

## **BILL ANALYSIS**

Senate Research Center  
79R171 KEL-D

S.B. 1528  
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S/C on Higher Education  
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As Filed

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

Currently, residency requirements in place for state funded institutions of higher education are inconsistent and confusing.

As proposed, S.B. 1528 clarifies the requirements by tying them to the census residency regulations and eligibility from federal income tax reports to be classified as a dependent. This keeps in place the system for allowing students to classify their eligibility on long-term residency and high school graduation. This bill will streamline the process for determining resident and non-resident tuition and make it consistent throughout the state.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Higher Education Coordinating Board in SECTION 4 (Section 54.074, Education Code) of this bill

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 54.001, Education Code, to define "coordinating board," "discretionary fee," "fee," "governing board," "incidental fee," "mandatory fee," "matriculation fee," "session fee," "tuition," and "tuition fee." Redefines "institution of higher education." Deletes the existing definition of "governing board."

SECTION 2. Amends Subchapter B, Chapter 54, Education Code, by adding Section 54.0501, as follows:

Sec. 54.0501. DEFINITIONS. Defines "census date," "dependent," "domicile," "nonresident tuition," "parent," "residence," and "resident tuition."

SECTION 3. Amends Sections 54.052, 54.053, 54.054, 54.055, 54.056, and 54.057, Education Code, as follows:

Sec. 54.052. New heading: DETERMINATION OF RESIDENT STATUS. (a) Provides that subject to the other applicable provisions of this subchapter governing the determination of resident status, certain persons are considered residents of this state for tuition purposes.

(b) Provides that 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 certain other requirements. Deletes text of existing Section 54.052.

Sec. 54.053. New heading: INFORMATION REQUIRED TO ESTABLISH RESIDENT STATUS. Requires a person to submit certain information to an institution of higher education to establish resident status for tuition purposes. Deletes text of existing Section 54.053.

Sec. 54.054. New heading: CONTINUING RESIDENT STATUS. (a) Entitles, except as otherwise provided by Subsection (c) of this section or by Section 54.055 or 54.056, a person classified by an institution of higher education as a resident of this state under this subchapter, without submitting the information required by Section 54.053, to be

classified as a resident by that institution in each subsequent academic term in which the person enrolls.

(b) Entitles, except as otherwise provided by Subsection (c) of this section or by Section 54.055 or 54.056, a person classified by an institution of higher education as a resident, without submitting the information required by Section 54.053 to the subsequent institution, to be classified as a resident by another institution of higher education in which the person subsequently enrolls.

(c) Provides that Subsections (a) and (b) do not apply to a person who enrolls in an institution of higher education after two or more consecutive regular semesters during which the person is not enrolled in an institution of higher education. Requires, to be classified as a resident on that enrollment, the person to submit the information required by Section 54.053 and satisfy all applicable requirements to establish resident status. Provides that if the person is classified as a resident on that enrollment, Subsections (a) and (b) apply to the person in a subsequent academic term. Deletes text of existing Section 54.054.

Sec. 54.055. New heading: RECLASSIFICATION BASED ON ADDITIONAL OR CHANGED INFORMATION. (a) Authorizes an institution of higher education, on the basis of additional or changed information, to reclassify as a resident or nonresident of this state under this subchapter a person who has previously been classified as a resident or nonresident under this subchapter.

(b) Provides that reclassification does not apply to an academic term if the reclassification is made on or after the census date of that term. Deletes text of existing Section 54.055.

Sec. 54.056. New heading: ERRORS IN CLASSIFICATION. (a) Requires, if an institution of higher education erroneously classifies a person as a resident of this state and the person is not entitled or permitted to pay resident tuition under this subchapter, the institution of higher education to charge nonresident tuition to the person beginning with the first academic term that begins after the date the institution discovers the error. Authorizes, not earlier than the first day of that term, regardless of whether the person is still enrolled at the institution, the institution to request the person to pay the difference between resident and nonresident tuition for an earlier term as permitted by Section 54.057. Authorizes the institution to impose sanctions for nonpayment of the amount owed only as provided by that section. Prohibits the institution from requiring payment as a condition for any subsequent enrollment by the person in the institution.

(b) Requires, regardless of the reason for the error, if an institution of higher education erroneously classifies a person as a nonresident of this state, the institution to charge resident tuition to the person beginning with the academic term in which the institution discovers the error. Requires the institution immediately to refund to the person the amount of tuition the person paid in excess of resident tuition for that term but does not require the institution to refund an amount paid in excess of resident tuition for an earlier term. Deletes text of existing Section 54.056.

