

AMENDED IN SENATE SEPTEMBER 7, 2001

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)~~

(Principal coauthor: Assembly Member Alquist)

(Coauthors: Assembly Members Aroner, Calderon, Cedillo, Chan, Chavez, Chu, Diaz, Frommer, Keeley, Koretz, Oropeza, Reyes, Steinberg, Strom-Martin, Vargas, and Wiggins)

(Coauthors: Senators Chesbro, Escutia, McPherson, Kuehl, McPherson, Perata, Romero Vasconcellos, and Vincent)

February 21, 2001

An act to amend Section 89706 of, and to add Sections 69504.5 and 76140.1 to, add Section 68130.5 to the Education Code, relating to public postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

AB 540, as amended, Firebaugh. Public postsecondary education: ~~residency exemption from nonresident tuition.~~

~~(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~~

~~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. *These provisions are applicable to the University of California only if the Regents of the University of California act to make them applicable.*~~

~~This bill would require that a person, including an alien precluded from establishing California residency because of federal law, but excluding other than a nonimmigrant 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, who has registered at or attends an accredited institution of higher education in California not earlier than the fall semester or quarter of the 2001–02 academic year, and who, if he or she is an alien without lawful immigration status, has filed an affidavit as specified, 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.~~

The bill would authorize a student exempt from nonresident tuition under the bill to be reported by a community college district as a full-time student for apportionment purposes. The bill would require student information obtained in the implementation of the bill to be confidential.

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:

3 ~~(1) There are a large number of high school students who have~~
4 ~~lived in this country for most of their lives, and high school pupils~~
5 ~~who have attended elementary and secondary schools in this state~~
6 ~~for most of their lives and who are likely to remain, but are~~
7 precluded from obtaining an affordable college education because
8 they are required to pay nonresident tuition rates.

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

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

14 ~~(4) These students~~

15 (2) *These pupils* have already proven their academic eligibility
16 and merit by being accepted into our state's colleges and
17 universities.

18 ~~(5) A fair tuition policy for all Californians that includes~~
19 ~~immigrant students will increase the state's collective productivity~~
20 ~~and economic growth. These immigrant students cannot afford the~~
21 ~~prohibitive cost of nonresident tuition, and are unable to attend our~~
22 ~~state's colleges and universities.~~

23 ~~(6) Giving these students an exemption from nonresident~~
24 ~~tuition, and allowing them to pay resident tuition, creates a higher~~
25 standard for California immigrant students than for United States



1 citizens or legal residents from other states who move to California
2 to attend our colleges and universities. Out of state students
3 merely have to live in California for a year and a day to be eligible
4 for resident tuition.

5 ~~(7)~~

6 (3) A fair tuition policy for all high school pupils in California
7 ensures access to our state's colleges and universities, and thereby
8 increases the state's collective productivity and economic growth.

9 (4) This act, as enacted during the 2001–02 Regular Session,
10 allows all persons, including undocumented immigrant students
11 who meet the requirements set forth in Section 68130.5 of the
12 Education Code, to be exempt from nonresident tuition in
13 California's colleges and universities.

14 (5) This act, as enacted during the 2001–02 Regular Session,
15 does not confer postsecondary education benefits on the basis of
16 ~~residency~~ residence within the meaning of Section 1623 of Title
17 8 of the United States Code.

18 ~~SEC. 2. Section 69504.5 is added to the Education Code, to~~

19 (b) It is the intent of the Legislature that:

20 (1) A state court may award only prospective injunctive and
21 declaratory relief to a party in any lawsuit interpreting Section
22 68130.5 of the Education Code, as added by this act during the
23 2001–02 Regular Session, or any lawsuit interpreting similar
24 requirements adopted by the Regents of the University of
25 California pursuant to Section 68134 of the Education Code.

26 (2) This act will have no impact on the ability of California's
27 public colleges and universities to assess nonresident tuition on
28 students who are not within the scope of this act.

29 SEC. 2. Section 68130.5 is added to the Education Code, to
30 read:

31 68130.5. Notwithstanding any other provision of law:

32 (a) A student, other than a nonimmigrant alien within the
33 meaning of paragraph (15) of subsection (a) of Section 1101 of
34 Title 8 of the United States Code, who meets all of the following
35 requirements shall be exempt from paying nonresident tuition at
36 the California State University and the California Community
37 Colleges:

38 (1) High school attendance in California for three or more
39 years.



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

3 (3) Registration as an entering student at, or current
4 enrollment at, an accredited institution of higher education in
5 California not earlier than the fall semester or quarter of the
6 2001–02 academic year.

7 (4) In the case of a person without lawful immigration status,
8 the filing of an affidavit with the institution of higher education
9 stating that the student has filed an application to legalize his or
10 her immigration status, or will file an application as soon as he or
11 she is eligible to do so.

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

15 (c) The Board of Governors of the California Community
16 Colleges and the Trustees of the California State University shall
17 prescribe rules and regulations for the implementation of this
18 section.

19 (d) Student information obtained in the implementation of this
20 section is confidential.

21 read:

22 ~~69504.5. Notwithstanding any other provision of law, a~~
23 ~~person who meets the requirements of Section 76140.1 or 89706,~~
24 ~~or who meets equivalent requirements adopted by the Regents of~~
25 ~~the University of California pursuant to the request expressed in~~
26 ~~Section 4 of the act that added this section during the 2001–02~~
27 ~~Regular Session shall be eligible for any financial aid program~~
28 ~~administered pursuant to this part.~~

29 ~~SEC. 3. Section 76140.1 is added to the Education Code, to~~
30 ~~read:~~

31 ~~76140.1. Notwithstanding any other provision of law:~~

32 ~~(a) (1) Any person, including an alien precluded from~~
33 ~~establishing California residency by reason of subdivision (h) of~~
34 ~~Section 68062, but excluding a nonimmigrant alien within the~~
35 ~~meaning of paragraph (15) of subsection (a) of Section 1101 of~~
36 ~~Title 8 of the United States Code who is required to maintain a~~
37 ~~foreign residence, who meets both of the requirements set forth in~~
38 ~~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 ~~(b) A student who is exempt from nonresident tuition pursuant~~
4 ~~to this section may be reported by a community college district as~~
5 ~~a full-time equivalent student for apportionment purposes.~~

6 ~~SEC. 4.—Section 89706 of the Education Code is amended to~~
7 ~~read:~~

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

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

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

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

31 ~~(B) Graduation from a California high school or attainment of~~
32 ~~the equivalent thereof.~~

33 ~~SEC. 5.—The Legislature hereby requests the Regents of the~~
34 ~~University of California to take action to exempt from nonresident~~
35 ~~tuition any person, including an alien precluded from establishing~~
36 ~~California residency by reason of subdivision (h) of Section 68062~~
37 ~~of the Education Code, but excluding a nonimmigrant alien within~~
38 ~~the meaning of paragraph (15) of subsection (a) of Section 1101~~
39 ~~of Title 8 of the United States Code who is required to maintain a~~
40 ~~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 or attainment of the equivalent thereof.~~

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4 CORRECTIONS

5 **Heading — Lines 2,3.**

6 **Text — Page 3.**

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