

AMENDED IN SENATE JULY 3, 2001
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 Members Firebaugh and Maldonado
(Coauthors: Assembly Members Cedillo, Chan, Chavez, Diaz,
Koretz, Reyes, Steinberg, Strom–Martin, and Vargas)
(~~Coauthor: Senator Escutia~~) (*Coauthors: Senators Chesbro, Escutia,*
McPherson, Vasconcellos, and Vincent)

February 21, 2001

An act 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.

(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.

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 require that a person, including an alien precluded from establishing California residency because of federal law, but excluding a nonimmigrant ~~student~~ *alien* as defined, who has attended high school in California for 3 or more years, and who has graduated from a California high school *or attained the equivalent thereof*, 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: 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:



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

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

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

10 (4) These students have already proven their academic
11 eligibility and merit by being accepted into our state's colleges and
12 universities.

13 (5) A fair tuition policy for all Californians that includes
14 immigrant students will increase the state's collective productivity
15 and economic growth. These immigrant students cannot afford the
16 prohibitive cost of nonresident tuition, and are unable to attend our
17 state's colleges and universities.

18 (6) Giving these students an exemption from nonresident
19 tuition, and allowing them to pay resident tuition, creates a higher
20 standard for California immigrant students than for United States
21 citizens or legal residents from other states who move to California
22 to attend our colleges and universities. Out-of-state students
23 merely have to live in California for a year and a day to be eligible
24 for resident tuition.

25 (7) This act, as enacted during the 2001–02 Regular Session,
26 does not confer postsecondary education benefits on the basis of
27 residency within the meaning of Section 1623 of Title 8 of the
28 United States Code.

29 SEC. 2. Section 69504.5 is added to the Education Code, to
30 read:

31 69504.5. Notwithstanding any other provision of law, a
32 person who meets the requirements of Section 76140.1 or 89706,
33 or who meets equivalent requirements adopted by the Regents of
34 the University of California pursuant to the request expressed in
35 Section 4 of the act that added this section during the 2001–02
36 Regular Session shall be eligible for any financial aid program
37 administered pursuant to this ~~chapter~~ *part*.

38 SEC. 3. Section 76140.1 is added to the Education Code, to
39 read:

40 76140.1. Notwithstanding any other provision of law:



1 (a) (1) Any person, including an alien precluded from
2 establishing California residency by reason of subdivision (h) of
3 Section 68062, ~~other than a nonimmigrant student~~ *but excluding*
4 *a nonimmigrant alien* within the meaning of paragraph (15) of
5 subsection (a) of Section 1101 of Title 8 of the United States Code
6 who is required to maintain a foreign residence, who meets both
7 of the requirements set forth in paragraph (2), is exempt from
8 nonresident tuition.

9 (2) (A) High school attendance in California for three or more
10 years.

11 (B) Graduation from a California high school *or attainment of*
12 *the equivalent thereof*.

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

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

18 89706. (a) The trustees may, on the basis of demonstrated
19 financial need and scholastic achievement, waive entirely, or
20 reduce below the rate, or the minimum rate, fixed by Section
21 89705, the tuition fee of a nonresident student, as defined in
22 Section 68018, who is a citizen and resident of a foreign country,
23 who is an undergraduate student of exceptional scholastic ability
24 and prior scholastic achievement, and who is enrolled in a course
25 of study of no less than 10 semester units.

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

31 (c) (1) Notwithstanding any other provision of law, any
32 person, including an alien precluded from establishing California
33 residency by reason of subdivision (h) of Section 68062, ~~other than~~
34 ~~a nonimmigrant student~~ *but excluding a nonimmigrant alien*
35 within the meaning of paragraph (15) of subsection (a) of Section
36 1101 of Title 8 of the United States Code who is required to
37 maintain a foreign residence, who meets both of the requirements
38 set forth in paragraph (2), is exempt from nonresident tuition.

39 (2) (A) High school attendance in California for three or more
40 years.



1 (B) Graduation from a California high school *or attainment of*
2 *the equivalent thereof.*

3 SEC. 5. The Legislature hereby requests the Regents of the
4 University of California to take action to exempt from nonresident
5 tuition any person, including an alien precluded from establishing
6 California residency by reason of subdivision (h) of Section 68062
7 of the Education Code, ~~other than a nonimmigrant student~~ *but*
8 *excluding a nonimmigrant alien* within the meaning of paragraph
9 (15) of subsection (a) of Section 1101 of Title 8 of the United States
10 Code who is required to maintain a foreign residence, who has
11 attended high school in California for three or more years and who
12 has graduated from a California high school *or attainment of the*
13 *equivalent thereof.*

