



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-4851/1
ARG:cdc

2021 ASSEMBLY BILL 635

October 21, 2021 - Introduced by Representatives EDMING, PETERSEN, DOYLE, TAUCHEN, SPIROS, SINICKI, L. MYERS, MURSAU, MILROY, KNODL, KUGLITSCH, WICHGERS, MOSES, SUBECK, TUSLER, OHNSTAD, MURPHY and ALLEN, cosponsored by Senators KOOYENGA, DARLING, COWLES, MARKLEIN, WIRCH and BALLWEG. Referred to Committee on Colleges and Universities.

1 **AN ACT to renumber and amend** 36.27 (2) (e) and 38.22 (4); and **to create** 36.27
2 (2) (e) 3. and 38.22 (4) (b) of the statutes; **relating to:** resident tuition at
3 University of Wisconsin System institutions and technical colleges as applied
4 to relocated service members and their children and spouses.

Analysis by the Legislative Reference Bureau

This bill establishes guidance for determining state residency of relocated active duty service members and their spouses and dependents for purposes of resident tuition eligibility at University of Wisconsin System institutions and technical colleges.

Under current law, UW System institutions must charge a student nonresident tuition unless the student has been a bona fide resident of this state for at least 12 months prior to registering at the UW institution or the student otherwise qualifies under another exemption to nonresident tuition. In determining bona fide residence, the intent of a person to establish and maintain a permanent home in Wisconsin is determinative, and this intent may be represented by such factors as tax return filings, voter or vehicle registration, employment, and physical presence. However, a student who enters and remains in Wisconsin principally to obtain an education is presumed to continue to reside outside Wisconsin. Under one nonresident tuition exemption, a student is eligible for resident tuition if the student is a member of the armed forces who resides in this state and is stationed at a federal military installation located within 90 miles of the borders of this state or the student is the child or spouse of such a service member.

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Also under current law, the Technical College System Board must establish procedures to determine the residence of students attending technical colleges for purposes of fees and admission, although certain persons are by statute considered Wisconsin residents for these purposes.

Under the bill, for purposes of determining Wisconsin residency at UW System institutions and technical colleges, an active duty member of the armed forces who has been relocated from Wisconsin and stationed on active duty in another state (relocated service member), and the service member's spouse and dependents, are considered residents of this state during this period of relocation if they demonstrate, under the factors described above, that they are bona fide residents during this relocation period. In addition, if such a demonstration is made, the relocated service member's dependents continue to be considered residents of this state after the relocation period has ended.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 36.27 (2) (e) of the statutes is renumbered 36.27 (2) (e) (intro.) and
2 amended to read:

3 36.27 **(2)** (e) (intro.) In determining bona fide residence at the time of the
4 beginning of any semester or session and for the preceding 12 months ~~the~~, all of the
5 following apply:

6 1. The intent of the person to establish and maintain a permanent home in
7 Wisconsin is determinative. In addition to representations by the student, intent
8 may be demonstrated or disproved by factors including, but not limited to, timely
9 filing of a Wisconsin income tax return of a type that only full-year Wisconsin
10 residents may file, voter registration in Wisconsin, motor vehicle registration in
11 Wisconsin, possession of a Wisconsin operator's license, place of employment,
12 self-support, involvement in community activities in Wisconsin, physical presence
13 in Wisconsin for at least 12 months preceding the beginning of the semester or

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1 session for which the student registers, and, if the student is not a U.S. citizen,
2 possession of a visa that permits indefinite residence in the United States.

3 2. Notwithstanding subd. 1. and par. (a), a student who enters and remains in
4 this state principally to obtain an education is presumed to continue to reside outside
5 this state and such presumption continues in effect until rebutted by clear and
6 convincing evidence of bona fide residence.

7 **SECTION 2.** 36.27 (2) (e) 3. of the statutes is created to read:

8 36.27 (2) (e) 3. a. In this subdivision, “relocated service member” means an
9 active duty member of the U.S. armed forces who has been relocated from Wisconsin
10 and stationed on active duty in another state.

11 b. A relocated service member and the service member’s spouse and
12 dependents are considered residents of this state for purposes of this subsection
13 during the period in which the service member is relocated on active duty if they
14 demonstrate, under the factors described in subd. 1., that they are bona fide
15 residents during this period.

16 c. Except as provided in subd. 3. d., subd. 3. b. does not apply after the relocated
17 service member’s period of relocation on active duty in another state has ended.

18 d. A relocated service member’s dependent who is considered a resident of this
19 state under subd. 3. b. continues to be considered a resident of this state after the
20 relocated service member’s period of relocation on active duty in another state has
21 ended.

22 **SECTION 3.** 38.22 (4) of the statutes is renumbered 38.22 (4) (a) and amended
23 to read:

24 38.22 (4) (a) The Subject to par. (b), the board shall establish procedures to
25 determine the residence of students attending district schools. In the case of any

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1 disagreement as to the residence of any student, the board shall make the final
2 determination.

3 **SECTION 4.** 38.22 (4) (b) of the statutes is created to read:

4 38.22 (4) (b) 1. In this paragraph, “relocated service member” means an active
5 duty member of the U.S. armed forces who has been relocated from Wisconsin and
6 stationed on active duty in another state.

7 2. For purposes of sub. (6) and the procedures established under par. (a), a
8 relocated service member and the service member’s spouse and dependents are
9 considered residents of this state during the period in which the service member is
10 relocated on active duty if they demonstrate, under the procedures established under
11 par. (a), that they are bona fide residents during this period.

12 3. Except as provided in subd. 4., subd. 2. does not apply after the relocated
13 service member’s period of relocation on active duty in another state has ended.

14 4. A relocated service member’s dependent who is considered a resident of this
15 state under subd. 2. continues to be considered a resident of this state after the
16 relocated service member’s period of relocation on active duty in another state has
17 ended.

18 **SECTION 5. Initial applicability.**

19 (1) This act first applies to the first semester or session beginning after the
20 effective date of this subsection.

21 (END)