

AMENDED IN SENATE APRIL 25, 2013

AMENDED IN SENATE MARCH 14, 2013

SENATE BILL

No. 150

Introduced by Senator Lara

(Coauthors: Assembly Members Alejo and Ian Calderon)

January 31, 2013

An act to amend Section ~~48800~~ 76140 of the Education Code, relating to pupils.

LEGISLATIVE COUNSEL'S DIGEST

SB 150, as amended, Lara. Pupils: concurrent enrollment in secondary school and community college: nonresident tuition exemption.

Existing law authorizes the governing board of a school district to allow pupils whom the school district has determined would benefit from advanced scholastic or vocational work to attend a community college as special part-time or full-time students, as specified. *Existing law authorizes community college governing boards to exempt these special part-time students from paying the \$46 per unit per semester enrollment fee.*

This bill would *authorize a community college district to exempt a pupil, other than a nonimmigrant alien, as specified, pupil* attending a community college as a special part-time student from paying nonresident tuition at the community college ~~if certain conditions are satisfied.~~

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

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

1 *SECTION 1. Section 76140 of the Education Code, as added*
2 *by Section 66 of Chapter 38 of the Statutes of 2012, is amended*
3 *to read:*

4 76140. (a) A community college district may admit and shall
5 charge a tuition fee to nonresident students. The district may
6 exempt from all or parts of the fee any person described in
7 paragraph (1), (2), ~~or~~ (3), *or* (4):

8 (1) All nonresidents who enroll for six or fewer units.
9 Exemptions made pursuant to this paragraph shall not be made on
10 an individual basis.

11 (2) Any nonresident who is both a citizen and resident of a
12 foreign country, if the nonresident has demonstrated a financial
13 need for the exemption. Not more than 10 percent of the
14 nonresident foreign students attending any community college
15 district may be so exempted. Exemptions made pursuant to this
16 paragraph may be made on an individual basis.

17 (3) (A) A student who, as of August 29, 2005, was enrolled,
18 or admitted with an intention to enroll, in the fall term of the
19 2005–06 academic year in a regionally accredited institution of
20 higher education in Alabama, Louisiana, or Mississippi, and who
21 could not continue his or her attendance at that institution as a
22 direct consequence of damage sustained by that institution as a
23 result of Hurricane Katrina.

24 (B) The chancellor shall develop guidelines for the
25 implementation of this paragraph. These guidelines shall include
26 standards for appropriate documentation of student eligibility to
27 the extent feasible.

28 (C) This paragraph shall apply only to the 2005–06 academic
29 year.

30 (4) *A special part-time student admitted pursuant to Section*
31 *76001.*

32 (b) A district may contract with a state, a county contiguous to
33 California, the federal government, or a foreign country, or an
34 agency thereof, for payment of all or a part of a nonresident
35 student's tuition fee.

36 (c) Nonresident students shall not be reported as full-time
37 equivalent students (FTES) for state apportionment purposes,

1 except as provided by subdivision (j) or another statute, in which
2 case a nonresident tuition fee may not be charged.

3 (d) The nonresident tuition fee shall be set by the governing
4 board of each community college district not later than February
5 1 of each year for the succeeding fiscal year. The governing board
6 of each community college district shall provide nonresident
7 students with notice of nonresident tuition fee changes during the
8 spring term before the fall term in which the change will take
9 effect. Nonresident tuition fee increases shall be gradual, moderate,
10 and predictable. The fee may be paid in installments, as determined
11 by the governing board of the district.

12 (e) (1) The fee established by the governing board pursuant to
13 subdivision (d) shall represent for nonresident students enrolled
14 in 30 semester units or 45 quarter units of credit per fiscal year
15 one or more of the following:

16 (A) The amount that was expended by the district for the
17 expense of education as defined by the California Community
18 College Budget and Accounting Manual in the preceding fiscal
19 year increased by the projected percent increase in the United
20 States Consumer Price Index as determined by the Department of
21 Finance for the current fiscal year and succeeding fiscal year and
22 divided by the FTES (including nonresident students) attending
23 in the district in the preceding fiscal year. However, if for the
24 district's preceding fiscal year FTES of all students attending in
25 the district in noncredit courses is equal to, or greater than, 10
26 percent of the district's total FTES attending in the district, the
27 district may substitute the data for expense of education in grades
28 13 and 14 and FTES in grades 13 and 14 attending in the district.

