

By: Zaffirini S.B. No. 1528
(In the Senate - Filed March 10, 2005; March 22, 2005, read first time and referred to Subcommittee on Higher Education; April 19, 2005, reported adversely, with favorable Committee Substitute to Committee on Education; April 22, 2005, reported adversely, with favorable Committee Substitute from Committee on Education by the following vote: Yeas 7, Nays 0; April 22, 2005, sent to printer.)

COMMITTEE SUBSTITUTE FOR S.B. No. 1528 By: Zaffirini

A BILL TO BE ENTITLED
AN ACT

relating to the payment of tuition and fees at public institutions of higher education and the determination of Texas residency for that purpose.

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

SECTION 1. Subchapter A, Chapter 54, Education Code, is amended by adding Section 54.0015 to read as follows:

Sec. 54.0015. ADOPTION OF CERTAIN DEFINITIONS BY RULE. In consultation with representatives of institutions of higher education, the Texas Higher Education Coordinating Board by rule shall adopt definitions related to the resident status of students for purposes of this title and to tuition and fee exemptions and waivers for students under this chapter as necessary to ensure consistency in the application of this chapter and other related state laws and policies.

SECTION 2. Subchapter B, Chapter 54, Education Code, is amended by adding Section 54.0501 to read as follows:

Sec. 54.0501. DEFINITIONS. In this subchapter:

(1) "Census date" means the date in an academic term on which an institution of higher education is required to certify a student's enrollment to the coordinating board for purposes of determining formula funding for the institution.

(2) "Dependent" means a person who:

(A) is less than 18 years of age and has not been emancipated by marriage or court order; or

(B) as provided by coordinating board rule, is eligible to be claimed as a dependent of a parent of the person for purposes of determining the parent's income tax liability under the Internal Revenue Code of 1986.

(3) "Domicile" means a person's principal, permanent residence to which the person intends to return after any temporary absence.

(4) "Nonresident tuition" means the amount of tuition paid by a person who is not a resident of this state and who is not entitled or permitted to pay resident tuition under this subchapter.

(5) "Parent" means a natural or adoptive parent, managing or possessory conservator, or legal guardian of a person.

(6) "Residence" means a person's home or other dwelling place.

(7) "Resident tuition" means the amount of tuition paid by a person who is a resident of this state.

SECTION 3. Sections 54.052, 54.053, 54.054, 54.055, 54.056, and 54.057, Education Code, are amended to read as follows:

Sec. 54.052. DETERMINATION OF RESIDENT STATUS.

(a) Subject to the other applicable provisions of this subchapter governing the determination of resident status, the following persons are considered residents of this state for purposes of this title:

(1) a person who:

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

and

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

(2) a dependent whose parent:

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

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

(3) a person who:

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

(B) maintained a residence continuously in this state for:

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

(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) [RESIDENTS, NONRESIDENTS, GENERAL RULES. (a) In this subchapter:

[(1) "Residence" means "domicile."

[(2) "Resided in" means "domiciled in."

[(3) "Dependent" means an individual who is claimed as a dependent for federal income tax purposes by the individual's parent or guardian at the time of registration and for the tax year preceding the year in which the individual registers.

[(b) For the purposes of this subchapter, the status of a student as a resident or nonresident student is determined as prescribed by this section, subject to the other applicable provisions of this subchapter.

[(c) An individual who is under 18 years of age or is a dependent and who is living away from his family and whose family resides in another state or has not resided in Texas for the 12-month period immediately preceding the date of registration shall be classified as a nonresident student.

[(d) An individual who is 18 years of age or under or is a dependent and whose family has not resided in Texas for the 12-month period immediately preceding the date of registration shall be classified as a nonresident student, regardless of whether he has become the legal ward of residents of Texas or has been adopted by residents of Texas while he is attending an educational institution in Texas, or within a 12-month period before his attendance, or under circumstances indicating that the guardianship or adoption was for the purpose of obtaining status as a resident student.

[(e) An individual who is 18 years of age or over who has come from outside Texas and who is gainfully employed in Texas for a 12-month period immediately preceding registration in an educational institution shall be classified as a resident student as long as he continues to maintain a legal residence in Texas.

[(f) An individual who is 18 years of age or over who resides out of the state or who has come from outside Texas and who registers in an educational institution before having resided in Texas for a 12-month period shall be classified as a nonresident student.

[(g) An individual who would have been classified as a resident for the first five of the six years immediately preceding registration but who resided in another state for all or part of the year immediately preceding registration shall be classified as a resident student.

