



# Ohio Legislative Service Commission

## Bill Analysis

Hannah K. Wann

### H.B. 254

130th General Assembly  
(As Introduced)

**Reps.** Lynch and Retherford, Beck, Becker, Brenner, Buchy, Hood, Roegner, Thompson

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## BILL SUMMARY

- Prohibits the Chancellor of the Ohio Board of Regents from granting residency status for in-state tuition purposes to any person who is not a U.S. citizen or U.S. national and to any person who has not been granted the right to reside permanently and work without restrictions in the United States.

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## CONTENT AND OPERATION

### The bill

Under current law, the Chancellor of the Ohio Board of Regents is required to define residency status by administrative rule for the purpose of granting in-state tuition by state institutions of higher education. A state institution of higher education receives a state subsidy for students considered residents of Ohio, and thus charges residents a lower tuition rate, often referred to as "in-state tuition."

The bill prohibits the Chancellor's rule from granting residency status to:

(1) Persons who are not United States citizens or nationals (A U.S. national is a person who owes permanent allegiance to the United States. This includes all U.S. citizens and some individuals who are not U.S. citizens. "For tax purposes the term "U.S. national" refers to individuals who were born in American Samoa or the Commonwealth of the Northern Mariana Islands."<sup>1</sup>); and

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<sup>1</sup> <http://www.irs.gov/Individuals/International-Taxpayers/Immigration-Terms-and-Definitions-Involving-Aliens> and 8 U.S.C. 1101(a)(22).

(2) Persons who have not been granted the right by the United States Bureau of Citizenship and Immigration Services (USCIS) to reside permanently and work without restrictions in the country.<sup>2</sup>

Therefore, under the bill, anyone who does not meet either of the above criteria, i.e., an undocumented alien, may not qualify for residency status and does not qualify for in-state tuition.

## **Background on residency requirements**

As stated above, the Chancellor must prescribe, by administrative rule, the qualification for in-state tuition for all state institutions of higher education. Generally, the rule requires that a person must have lived in the state for at least 12 consecutive months preceding enrollment to qualify for in-state tuition.<sup>3</sup> The rule provides exceptions exist for job relocation; marital hardship; veterans and their spouses or dependents under certain circumstances; members, or spouses or dependents of members, of the Armed Forces or National Guard stationed in the state or who remain domiciled in the state but are stationed elsewhere; migrant workers; and other factors.<sup>4</sup> In addition, under the "Forever Buckeye" exception, Ohio high school graduates or students who complete their final year of instruction at home who re-establish domicile in the state may qualify for in-state tuition.<sup>5</sup>

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## **COMMENT**

Reportedly, on July 29, 2013, the Chancellor determined that an individual who received deferred action under the federal Deferred Action for Childhood Arrivals (DACA) program would be eligible for in-state tuition, if all other residency conditions under Ohio law are met.<sup>6</sup>

DACA grants relief to young people brought into the United States as children from deportation or from entering into deportation proceedings. In order to qualify for deferred action, the person must meet all of the following criteria:

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<sup>2</sup> R.C. 3333.31(A).

<sup>3</sup> Ohio Administrative Code (O.A.C.) 3333-1-10(C).

<sup>4</sup> R.C. 3333.31 and 3333.42, latter section not in the bill, and O.A.C. 3333-1-10(E)(1) to (8).

<sup>5</sup> R.C. 3333.31(D).

<sup>6</sup> <http://www.nbc41.com/story/22960519/regents-immigrants-qualify-for-in-state-tuition>, last visited November 20, 2013.



- (1) The person was under the age of 31 as of June 15, 2012;
- (2) The person came to the United States before reaching age 16;
- (3) The person has continuously resided in the United States since June 15, 2007, to the present;
- (4) The person was physically present in the United States on June 15, 2012, and is physically present in the United States when making request for consideration of deferred action;
- (5) The person entered without inspection before June 15, 2012, or the person's lawful immigration status expired as of that date;
- (6) The person is currently in school, graduated from high school, obtained a GED (a certificate of equivalence of a diploma by passing the Tests of General Educational Development), or is an honorably discharged veteran of the Coast Guard or Armed Forces of the United States; and
- (7) The person has not been convicted of a felony, "significant misdemeanor," or three or more other misdemeanors, and does not otherwise pose a threat to national security or public safety.<sup>7</sup>

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## HISTORY

ACTION	DATE
Introduced	08-27-13

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<sup>7</sup> United States Citizenship and Immigration Services (USCIS) Consideration of Deferred Action for Childhood Arrivals Process Guidelines. At the USCIS web site ([www.uscis.gov](http://www.uscis.gov)), under "Humanitarian," click on "Consideration of Deferred Action for Childhood Arrivals Process" and then on "Guidelines."