Sec. 54.057. New heading: LIABILITY FOR UNPAID NONRESIDENT TUITION. (a) Provides that certain persons are liable for the difference between resident and nonresident tuition for each academic term in which the person pays resident tuition as the result of an erroneous classification under this subchapter.

(b) Requires the person to pay the applicable amount to the institution not later than the 30th day after the date the person is notified of the person's liability for the amount owed. Provides that after receiving the notice and until the amount is paid in full, the person is not entitled to receive from the institution a certificate or diploma, if not yet awarded on the date of the notice, or official transcript that is based at least partially on or includes credit for courses taken while the person was erroneously classified as a resident of this state.

(c) Provides that a person who is erroneously classified as a resident of this state under this subchapter but who is entitled or permitted to pay resident tuition under this subchapter is not liable for the difference between resident and nonresident tuition under this section. Deletes text of existing Section 54.057.

SECTION 4. Amends Subchapter B, Chapter 54, Education Code, by adding Sections 54.073 and 54.074, as follows:

Sec. 54.073. DISCRETIONARY WAIVERS OF NONRESIDENT TUITION LIMITED.

(a) Prohibits, for any academic term, the number of students classified as nonresidents of this state for whom an institution of higher education waives the payment of nonresident tuition and allows the payment of resident tuition as permitted by state law from exceeding five percent of the total number of students classified as nonresidents of this state who were enrolled at the institution during the same academic term in the preceding academic year. Provides that for purposes of this subsection, the total number of nonresident students who were enrolled at the institution in the preceding academic year is computed regardless of whether those students were entitled or permitted to pay resident tuition under this subchapter at that time.

(b) Provides that this section does not limit the number of students classified as nonresidents of this state who are entitled by state law to pay resident tuition under this subchapter for any academic term.

Sec. 54.074. COORDINATING BOARD RULES; SUPPLEMENTATION OF RULES BY INSTITUTIONS LIMITED. (a) Requires the Texas Higher Education Coordinating Board (coordinating board) to adopt rules to carry out the purposes of this subchapter.

(b) Prohibits an institution of higher education from requiring a person to provide evidence of resident status that is not required by coordinating board rule.

SECTION 5. Amends Section 54.007, Education Code, by adding Subsection (f), to require the governing board to require a student who elects to pay tuition and fees by installment under this section to enter into a written agreement reflecting the terms and conditions required by this section.

SECTION 6. Amends Section 54.051(m), Education Code, to provide that unless the student establishes residency or is entitled or permitted to pay resident tuition as provided by this subchapter, rather than Section 54.052(j) (pertaining to residents), and 54.057 (Aliens), tuition for a student who is a citizen of any country other than the United States of America is the same as the tuition required of other nonresident students.

SECTION 7. Amends Section 54.621(c), Education Code, to require, notwithstanding any provision of Subchapter B, rather than Section 54.052(d) (pertaining to nonresident students), the tuition and required fees charged by an institution of higher education for semester hours and fees that are paid for by a prepaid tuition contract to be determined as if the beneficiary of that contract were a resident student.

SECTION 8. Transfers Sections 54.062, 54.066, 54.067, 54.068, 54.071, and 54.072, Education Code, from Subchapter B, Chapter 54, Education Code, to Subchapter A, Chapter 54, Education Code, and renumbers them as Sections 54.011, 54.012, 54.013, 54.014, 54.015, and 54.016, Education Code, and amends them as follows:

Sec. 54.011. TUITION LIMIT IN CASES OF CONCURRENT ENROLLMENT. Redesignated from existing Section 54.062.

Sec. 54.012. TUITION RATES FOR CERTAIN DOCTORAL STUDENTS. Redesignated from existing Section 54.066.

Sec. 54.013. STUDENTS 55 YEARS OF AGE OR OLDER. Redesignated from existing Section 54.067.

Sec. 54.014. TUITION FOR EXCESSIVE UNDERGRADUATE HOURS. Redesignated from existing Section 54.068.

Sec. 54.015. BILLING AND NOTIFICATION FOR TUITION. Redesignated from existing Section 54.071. Makes a conforming change.

Sec. 54.016. FLAT RATE TUITION PILOT PROJECT. Redesignated from existing Section 54.072.

SECTION 9. Repealer: Sections 54.0521 (Oath of Residency), 54.0551 (Change of Residency; One Parent), and 54.061 (Penalty for Noncompliance with Rules), Education Code.

SECTION 10. (a) Makes application of this Act prospective to the 2006 fall semester.

(b) Requires the Texas Higher Education Coordinating Board to adopt the rules required by Section 54.074, Education Code, as added by this Act, not later than January 1, 2006.

SECTION 11. Effective date: September 1, 2005.