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HOUSE BILL NO. 88

Offered January 8, 2014
Prefiled December 11, 2013

A BILL to amend and reenact § 23-7.4:2 of the Code of Virginia, relating to in-state tuition; Deferred Action for Childhood Arrivals.

Patrons—Lopez, Keam, Kory, Krupicka, BaCote, Brink, Bulova, Carr, Dance, Filler-Corn, Futrell, Herring, Hester, Hope, Howell, A.T., James, Lewis, Mason, McQuinn, Morrissey, Plum, Rasoul, Sickles, Simon, Spruill, Surovell, Torian, Toscano, Tyler, Ward and Watts

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That § 23-7.4:2 of the Code of Virginia is amended and reenacted as follows:

§ 23-7.4:2. Eligibility for in-state or reduced tuition for students not domiciled in Virginia; tuition grants and in-state tuition for members of the National Guard.

A. Students who live outside the Commonwealth and have been employed full time inside Virginia for at least one year immediately prior to the date of the alleged entitlement for in-state tuition shall be eligible for in-state tuition charges if such student has paid Virginia income taxes on all taxable income earned in the Commonwealth for the tax year prior to the date of the alleged entitlement. Students claimed as dependents for federal and Virginia income tax purposes who live outside the Commonwealth shall become eligible for in-state tuition charges if the nonresident parents claiming them as dependents have been employed full time inside Virginia for at least one year immediately prior to the date of the alleged entitlement and paid Virginia income taxes on all taxable income earned in the Commonwealth for the tax year prior to the date of the alleged entitlement. Such students shall continue to be eligible for in-state tuition charges for so long as they or their qualifying parent is employed full time in Virginia, paying Virginia income taxes on all taxable income earned in the Commonwealth and the student is claimed as a dependent for Virginia and federal income tax purposes.

B. Any person who (i) is a member of the National Guard of the Commonwealth of Virginia and has a minimum remaining obligation of two years, (ii) has satisfactorily completed required initial active duty service, (iii) is satisfactorily performing duty in accordance with regulations of the National Guard, and (iv) is enrolled in any state institution of higher education, any private, accredited, and nonprofit institution of higher education in the Commonwealth whose primary purpose is to provide collegiate or graduate education and not to provide religious training or theological education, any course or program offered by any such institution or any public career and technical education school shall be eligible for a grant in the amount of the difference between the full cost of tuition and any other educational benefits for which he is eligible as a member of the National Guard. Application for a grant shall be made to the Department of Military Affairs. Grants shall be awarded from funds available for the purpose by such Department.

Notwithstanding the foregoing requirement that a member of the National Guard have a minimum of two years remaining on his service obligation, if a member is activated or deployed for federal military service, an additional day shall be added to the member's eligibility for the grant for each day of active federal service up to 365 days. Additional credit, or credit for state duty, may be given at the discretion of the Adjutant General.

In addition, any person who met the requirements for in-state tuition prior to being called to active duty in the National Guard of another state shall be eligible for in-state tuition following completion of active duty service if during active duty that person maintained one or more of the following in Virginia rather than in another state or jurisdiction: a driver's license, motor vehicle registration, voter registration, employment, property ownership, or sources of financial support. Any out-of-state students granted in-state tuition pursuant to this subsection shall be counted as in-state students for the purposes of determining college admissions, enrollment, and tuition and fee revenue policies.

C. Notwithstanding the provisions of § 23-7.4 or any other provision of the law to the contrary, the governing board of any state institution of higher education or the governing board of the Virginia Community College System may charge the same tuition as is charged to any person domiciled in Virginia pursuant to the provisions of § 23-7.4 to:

1. Any person enrolled in one of the institution's programs designated by the State Council of Higher Education who is domiciled in and is entitled to reduced tuition charges in the institutions of higher learning in any state which is a party to the Southern Regional Education Compact which has similar reciprocal provisions for persons domiciled in Virginia;

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2. Any student from a foreign country who is enrolled in a foreign exchange program approved by the state institution during the same period that an exchange student from the same state institution, who is entitled to in-state tuition pursuant to § 23-7.4, is attending the foreign institution; and

3. Any high school or magnet school student, not otherwise qualified for in-state tuition, who is enrolled in courses specifically designed as part of the high school or magnet school curriculum in a community college for which he may, upon successful completion, receive high school and community college credit pursuant to a dual enrollment agreement between the high school or magnet school and the community college.

