

AMENDED IN SENATE JUNE 20, 2001

AMENDED IN ASSEMBLY MAY 1, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 540

**Introduced by Assembly ~~Member Firebaugh~~ Members Firebaugh
and Maldonado**

**(Coauthors: Assembly Members Cedillo, Chan, Chavez, Diaz,
Koretz, Reyes, Steinberg, Strom–Martin, and Vargas)**

(Coauthor: Senator Escutia)

February 21, 2001

An act to ~~add Section 69504.5 to~~ amend Section 89706 of, and to add Sections 69504.5 and 76140.1 to, the Education Code, relating to public postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

AB 540, as amended, Firebaugh. Public postsecondary education: residency.

Existing

(1) Existing law establishes various state-authorized student aid programs, including the Cal Grant Program and the Assumption Program of Loans for Education, that are administered by the Student Aid Commission and available to eligible students attending segments of postsecondary education in the state.

Existing

This bill would require that, notwithstanding any other provision of law, a person meeting the requirements set forth in (2) below shall be eligible for these student aid programs.

(2) *Existing* law establishes the California Community Colleges under the administration of the Board of Governors of the California Community Colleges. Existing law authorizes the establishment of community college districts under the administration of community college governing boards, and authorizes these districts to provide instruction at community college campuses throughout the state. Existing law authorizes community college districts to admit, and charge a tuition fee for, nonresident students in accordance with specified criteria.

Existing law establishes the California State University, and authorizes the operation of its various campuses under the administration of the Trustees of the California State University. Existing law authorizes the trustees, on the basis of demonstrated financial need and scholastic achievement, to waive entirely, or reduce below the minimum rate, the tuition fee of a nonresident student, as defined.

Existing law prescribes residency requirements for students at public institutions of postsecondary education, including, among others, the campuses of the California Community Colleges and the California State University. With respect to alien students, existing law specifies that an alien, including an unmarried minor alien, may establish his or her residence unless precluded by the federal Immigration and Nationality Act from establishing domicile in the United States.

~~This bill would express various findings and declarations of the Legislature, and statements of legislative intent, with respect to the impact of student aid residency requirements and nonresident tuition payment requirements on undocumented students require that a person, including an alien precluded from establishing California residency because of federal law but excluding a nonimmigrant student as defined, who has attended high school in California for 3 or more years, and who has graduated from a California high school, be exempted, under specified circumstances, from paying nonresident tuition at the California Community Colleges and the California State University. The bill would request the Regents of the University of California to also exempt these persons from paying nonresident tuition.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.



The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature hereby finds and declares
2 all of the following:

3 (1) There are a large number of high school students who have
4 lived in this country for most of their lives, and are precluded from
5 obtaining an affordable college education because they are
6 required to pay nonresident tuition rates.

7 (2) Many of these students live in families where some family
8 members are undocumented, some are legal permanent residents,
9 and others are United States citizens.

10 ~~(3) Allowing these students to obtain a college education by~~
11 ~~paying resident tuition rates would not constitute a benefit because~~
12 ~~the students would still be required to pay tuition.~~

13 ~~(4) Enabling these students to pay resident tuition rates would~~
14 ~~allow them to realize their dreams of obtaining a college~~
15 ~~education.~~

16 (b) ~~It is the intent of the Legislature that any person, including~~
17 ~~an alien precluded from establishing California residency by~~
18 ~~reason of subdivision (h) of Section 68062 of the Education Code,~~
19 ~~who meets both of the following requirements should be exempt~~
20 ~~from nonresident tuition rates at the California Community~~
21 ~~Colleges and the California State University:~~

22 ~~(1) Graduation from a California high school.~~

23 ~~(2) Continuation of his or her education at a California~~
24 ~~institution of higher education not later than one year from the date~~
25 ~~of his or her high school graduation or January 1, 2002.~~

26 ~~(c) It is also the intent of the Legislature that a student who is~~
27 ~~exempt from nonresident tuition rates for the reasons set forth in~~
28 ~~subdivision (b) should be reported by a community college district~~
29 ~~as a full-time equivalent student for apportionment purposes.~~

30 *(3) Many of the parents of these students have contributed,*
31 *through their labor and taxes, to the state's economic prosperity.*

32 *(4) These students have already proven their academic*
33 *eligibility and merit by being accepted into our state's colleges and*
34 *universities.*

