state tuition amount, which is \$105.07 per credit hour, in lieu of the in-state tuition amount, plus the out-of-state fee. The fiscal impact would be recurring while the student is receiving the waiver, up to 110 percent of the number of required credit hours of the degree program for which the student is enrolled.

Inclusion of students eligible for a waiver under this program within the 10% systemwide cap reduces the potential fiscal impact. Additionally, the bill provides the number of fee waivers granted may not exceed 350 students systemwide each academic year, further limiting the potential fiscal impact.

The bill's fiscal impact will be further limited by the provision providing the 2021-2022 academic year is the final year for out-of-state students to receive initial Benacquisto Scholarship awards. For the 2021-2022 academic year, the Revenue Estimating Conference has estimated 237 non-resident students will be eligible for an initial Benacquisto Scholarship award, with the average award amount estimated to be \$21,828, and a total estimated cost of \$5.2M.

The net fiscal impact of these provisions is indeterminate.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

The bill does not appear to affect county or municipal governments.

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

The bill requires the Board of Governors to adopt regulations to administer the bill's provisions.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 8, 2021, the Higher Education Appropriations Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The adopted amendment:

- Removes an exemption to BOG Regulation 7.006, specifying that students eligible for the waiver be counted in the non-resident enrollment cap of 10% systemwide.
- Requires state universities to prioritize the admission of students eligible for a waiver over that of other non-resident applicants.

On April 19, 2021, the Education & Employment Committee adopted one amendment and subsequently reported the bill favorably as a committee substitute. The amendment revised the bill to do the following:

- Delay implementation of the waiver to the 2022-2023 academic year;
- Cap the number of waivers at 350 students systemwide per academic year;
- Provide a definition for the term, "grandparent";
- Add language to further assist universities in administering the waiver, particularly with respect to documentation that may be required by BOG regulation to corroborate the student's familial relationship to the grandparent; and

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<sup>31</sup> Email from BOG Office of Data & Analytics, received 2/4/2021.

- Provide that the 2021-2022 academic year is the final year for initial Benacquisto Scholarship awards for non-resident students. Pursuant to the amendment, such students would be eligible for a renewal award.

The bill analysis is drafted to CS/CS/HB 1273.