29 (B) The expense of education in the preceding fiscal year of all
30 districts increased by the projected percent increase in the United
31 States Consumer Price Index as determined by the Department of
32 Finance for the fiscal year and succeeding fiscal year and divided
33 by the FTES (including nonresident students) attending all districts
34 during the preceding fiscal year. However, if the amount calculated
35 under this paragraph for the succeeding fiscal year is less than the
36 amount established for the current fiscal year or for any of the past
37 four fiscal years, the district may set the nonresident tuition fee at
38 the greater of the current or any of the past four-year amounts.

39 (C) An amount not to exceed the fee established by the
40 governing board of any contiguous district.

1 (D) An amount not to exceed the amount that was expended by
2 the district for the expense of education, but in no case less than
3 the statewide average as set forth in subparagraph (B).

4 (E) An amount no greater than the average of the nonresident
5 tuition fees of public community colleges of no less than 12 states
6 that are comparable to California in cost of living. The
7 determination of comparable states shall be based on a composite
8 cost-of-living index as determined by the United States Department
9 of Labor or a cooperating government agency.

10 (2) The additional revenue generated by the increased
11 nonresident tuition permitted under the amendments made to this
12 subdivision during the 2009–10 Regular Session shall be used to
13 expand and enhance services to resident students. In no event shall
14 the admission of nonresident students come at the expense of
15 resident enrollment.

16 (f) The governing board of each community college district also
17 shall adopt a tuition fee per unit of credit for nonresident students
18 enrolled in more or less than 15 units of credit per term by dividing
19 the fee determined in subdivision (e) by 30 for colleges operating
20 on the semester system and 45 for colleges operating on the quarter
21 system and rounding to the nearest whole dollar. The same rate
22 shall be uniformly charged nonresident students attending any
23 terms or sessions maintained by the community college. The rate
24 charged shall be the rate established for the fiscal year in which
25 the term or session ends.

26 (g) Any loss in district revenue generated by the nonresident
27 tuition fee shall not be offset by additional state funding.

28 (h) Any district that has fewer than 1,500 FTES and whose
29 boundary is within 10 miles of another state that has a reciprocity
30 agreement with California governing student attendance and fees
31 may exempt students from that state from the mandatory fee
32 requirement described in subdivision (a) for nonresident students.

33 (i) Any district that has more than 1,500, but less than 3,001,
34 FTES and whose boundary is within 10 miles of another state that
35 has a reciprocity agreement with California governing student
36 attendance and fees may, in any one fiscal year, exempt up to 100
37 FTES from that state from the mandatory fee requirement described
38 in subdivision (a) for nonresident students.

39 (j) The attendance of nonresident students who are exempted
40 pursuant to subdivision (h) or (i), or pursuant to paragraph (3) of

1 subdivision (a), from the mandatory fee requirement described in
2 subdivision (a) for nonresident students may be reported as resident
3 FTES for state apportionment purposes. Any nonresident student
4 reported as resident FTES for state apportionment purposes
5 pursuant to subdivision (h) or (i) shall pay a per unit fee that is
6 three times the amount of the fee established for residents pursuant
7 to Section 76300. That fee is to be included in the FTES
8 adjustments described in Section 76330 for purposes of computing
9 apportionments.

10 (k) This section shall become operative on July 1, 2013.

11 ~~SECTION 1. Section 48800 of the Education Code is amended~~
12 ~~to read:~~

13 ~~48800. (a) The governing board of a school district may~~
14 ~~determine which pupils would benefit from advanced scholastic~~
15 ~~or vocational work. The intent of this section is to provide~~
16 ~~educational enrichment opportunities for a limited number of~~
17 ~~eligible pupils, rather than to reduce current course requirements~~
18 ~~of elementary and secondary schools, and also to help ensure a~~
19 ~~smoother transition from high school to college for pupils by~~
20 ~~providing them with greater exposure to the collegiate atmosphere.~~
21 ~~The governing board of the school district may authorize those~~
22 ~~pupils, upon recommendation of the principal of the pupil's school~~
23 ~~of attendance, and with parental consent, to attend a community~~
24 ~~college during any session or term as special part-time or full-time~~
25 ~~students and to undertake one or more courses of instruction offered~~
26 ~~at the community college level.~~

