

AMENDED IN ASSEMBLY MARCH 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 368

Introduced by Assembly Member Morrell

February 14, 2013

An act to amend ~~Section 42238.5~~ *Sections 68074, 68075, and 68075.5* of the Education Code, relating to ~~education finance~~ *public postsecondary education*.

LEGISLATIVE COUNSEL'S DIGEST

AB 368, as amended, Morrell. ~~Education finance: computation of average daily attendance.~~ *Public postsecondary education: resident classification.*

Under existing law, the segments of the public postsecondary education system in the state include the University of California, which is administered by the Regents of the University of California, the California State University, which is administered by the Trustees of the California State University, and the California Community Colleges, which is administered by the Chancellor of the California Community Colleges.

Existing law establishes uniform residency requirements for purposes of ascertaining the amount of tuition and fees to be paid by students of public postsecondary education institutions. Existing law entitles a student to resident classification for the purpose of determining tuition and fees if the student is a member, or a child or spouse who is a dependent of a member, of the Armed Forces of the United States stationed in the state on active duty, except as specified. Existing law also entitles a student who was a member of the Armed Forces stationed in the state on active duty for more than one year immediately prior to

being discharged from the Armed Forces to resident classification for a certain length of time.

This bill would expand those residency classification provisions by deleting the provisions requiring the member of the Armed Forces to be stationed in the state, and by defining “Armed Forces of the United States” to include the National Guard and the reserve components of the Armed Forces, including the California National Guard. The bill would request the Regents of the University of California to establish the same residency requirements as those established by this bill for students enrolled at the University of California. To the extent the bill would require community college districts to exempt more students from nonresident tuition, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Existing law requires the county superintendent of school to determine a revenue limit for each schools district in the county for each fiscal year that is based, in part, on the average daily attendance of the school district. Existing law requires, with certain exceptions, the average daily attendance to be computed based on the 2nd principal apportionment regular average daily attendance for either the current or prior fiscal year, whichever is greater.

This bill would make nonsubstantive changes to the provision relating to the computation of average daily attendance.

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

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

- 1 SECTION 1. Section 68074 of the Education Code is amended
- 2 to read:
- 3 68074. (a) A student who is a natural or adopted child,
- 4 stepchild, or spouse who is a dependent of a member of the Armed
- 5 Forces of the United States ~~stationed in this state~~ on active duty is

1 entitled to resident classification only for the purpose of
2 determining the amount of tuition and fees.

3 (b) If that member of the Armed Forces of the United States,
4 whose dependent natural or adopted child, stepchild, or spouse is
5 in attendance at an institution, ~~(1) is thereafter transferred on~~
6 ~~military orders to a place outside this state where the member~~
7 ~~continues to serve in the Armed Forces of the United States, or (2)~~
8 is thereafter retired as an active member of the Armed Forces of
9 the United States, the student dependent shall not lose his or her
10 resident classification so long as he or she remains continuously
11 enrolled at that institution.

12 (c) *For purposes of this section, "Armed Forces of the United*
13 *States" means the Air Force, Army, Coast Guard, Marine Corps,*
14 *National Guard, Naval Militia, Navy, and the reserve components*
15 *of each of those forces, including the California National Guard.*

16 SEC. 2. *Section 68075 of the Education Code is amended to*
17 *read:*

18 68075. (a) A student who is a member of the Armed Forces
19 of the United States ~~stationed in this state, as defined in subdivision~~
20 ~~(c) of Section 68074,~~ on active duty, except a member of the Armed
21 Forces assigned for educational purposes to a state-supported
22 institution of higher education, is entitled to resident classification
23 only for the purpose of determining the amount of tuition and fees.

24 (b) If that member of the Armed Forces of the United States
25 who is in attendance at an institution is thereafter transferred on
26 military orders to a place outside this state where the member
27 continues to serve in the Armed Forces of the United States, he or
28 she shall not lose his or her resident classification ~~so long as he or~~
29 ~~she remains continuously enrolled at that institution.~~

30 SEC. 3. *Section 68075.5 of the Education Code is amended to*
31 *read:*

32 68075.5. (a) Except as provided for in subdivisions (b) and
33 (c), a student who was a member of the Armed Forces of the United
34 States ~~stationed in this state, as defined in subdivision (c) of Section~~
35 ~~68074,~~ on active duty for more than one year immediately prior
36 to being discharged shall be exempt from paying nonresident
37 tuition for the length of time he or she lives in this state after being
38 discharged up to the minimum time necessary to become a resident.

39 (b) (1) Except as provided for in subdivision (c), a community
40 college student who was a member of the Armed Forces of the

1 United States ~~stationed in this state~~ on active duty for more than
2 one year immediately prior to being discharged shall be exempt
3 from paying nonresident tuition for up to one year if he or she files
4 an affidavit with the community college stating that he or she
5 intends to establish residency in California as soon as possible.

6 (2) The one year exemption provided in paragraph (1) shall be
7 used while the student lives in this state and within two years of
8 being discharged.

9 (c) A former member of the Armed Forces of the United States
10 who received a dishonorable or bad conduct discharge shall not
11 be eligible for an exemption pursuant to this section.

12 *SEC. 4. The Legislature hereby requests the Regents of the*
13 *University of California to establish the same residency*
14 *classifications for students enrolled at the University of California*
15 *as those enacted by this act.*

16 *SEC. 5. If the Commission on State Mandates determines that*
17 *this act contains costs mandated by the state, reimbursement to*
18 *local agencies and school districts for those costs shall be made*
19 *pursuant to Part 7 (commencing with Section 17500) of Division*
20 *4 of Title 2 of the Government Code.*

21 ~~SECTION 1. Section 42238.5 of the Education Code is~~
22 ~~amended to read:~~

23 ~~42238.5. (a) For purposes of Section 42238, the fiscal year~~
24 ~~average daily attendance shall be computed pursuant to paragraph~~
25 ~~(1) or (2).~~

26 ~~(1) The second principal apportionment regular average daily~~
27 ~~attendance for either the current or prior fiscal year, whichever is~~
28 ~~greater. However, prior fiscal year average daily attendance shall~~
29 ~~be adjusted for a loss or gain of average daily attendance due to a~~
30 ~~reorganization or transfer of territory, or, commencing in the~~
31 ~~1993-94 fiscal year, for any change in average daily attendance~~
32 ~~for pupils who are concurrently enrolled in adult programs and~~
33 ~~classes pursuant to Section 52616.17.~~

34 ~~(2) A school district that elects to receive funding pursuant to~~
35 ~~Article 4 (commencing with Section 42280) shall compute its units~~
36 ~~of average daily attendance for purposes of Section 42238 by~~
37 ~~subtracting the amount determined in subparagraph (B) from the~~
38 ~~amount determined in subparagraph (A).~~

39 ~~(A) The units of average daily attendance computed pursuant~~
40 ~~to paragraph (1).~~

1 ~~(B) The units of average daily attendance resulting from pupils~~
2 ~~attending schools funded pursuant to Article 4 (commencing with~~
3 ~~Section 42280).~~

4 ~~(b) For purposes of this article, regular average daily attendance~~
5 ~~shall be the base revenue limit average daily attendance, excluding~~
6 ~~summer school average daily attendance.~~

7 ~~(c) For purposes of this section, for the 1998-99 fiscal year~~
8 ~~only, the prior year average daily attendance shall be the 1997-98~~
9 ~~regular average daily attendance, excluding absences excused~~
10 ~~pursuant to subdivision (b) of Section 46010, as that subdivision~~
11 ~~read on July 1, 1996.~~