

Assembly Bill No. 540

CHAPTER 814

An act to add Section 68130.5 to the Education Code, relating to public postsecondary education.

[Approved by Governor October 12, 2001. Filed
with Secretary of State October 13, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

AB 540, Firebaugh. Public postsecondary education: exemption from nonresident tuition.

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, other than a nonimmigrant alien as defined, who has attended high school in California for 3 or more years, 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 from paying nonresident tuition at the California Community Colleges and the California State University.

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.

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

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

(1) There are high school pupils who have attended elementary and secondary schools in this state for most of their lives and who are likely to remain, but are precluded from obtaining an affordable college education because they are required to pay nonresident tuition rates.

(2) These pupils have already proven their academic eligibility and merit by being accepted into our state’s colleges and universities.

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

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

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

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

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

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

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

68130.5. Notwithstanding any other provision of law:



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

(1) High school attendance in California for three or more years.
(2) Graduation from a California high school or attainment of the equivalent thereof.

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

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

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

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

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