D. The governing board of the Virginia Community College System shall charge in-state tuition to any person enrolled in one of the System's institutions who lives within a 30-mile radius of a Virginia institution, is domiciled in, and is entitled to in-state tuition charges in the institutions of higher learning in any state which is contiguous to Virginia and which has similar reciprocal provisions for persons domiciled in Virginia.

Any out-of-state students granted in-state tuition pursuant to this subsection shall be counted as in-state students for the purposes of determining college admissions, enrollment, and tuition and fee revenue policies.

E. The board of the University of Virginia's College at Wise and the board of visitors of the University of Virginia may charge reduced tuition to any person enrolled at the University of Virginia's College at Wise who lives within a 50-mile radius of the University of Virginia's College at Wise, is domiciled in, and is entitled to in-state tuition charges in the institutions of higher learning in Kentucky, if Kentucky has similar reciprocal provisions for persons domiciled in Virginia.

In addition, the board of the University of Virginia's College at Wise and the board of visitors of the University of Virginia may charge reduced tuition to any person enrolled at the University of Virginia's College at Wise who lives within a 50-mile radius of the University of Virginia's College at Wise, is domiciled in, and is entitled to in-state tuition charges in the institutions of higher learning in Tennessee, if Tennessee has similar reciprocal provisions for persons domiciled in Virginia. The board of the University of Virginia's College at Wise and its partners or associates offering programs jointly at a regional off-campus center may also charge reduced tuition to any person enrolled in such joint programs who lives within a 50-mile radius of the University of Virginia's College at Wise, is domiciled in, and is entitled to in-state tuition charges in the institutions of higher learning in Tennessee, if Tennessee has similar reciprocal provisions for persons domiciled in Virginia. Any such respective partners or associates shall establish and charge separately tuition rates for their independent classes or programs at such regional centers.

Any out-of-state students granted in-state tuition pursuant to this subsection and subsection D shall be counted as out-of-state students for the purposes of determining admissions, enrollment, and tuition and fee revenue policies.

F. Public institutions of higher education may enter into special arrangement contracts with Virginia employers or authorities controlling federal installations or agencies located in Virginia. The special arrangement contracts shall be for the purpose of providing reduced rate tuition charges for the employees of the Virginia employers or federal personnel when the employers or federal authorities are assuming the liability for paying, to the extent permitted by federal law, the tuition for the employees or personnel in question and the employees or personnel are classified by the requirements of this section as out-of-state.

Special arrangement contracts with Virginia employers or federal installations or agencies may be for group instruction in facilities provided by the employer or federal authority or in the institution's facilities or on a student-by-student basis for specific employment-related programs.

Special arrangement contracts shall be valid for a period not to exceed two years and shall be reviewed for legal sufficiency by the Office of the Attorney General prior to signing. All rates agreed to by the public institutions shall be at least equal to in-state tuition and shall only be granted by the institution with which the employer or the federal authorities have a valid contract for students for whom the employer or federal authorities are paying the tuition charges.

All special arrangement contracts with authorities controlling federal installations or agencies shall include a specific number of students to be served at reduced rates.

Nothing in this subsection shall change the domiciliary status of any student for the purposes of enrollment reporting or calculating the proportions of general funds and tuition and fees contributed to the cost of education.

G. Any active duty members, activated guard or reservist members, or guard or reservist members mobilized or on temporary active orders for six months or more, that reside in Virginia, shall pay tuition, to the public institution of higher education in which they are enrolled, in an amount no more than the institution's in-state tuition rate.

H. Notwithstanding any other provision of law, veterans residing within the Commonwealth shall be eligible for in-state tuition charges. Any students granted in-state tuition pursuant to this subsection shall

be counted as in-state students for the purpose of determining college admissions, enrollment, and tuition and fee revenue policies.

I. Notwithstanding any other provision of law, a student shall be eligible for in-state tuition if (i) he has attended a public or private high school in the Commonwealth for at least three years; (ii) he has graduated from a public or private high school in the Commonwealth or has received a General Education Development (GED) certificate in the Commonwealth; (iii) he has registered as an entering student or is enrolled in a public institution of higher education in the Commonwealth; (iv) he has provided an I-797 Approval Notice or other document issued by the U.S. Department of Homeland Security stating that he has been approved for Deferred Action for Childhood Arrivals by the U.S. Department of Homeland Security; and (v) he has submitted evidence that he, or in the case of a dependent student, at least one parent, guardian, or person standing in loco parentis, has filed, unless exempted by state law, Virginia income tax returns for at least three years prior to the date of enrollment. Such student shall remain eligible for in-state tuition for as long as he maintains continuous enrollment in the public institution of higher education and retains status under Deferred Action for Childhood Arrivals.

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