

By: Middleton, Schwertner

S.B. No. 1798

A BILL TO BE ENTITLED

AN ACT

relating to the resident status, tuition rates, and certain financial support for students enrolled at public institutions of higher education, including students not lawfully present in the United States.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter G, Chapter 51, Education Code, is amended by adding Section 51.3526 to read as follows:

Sec. 51.3526. RESPONSIBILITY OF GOVERNING BOARDS REGARDING CERTAIN FINANCIAL SUPPORT PROVIDED TO PERSONS NOT LAWFULLY PRESENT.

(a) The governing board of an institution of higher education shall ensure that each unit of the institution does not award or provide to a person who is not authorized under federal statute to be present in the United States any financial support using money appropriated or otherwise provided by the state to the institution or unit, including a scholarship, grant, or other financial aid.

(b) An institution of higher education may not spend money appropriated to the institution for a state fiscal year until the governing board of the institution submits to the legislature and the Texas Higher Education Coordinating Board a report certifying the board's compliance with this section during the preceding state fiscal year.

(c) In the interim between each regular session of the legislature, the governing board of each institution of higher

1 education, or the board's designee, shall testify before the
2 standing legislative committees with primary jurisdiction over
3 higher education at a public hearing of the committee regarding the
4 board's compliance with this section.

5 (d) The state auditor shall periodically conduct a
6 compliance audit of each institution of higher education to
7 determine whether the institution has spent state money in
8 violation of this section. The state auditor shall adopt a schedule
9 by which the state auditor will conduct compliance audits under
10 this subsection. The schedule must ensure that each institution of
11 higher education is audited at least once during each four-year
12 period.

13 (e) If the state auditor determines pursuant to a compliance
14 audit conducted under Subsection (d) that an institution of higher
15 education has spent state money in violation of this section, the
16 institution:

17 (1) must cure the violation not later than the 180th
18 day after the date on which the determination is made; and

19 (2) if the institution fails to cure the violation
20 during the period described by Subdivision (1), is ineligible to
21 receive formula funding increases, institutional enhancements, or
22 exceptional items during the state fiscal biennium immediately
23 following the state fiscal biennium in which the determination is
24 made.

25 SECTION 2. Section 54.052, Education Code, is amended to
26 read as follows:

27 Sec. 54.052. DETERMINATION OF RESIDENT STATUS. (a)

1 Subject to the other applicable provisions of this subchapter
2 governing the determination of resident status, the following
3 persons are considered residents of this state for purposes of this
4 title:

5 (1) a person who:

6 (A) established a domicile in this state not
7 later than one year before the census date of the academic term in
8 which the person is enrolled in an institution of higher education;
9 and

10 (B) maintained that domicile continuously for
11 the year preceding that census date; and

12 (2) a dependent whose parent:

13 (A) established a domicile in this state not
14 later than one year before the census date of the academic term in
15 which the dependent is enrolled in an institution of higher
16 education; and

17 (B) maintained that domicile continuously for
18 the year preceding that census date[~~, and~~

19 [~~(3) a person who:~~

20 [~~(A) graduated from a public or private high~~
21 ~~school in this state or received the equivalent of a high school~~
22 ~~diploma in this state; and~~

23 [~~(B) maintained a residence continuously in this~~
24 ~~state for:~~

25 [~~(i) the three years preceding the date of~~
26 ~~graduation or receipt of the diploma equivalent, as applicable; and~~

27 [~~(ii) the year preceding the census date of~~

~~the academic term in which the person is enrolled in an institution of higher education].~~

(b) For purposes of this section, the domicile of a dependent's parent is presumed to be the domicile of the dependent ~~[unless the person establishes eligibility for resident status under Subsection (a)(3)].~~

(c) A person who is not authorized under federal statute to be present in the United States may not be considered a resident of this state for purposes of this title.

SECTION 3. Section 54.053, Education Code, is amended to read as follows:

Sec. 54.053. INFORMATION REQUIRED TO ESTABLISH RESIDENT STATUS. A person shall submit the following information to an institution of higher education to establish resident status under this subchapter:

(1) if the person applies for resident status under Section 54.052(a)(1):

(A) a statement of the dates and length of time the person has resided in this state, as relevant to establish resident status under this subchapter; and

(B) a statement by the person that the person's presence in this state for that period was for a purpose of establishing and maintaining a domicile; or

(2) if the person applies for resident status under Section 54.052(a)(2):

(A) a statement of the dates and length of time any parent of the person has resided in this state, as relevant to

1 establish resident status under this subchapter; and

2 (B) a statement by the parent or, if the parent is
3 unable or unwilling to provide the statement, a statement by the
4 person that the parent's presence in this state for that period was
5 for a purpose of establishing and maintaining a domicile~~[, or~~

6 ~~[(3) if the person applies for resident status under~~
7 ~~Section 54.052(a)(3):~~

8 ~~[(A) a statement of the dates and length of time~~
9 ~~the person has resided in this state, as relevant to establish~~
10 ~~resident status under this subchapter; and~~

11 ~~[(B) if the person is not a citizen or permanent~~
12 ~~resident of the United States, an affidavit stating that the person~~
13 ~~will apply to become a permanent resident of the United States as~~
14 ~~soon as the person becomes eligible to apply].~~

15 SECTION 4. Section 54.055(a), Education Code, is amended to
16 read as follows:

17 (a) As appropriate based on ~~[On the basis of]~~ additional or
18 changed information affecting the determination of the person's
19 status, an institution of higher education shall ~~[may]~~ reclassify
20 as a resident or nonresident of this state under this subchapter a
21 person who has previously been classified as a resident or
22 nonresident under this subchapter.