35 *(5) A fair tuition policy for all Californians that includes*
36 *immigrant students will increase the state's collective productivity*
37 *and economic growth. These immigrant students cannot afford the*



1 *prohibitive cost of nonresident tuition, and are unable to attend our*
2 *state's colleges and universities.*

3 (6) *Giving these students an exemption from nonresident*
4 *tuition, and allowing them to pay resident tuition, creates a higher*
5 *standard for California immigrant students than for United States*
6 *citizens or legal residents from other states who move to California*
7 *to attend our colleges and universities. Out-of-state students*
8 *merely have to live in California for a year and a day to be eligible*
9 *for resident tuition.*

10 (7) *This act, as enacted during the 2001–02 Regular Session,*
11 *does not confer postsecondary education benefits on the basis of*
12 *residency within the meaning of Section 1623 of Title 8 of the*
13 *United States Code.*

14 SEC. 2. Section 69504.5 is added to the Education Code, to
15 read:

16 69504.5. ~~It is the intent of the Legislature that,~~
17 ~~notwithstanding~~ *Notwithstanding any other provision of law, a*
18 *person who meets the requirements of Section 76140.1 or 89706,*
19 *or who meets equivalent requirements adopted by the Regents of*
20 *the University of California pursuant to the request expressed in*
21 *Section 4 of the act that added this section during the 2001–02*
22 *Regular Session should be deemed to meet any and all residency*
23 *requirements with respect to eligibility for any financial aid*
24 ~~program~~ *shall be eligible for any financial aid program*
25 *administered pursuant to this chapter.*

26 SEC. 3. Section 76140.1 is added to the Education Code, to
27 read:

28 76140.1. *Notwithstanding any other provision of law:*

29 (a) (1) *Any person, including an alien precluded from*
30 *establishing California residency by reason of subdivision (h) of*
31 *Section 68062, other than a nonimmigrant student within the*
32 *meaning of paragraph (15) of subsection (a) of Section 1101 of*
33 *Title 8 of the United States Code who is required to maintain a*
34 *foreign residence, who meets both of the requirements set forth in*
35 *paragraph (2), is exempt from nonresident tuition.*

36 (2) (A) *High school attendance in California for three or more*
37 *years.*

38 (B) *Graduation from a California high school.*



1 (b) A student who is exempt from nonresident tuition pursuant
2 to this section may be reported by a community college district as
3 a full-time equivalent student for apportionment purposes.

4 SEC. 4. Section 89706 of the Education Code is amended to
5 read:

6 89706. (a) The trustees may, on the basis of demonstrated
7 financial need and scholastic achievement, waive entirely, or
8 reduce below the rate, or the minimum rate, fixed by Section
9 89705, the tuition fee of a nonresident student, as defined in
10 Section 68018, who is a citizen and resident of a foreign country,
11 who is an undergraduate student of exceptional scholastic ability
12 and prior scholastic achievement, and who is enrolled in a course
13 of study of no less than 10 semester units.

14 ~~The~~

15 (b) The number of reductions and waivers granted by the
16 trustees under this section shall at no time exceed 7¹/₂ percent of
17 the nonresident undergraduate students who are citizens and
18 residents of a foreign country, then enrolled in the California State
19 University.

20 (c) (1) Notwithstanding any other provision of law, any
21 person, including an alien precluded from establishing California
22 residency by reason of subdivision (h) of Section 68062, other than
23 a nonimmigrant student within the meaning of paragraph (15) of
24 subsection (a) of Section 1101 of Title 8 of the United States Code
25 who is required to maintain a foreign residence, who meets both
26 of the requirements set forth in paragraph (2), is exempt from
27 nonresident tuition.

28 (2) (A) High school attendance in California for three or more
29 years.

30 (B) Graduation from a California high school.

31 SEC. 5. The Legislature hereby requests the Regents of the
32 University of California to take action to exempt from nonresident
33 tuition any person, including an alien precluded from establishing
34 California residency by reason of subdivision (h) of Section 68062
35 of the Education Code, other than a nonimmigrant student within
36 the meaning of paragraph (15) of subsection (a) of Section 1101
37 of Title 8 of the United States Code who is required to maintain a
38 foreign residence, who has attended high school in California for



- 1 *three or more years and who has graduated from a California high*
- 2 *school.*

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