[(h) An individual who has come from outside Texas and registered in an educational institution before having resided in Texas for a 12-month period immediately preceding the date of registration is entitled to pay the tuition fee and other fees

~~required of Texas residents if the individual or a member of his family has located in Texas as an employee of a business or organization that became established in this state as part of the program of state economic development and diversification authorized by the constitution and laws of this state and if the individual files with the Texas institution of higher education at which he registers a letter of intent to establish residency in Texas.~~

~~[(i) The Texas Higher Education Coordinating Board shall adopt rules allowing a homeless individual, as defined by 42 U.S.C. Sec. 11302, who resides in Texas for the 12-month period immediately preceding the date of registration but who does not have a permanent residence to be classified as a resident student only for purposes of vocational education courses at public junior colleges.~~

~~[(j) Notwithstanding any other provision of this subchapter, an individual shall be classified as a Texas resident until the individual establishes a residence outside this state if the individual resided with the individual's parent, guardian, or conservator while attending a public or private high school in this state and:~~

~~[(1) graduated from a public or private high school or received the equivalent of a high school diploma in this state,~~

~~[(2) resided in this state for at least three years as of the date the person graduated from high school or received the equivalent of a high school diploma,~~

~~[(3) registers as an entering student in an institution of higher education not earlier than the 2001 fall semester; and~~

~~[(4) provides to the institution an affidavit stating that the individual will file an application to become a permanent resident at the earliest opportunity the individual is eligible to do so].~~

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;

(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 establish resident status under this subchapter; and

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

(3) if the person applies for resident status under Section 54.052(a)(3):

(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) if the person is not a citizen or permanent resident of the United States, an affidavit stating that the person will apply to become a permanent resident of the United States as soon as the person becomes eligible to apply [REGULATIONS OF COORDINATING BOARD. The governing board of each institution required by this chapter to charge a nonresident tuition or registration fee is subject to the rules, regulations, and interpretations issued by the Coordinating Board, Texas College and University System, for the administration of the nonresident tuition provisions of this subchapter. The rules, regulations, and

~~interpretations promulgated by the coordinating board shall be furnished to the presidents or administrative heads of all Texas public senior and junior colleges and universities].~~

Sec. 54.054. CONTINUING RESIDENT STATUS. (a) 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 is entitled, 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) 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 is entitled, 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) 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. To be classified as a resident on that enrollment, the person must submit the information required by Section 54.053 and satisfy all applicable requirements to establish resident status. If the person is classified as a resident on that enrollment, Subsections (a) and (b) apply to the person in a subsequent academic term [~~NONRESIDENT STATUS: PRESUMPTION; RECLASSIFICATION. A nonresident student classification is presumed to be correct as long as the residence of the individual in the state is primarily for the purpose of attending an educational institution. After residing in Texas for at least 12 months, a nonresident student may be reclassified as a resident student as provided in the rules and regulations adopted by the Coordinating Board, Texas College and University System. Any individual reclassified as a resident student is entitled to pay the tuition fee for a resident of Texas at any subsequent registration as long as he continues to maintain his legal residence in Texas. Before February 15, 1972, the Coordinating Board, Texas College and University System, shall promulgate such rules and regulations].~~

Sec. 54.055. RECLASSIFICATION BASED ON ADDITIONAL OR CHANGED INFORMATION. (a) On the basis of additional or changed information, an institution of higher education may 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) A reclassification does not apply to an academic term if the reclassification is made on or after the census date of that term [~~PARENTS, CHANGE OF RESIDENCE TO ANOTHER STATE. An individual who is 18 years of age or under or is a dependent and whose parents were formerly residents of Texas is entitled to pay the resident tuition fee following the parents' change of legal residence to another state, as long as the individual remains continuously enrolled in a regular session in a state-supported institution of higher education].~~

Sec. 54.056. ERRORS IN CLASSIFICATION. (a) 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 shall charge nonresident tuition to the person beginning with the first academic term that begins after the date the institution discovers the error. Not earlier than the first day of that term, regardless of whether the person is still enrolled at the institution, the institution may request the person to pay the difference between resident and nonresident tuition for an earlier term as permitted by Section 54.057. For nonpayment of the amount owed, the institution may impose sanctions only as provided by that section. The institution may not require payment as a condition for any subsequent enrollment by the person in the institution.

(b) 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 shall charge resident tuition to the person beginning with the academic term in which the institution discovers the error. The institution immediately shall refund to the person the amount of tuition the person paid in excess of resident tuition ~~[EFFECT OF MARRIAGE. A student who is a resident of Texas and who marries a nonresident is entitled to pay the resident tuition fee as long as the student does not adopt the legal residence of the spouse in another state].~~

Sec. 54.057. LIABILITY FOR UNPAID NONRESIDENT TUITION.
(a) The following 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:

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

(2) a person who provides false information to the institution that the person reasonably should know could lead to an erroneous classification by the institution under this subchapter.

