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Bill Analysis
Legislative Service Commission

S.B. 387

127th General Assembly
(As Introduced)

Sens. Grendell, Harris, Schuler, Cates, Mumper, Wagoner, Buehrer, Fedor, Spada, Stivers, Faber, Sawyer, Amstutz, Padgett, Goodman, Carey, Seitz

BILL SUMMARY

- Requires the Chancellor of the Ohio Board of Regents to grant a veteran and the veteran's spouse and dependents immediate eligibility for in-state tuition rates at state institutions of higher education upon relocation to Ohio, provided the veteran was discharged from service under conditions other than dishonorable and qualifies for federal education benefits.

CONTENT AND OPERATION

Background--current residency rule

Continuing law requires the Chancellor of the Ohio Board of Regents to adopt a rule defining "residency" for the purpose of eligibility for in-state tuition rates at state institutions of higher education. The rule must have the objective of excluding from treatment as Ohio residents persons who are in the state primarily for the purpose of attending a state institution of higher education. (R.C. 3333.31(A).) Generally, to be considered a resident under the Chancellor's rule, a person must have lived in Ohio for at least 12 consecutive months immediately prior to enrolling in a state institution of higher education, be qualified to vote in Ohio, and may be subject to the state income tax.¹

However, the Chancellor recently amended the rule (effective October 20, 2008) to make an exception for certain veterans and their immediate family members.² This exception grants residency status to a veteran, and to the veteran's

¹ Ohio Administrative Code (O.A.C.) 3333-1-10(B)(1) and (C)(2).

² The amendment followed an executive order issued by the Governor on July 8, 2008, that suspended the normal rule-making procedures and authorized the Chancellor to adopt an emergency rule to this end. Since emergency rules are only valid for 90 days,

spouse and dependents, if the veteran (1) was honorably discharged or released from service, (2) relocates to Ohio and establishes domicile in the state as of the first day of a term of enrollment at a state institution of higher education, (3) qualifies for veterans' education benefits under federal law (the G.I. Bill or similar legislation), and (4) accepts a community service position approved by the Chancellor or participates in an internship or cooperative education program established by the Chancellor or the higher education institution in which the veteran is enrolled. An approved community service position is a position volunteering or working for an elected or appointed public official or for VISTA, Americorps, City Year, the Peace Corps, or a similar program.³

The bill

The bill establishes criteria for granting residency status to veterans and their spouses and dependents under the Chancellor's rule. These criteria are similar to those in the existing rule, but they exclude the requirement for the veteran to perform community service or participate in an internship or cooperative education program as described in (4) above. In effect, the bill overrides this provision of the current rule, thereby eliminating that requirement for veterans and their dependents as a condition of attaining residency status.

Under the bill, the Chancellor's rule must grant residency status to a veteran and the veteran's spouse and dependents, if all of the following conditions are met:

(1) If the veteran was discharged from service, the discharge was under conditions other than dishonorable;

(2) The veteran has established domicile in Ohio as of the first day of a term of enrollment in a state institution of higher education, or if it is the veteran's spouse or dependent who seeks residency status for tuition purposes, both the veteran and the spouse or dependent have established domicile in Ohio as of the first day of a term of enrollment; and

(3) The veteran is eligible for veterans' education benefits under federal law.

the executive order further directed the Chancellor to pursue a permanent amendment to the existing rule, which is the amendment that took effect October 20, 2008. (See Executive Order 2008-17S, "Immediate Adoption of Rule to Honor Veterans' Service and Attract Them to Ohio's Workforce.")

³ O.A.C. 3333-1-10(B)(7) and (E)(9).

These conditions apply somewhat differently if the veteran was killed while on active duty or has been declared to be missing in action or a prisoner of war. In that case, only the spouse or dependent who seeks to enroll in an institution of higher education must establish domicile in Ohio as of the first day of a term of enrollment. Also, the veteran need not have been eligible for federal education benefits to qualify the spouse or dependent for residency status. (R.C. 3333.31(B).)

In comparison to the existing rule, the bill could potentially qualify a larger group of veterans for residency status by including veterans who were discharged under any condition other than dishonorable, rather than only those who were honorably discharged. A veteran who received a general discharge, for example, could meet this condition of the bill. However, it appears that a veteran generally must be honorably discharged to qualify for federal education benefits, which is also a condition of eligibility for residency status under the bill.⁴ Therefore, it is not clear whether the bill's change regarding the veteran's discharge status will broaden the pool of eligible candidates. The requirement to be eligible for federal education benefits may effectively limit eligibility for residency status to veterans who were honorably discharged, as in the existing rule.

HISTORY

ACTION	DATE
Introduced	12-02-08

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⁴ See 38 U.S.C. 3011(a) and 3311(c).