23 SECTION 5. Section 54.056(a), Education Code, is amended to
24 read as follows:

25 (a) If an institution of higher education erroneously
26 classifies or misclassifies a person as a resident of this state and
27 the person is not entitled or permitted to pay resident tuition

1 under this subchapter, the institution of higher education shall
 2 charge nonresident tuition to the person beginning with the first
 3 academic term that begins after the date the institution discovers
 4 the error. Not earlier than the first day of that term, regardless
 5 of whether the person is still enrolled at the institution, the
 6 institution shall ~~may~~ request the person to pay the difference
 7 between resident and nonresident tuition for an earlier term as
 8 permitted by Section 54.057. For nonpayment of the amount owed, the
 9 institution may impose sanctions only as provided by that section.
 10 The institution may not require payment as a condition for any
 11 subsequent enrollment by the person in the institution.

12 SECTION 6. Section 54.057, Education Code, is amended to
 13 read as follows:

14 Sec. 54.057. LIABILITY FOR UNPAID NONRESIDENT TUITION. (a)
 15 The following persons are liable to the institution of higher
 16 education the person attends for the difference between resident
 17 and nonresident tuition for each academic term in which the person
 18 pays resident tuition to the institution as the result of an
 19 erroneous classification or other misclassification under this
 20 subchapter:

21 (1) a person who, in a timely manner after the
 22 information becomes available or on request by the institution of
 23 higher education, fails to provide to the institution information
 24 that the person reasonably should know would be relevant to an
 25 accurate classification by the institution under this subchapter;
 26 ~~or~~

27 (2) a person who provides false information to the

1 institution that the person reasonably should know could lead to an
2 erroneous classification by the institution under this subchapter;
3 or

4 (3) a person who is not authorized under federal
5 statute to be present in the United States.

6 (b) A [The] person who is liable under this section for the
7 difference between resident and nonresident tuition shall pay the
8 applicable amount to the institution not later than the 30th day
9 after the date the person is notified of the person's liability for
10 the amount owed. After receiving the notice and until the amount is
11 paid in full, the person is not entitled to receive from the
12 institution a certificate or diploma, if not yet awarded on the date
13 of the notice, or official transcript that is based at least
14 partially on or includes credit for courses taken while the person
15 was erroneously classified or misclassified as a resident of this
16 state.

17 (c) A person who is erroneously classified or misclassified
18 as a resident of this state under this subchapter but who is
19 entitled or permitted to pay resident tuition under this subchapter
20 is not liable for the difference between resident and nonresident
21 tuition under this section.

22 SECTION 7. Section 54.0601, Education Code, is amended to
23 read as follows:

24 Sec. 54.0601. NONRESIDENT TUITION RATES AT CERTAIN
25 INSTITUTIONS. (a) On the written request of the governing board of
26 a general academic teaching institution located not more than 100
27 miles from the boundary of this state with another state, the Texas

1 Higher Education Coordinating Board may set a nonresident tuition
2 rate that is lower than the nonresident tuition rate otherwise
3 provided by this chapter if the coordinating board determines that
4 the lower rate is in the best interest of the institution and will
5 not cause unreasonable harm to any other institution of higher
6 education.

7 (b) A person who is not authorized under federal statute to
8 be present in the United States is not eligible for the nonresident
9 tuition rate authorized by Subsection (a).

10 SECTION 8. (a) Except as provided by Subsection (b) of this
11 section, Section 51.3526, Education Code, as added by this Act,
12 applies beginning with the 2025-2026 academic year.

13 (b) Section 51.3526(b), Education Code, as added by this
14 Act, applies beginning with money appropriated to a public
15 institution of higher education for the state fiscal year beginning
16 September 1, 2026.

17 SECTION 9. Notwithstanding Subchapter B, Chapter 54,
18 Education Code, as amended by this Act, a public institution of
19 higher education in this state may, for any semester or academic
20 term, before the beginning of that semester or academic term,
21 reclassify as a nonresident a student previously classified as a
22 resident of this state by the institution or another public
23 institution of higher education in this state:

24 (1) under Section 54.052(a)(3), Education Code, as
25 that section existed before amendment by this Act, if the student is
26 not otherwise eligible to be classified as a resident of this state
27 under Subchapter B, Chapter 54, Education Code; or

1 (2) before the enactment of Section 54.052(c),
2 Education Code, as added by this Act, if the student is not
3 authorized under federal statute to be present in the United
4 States.

5 SECTION 10. The changes in law made by this Act to Chapter
6 54, Education Code, apply beginning with tuition charged by a
7 public institution of higher education for the 2025 fall semester.
8 Tuition charged by a public institution of higher education for an
9 academic period before that semester is governed by the law in
10 effect immediately before the effective date of this Act, and that
11 law is continued in effect for that purpose.

12 SECTION 11. This Act takes effect immediately if it
13 receives a vote of two-thirds of all the members elected to each
14 house, as provided by Section 39, Article III, Texas Constitution.
15 If this Act does not receive the vote necessary for immediate
16 effect, this Act takes effect September 1, 2025.