(b) The person shall 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. 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) 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 ~~[ALIENS. (a) An alien who is living in this country under a visa permitting permanent residence or who has applied to or has a petition pending with the Immigration and Naturalization Service to attain lawful status under federal immigration law has the same privilege of qualifying for resident status for tuition and fee purposes under this subchapter as has a citizen of the United States. A resident alien residing in a junior college district located immediately adjacent to Texas boundary lines shall be charged the resident tuition by that junior college.~~

~~[(b) A nonimmigrant alien who resides in this state in accordance with the Agreement between the Parties to the North Atlantic Treaty Regarding the Status of Their Forces (4 U.S.T. 1792) and the spouse or children of such an alien are residents for tuition and fee purposes under this code].~~

SECTION 4. Subchapter B, Chapter 54, Education Code, is amended by adding Sections 54.073, 54.074, and 54.075 to read as follows:

Sec. 54.073. ECONOMIC DEVELOPMENT AND DIVERSIFICATION. A person who registers at an institution of higher education without having established resident status in this state under Section 54.052 is entitled to pay tuition and required fees at the rate provided for residents of this state if:

(1) the person or, as determined by coordinating board rule, an adult member of the person's family who resides in the person's household and is a primary caretaker of the person establishes by the institution's enrollment date a residence in this state as a result of the person's or caretaker's employment by a business or organization that became established in this state as part of the program of state economic development and diversification authorized by the law of this state; and

(2) the person files with that institution of higher education a letter of intent to establish residency in this state.

Sec. 54.074. NATO AGREEMENT. A nonimmigrant alien who

resides in this state in accordance with the Agreement between the Parties to the North Atlantic Treaty Regarding the Status of Their Forces (4 U.S.T. 1792) and the spouse or children of that alien are considered to be residents for tuition and fee purposes under this title.

Sec. 54.075. COORDINATING BOARD RULES; SUPPLEMENTATION OF RULES BY INSTITUTIONS LIMITED. (a) The coordinating board shall adopt rules to carry out the purposes of this subchapter.

(b) An institution of higher education may not require a person to provide evidence of resident status that is not required by coordinating board rule.

SECTION 5. Section 54.007, Education Code, is amended by adding Subsection (f) to read as follows:

(f) The governing board shall 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. Subsection (m), Section 54.051, Education Code, is amended to read as follows:

(m) Unless the student establishes residency or is entitled or permitted to pay resident tuition as provided by this subchapter [~~Section 54.052(j) or 54.057~~], 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. Subsection (c), Section 54.621, Education Code, is amended to read as follows:

(c) Notwithstanding any provision of Subchapter B [~~Section 54.052(d)~~], 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 shall be determined as if the beneficiary of that contract were a resident student.

SECTION 8. Sections 54.062, 54.066, 54.067, 54.068, 54.071, and 54.072, Education Code, are transferred to Subchapter A, Chapter 54, Education Code, renumbered as Sections 54.011, 54.012, 54.013, 54.014, 54.015, and 54.016, Education Code, and amended to read as follows:

Sec. 54.011 [~~54.062~~]. TUITION LIMIT IN CASES OF CONCURRENT ENROLLMENT. When a student registers at more than one public institution of higher education at the same time, his tuition charges shall be determined in the following manner:

(1) The student shall pay the full tuition charge to the first institution at which he is registered; and in any event he shall pay an amount at least equal to the minimum tuition specified in this code.

(2) If the minimum tuition specified in this code for the first institution at which the student is registered is equal to or greater than the minimum tuition specified in this code for the second institution at which the student is registered concurrently, the student shall not be required to pay the specified minimum tuition charge to the second institution in addition to the tuition charge paid to the first institution, but shall pay only the hourly rates, as provided in this code, to the second institution.

(3) If the minimum tuition specified in this code for the first institution at which the student is registered is less than the specified minimum tuition charge at the second institution (that is, if the second institution has a higher minimum tuition charge specified in this code), then the student shall first register at the institution having the lower minimum tuition and shall pay to the second institution only the amount equal to the difference between his total tuition charge at the second institution and his total tuition charge at the first institution, but in no case shall the student pay to the second institution less than the hourly rates as provided in this code.

(4) If a student is considered to be a Texas resident and therefore qualified to pay Texas resident tuition rates by one institution at which he is registered, that student shall be considered a Texas resident at each of the institutions at which he is concurrently registered for the purposes of determining the proper tuition charges. Nothing in this subdivision [~~subsection~~]

shall be so construed as to allow a nonresident to pay resident tuition except at institutions covered by Section 54.060 of this code.

Sec. 54.012 [~~54.066~~]. TUITION RATES FOR CERTAIN DOCTORAL STUDENTS. The governing board of an institution of higher education may charge a resident doctoral student who has more semester credit hours of doctoral work than allowed for purposes of state funding for the current state fiscal biennium under Section 61.059(1) tuition at the rate charged nonresident doctoral students. Tuition charged at the rate provided by this section shall be accounted for as if collected under Section 54.008.

Sec. 54.013 [~~54.067~~]. STUDENTS 55 YEARS OF AGE OR OLDER. (a) An institution of higher education may charge a student 55 years of age or older tuition and fees at rates that are lower than the rates otherwise provided by this chapter, under the condition that a student under 55 years of age will not be precluded from enrolling in a course for credit toward a degree or certificate. The institution may set additional qualifications that a student must meet to qualify for tuition and fees at rates set under this section and may set different rates for different programs, campuses, or courses. The institution may set rates under this section for resident students, nonresident students, or both, and may set different rates for resident students and nonresident students.

(b) A tuition or fee rate set under this section must apply uniformly to each student that meets the applicable qualifications set by the institution to pay tuition or fees at that rate.

(c) The legislature in an appropriations act shall account for the rates authorized by Subsection (a) in a way that does not increase the general revenue appropriations to that institution.

Sec. 54.014 [~~54.068~~]. TUITION FOR EXCESSIVE UNDERGRADUATE HOURS. (a) An institution of higher education may charge a resident undergraduate student tuition at a higher rate than the rate charged to other resident undergraduate students, not to exceed the rate charged to nonresident undergraduate students, if before the semester or other academic session begins the student has previously attempted a number of semester credit hours for courses taken at any institution of higher education while classified as a resident student for tuition purposes that exceeds by at least 45 hours the number of semester credit hours required for completion of the degree program in which the student is enrolled. For purposes of this subsection, an undergraduate student who is not enrolled in a degree program is considered to be enrolled in a degree program requiring a minimum of 120 semester credit hours.

(b) Semester credit hours or other credit listed in Section 61.0595(d) is not counted in determining the number of semester credit hours previously attempted by a student for purposes of Subsection (a).

(c) Subsection (a) does not apply to the tuition charged to a student who initially enrolled as an undergraduate student in an institution of higher education before the 1999 fall semester.

(d) In its appropriations to institutions of higher education, the legislature shall compute the local funds available to each institution as if the tuition collected under Subsection (a) were not collected.

(e) Each institution of higher education shall inform each new undergraduate student enrolling at the institution in writing of the limitation provided by this section on the number of hours that a Texas resident is entitled to complete while paying tuition at the rate provided for Texas residents.

Sec. 54.015 [~~54.071~~]. BILLING AND NOTIFICATION FOR TUITION. For billing and catalogue purposes, each governing board shall accumulate all the tuition that it charges under this chapter [~~subchapter~~] into one tuition charge.

Sec. 54.016 [~~54.072~~]. FLAT RATE TUITION PILOT PROJECT. (a) In this section, "tuition" means all academic program costs related to enrollment in an academic course or degree program that are charged to a student, including all charges designated as

tuition, mandatory fees, and incidental fees. The term does not include voluntary fees.

(b) Notwithstanding any other provision of this chapter, the board of regents of The University of Texas System may establish a pilot project at The University of Texas at Austin involving not more than two colleges or degree programs designated by the board of regents under which the university charges the same amount of tuition to all undergraduate students enrolled in a college or degree program included in the pilot project.

(c) The board of regents may not require a full-time student who pays tuition under the pilot project to pay more tuition than the average amount of tuition that a student not included in the pilot project would pay for enrolling in the university for 14 semester credit hours for the same semester or term.

(d) The board of regents shall evaluate the effect of flat rate tuition charged under the pilot project on the number of semester credit hours taken by students included in the project each semester. The board shall report the results of the evaluation to the legislature not later than December 31, 2002, and December 31, 2004.

(e) This section expires September 1, 2005.

SECTION 9. Sections 54.0521, 54.0551, and 54.061, Education Code, are repealed.

SECTION 10. (a) A person who was enrolled in a public institution of higher education for any part of the 2005-2006 academic year and who was classified as a resident of this state under Subchapter B, Chapter 54, Education Code, in the last academic period of that year for which the person was enrolled is considered to be a resident of this state for purposes of Subchapter B, Chapter 54, Education Code, as amended by this Act, as of the beginning of the 2006-2007 academic year, subject to a redetermination of resident status as provided by that subchapter.

(b) The change in law made by this Act applies beginning with tuition and fees charged for the 2006 fall semester. Tuition and fees charged for a semester or session before the 2006 fall semester are governed by the applicable law in effect before the effective date of this Act, and that law is continued in effect for that purpose.

(c) The Texas Higher Education Coordinating Board shall adopt the rules required by Section 54.075, Education Code, as added by this Act, not later than January 1, 2006.

SECTION 11. This Act takes effect September 1, 2005.

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