27 ~~(b) If the governing board of the school district denies a request~~
28 ~~for special part-time or full-time enrollment at a community college~~
29 ~~for any session or term for a pupil who is identified as highly gifted,~~
30 ~~the governing board of the school district shall issue its written~~
31 ~~recommendation and the reasons for the denial within 60 days.~~
32 ~~The written recommendation and denial shall be issued at the next~~
33 ~~regularly scheduled board meeting that falls at least 30 days after~~
34 ~~the request has been submitted.~~

35 ~~(c) A pupil shall receive credit for community college courses~~
36 ~~that he or she completes at the level determined appropriate by the~~
37 ~~governing boards of the school district and community college~~
38 ~~district.~~

1 ~~(d) (1) The principal of a school may recommend a pupil for~~
2 ~~community college summer session only if the pupil meets all of~~
3 ~~the following criteria:~~

4 ~~(A) Demonstrates adequate preparation in the discipline to be~~
5 ~~studied.~~

6 ~~(B) Exhausts all opportunities to enroll in an equivalent course,~~
7 ~~if any, at his or her school of attendance.~~

8 ~~(2) For any particular grade level, a principal shall not~~
9 ~~recommend for community college summer session attendance~~
10 ~~more than 5 percent of the total number of pupils who completed~~
11 ~~that grade immediately before the time of recommendation.~~

12 ~~(3) A high school pupil recommended by his or her principal~~
13 ~~for enrollment in a course shall not be included in the 5-percent~~
14 ~~limitation of pupils allowed to be recommended pursuant to~~
15 ~~paragraph (2) if the course in which the pupil is enrolled meets~~
16 ~~one of the criterion listed in subparagraphs (A) to (C), inclusive,~~
17 ~~and the high school principal who recommends the pupil for~~
18 ~~enrollment provides the Chancellor of the California Community~~
19 ~~Colleges, upon the request of the chancellor's office, with the data~~
20 ~~required for purposes of paragraph (4).~~

21 ~~(A) The course is a lower division, college-level course for~~
22 ~~credit that is designated as part of the Intersegmental General~~
23 ~~Education Transfer Curriculum or applies toward the general~~
24 ~~education breadth requirements of the California State University.~~

25 ~~(B) The course is a college-level, occupational course for credit~~
26 ~~assigned a priority code of "A," "B," or "C," pursuant to the~~
27 ~~Student Accountability Model, as defined by the Chancellor of the~~
28 ~~California Community Colleges and reported in the management~~
29 ~~information system, and the course is part of a sequence of~~
30 ~~vocational or career technical education courses leading to a degree~~
31 ~~or certificate in the subject area covered by the sequence.~~

32 ~~(C) The course is necessary to assist a pupil who has not passed~~
33 ~~the California High School Exit Examination (CAHSEE), does~~
34 ~~not offer college credit in English language arts or mathematics,~~
35 ~~and the pupil meets both of the following requirements:~~

36 ~~(i) The pupil is in his or her senior year of high school.~~

37 ~~(ii) The pupil has completed all other graduation requirements~~
38 ~~before the end of his or her senior year, or will complete all~~
39 ~~remaining graduation requirements during a community college~~

1 summer session, which he or she is recommended to enroll in,
2 following his or her senior year of high school.

3 ~~(4) On or before March 1 of each year, the Chancellor of the~~
4 ~~California Community Colleges shall report to the Department of~~
5 ~~Finance the number of pupils recommended pursuant to paragraph~~
6 ~~(3) who enroll in community college summer session courses and~~
7 ~~receive passing grades. The information in this report may be~~
8 ~~submitted with the report required by subdivision (c) of Section~~
9 ~~76002.~~

10 ~~(5) The Board of Governors of the California Community~~
11 ~~Colleges shall not include enrollment growth attributable to~~
12 ~~paragraph (3) as part of its annual budget request for the California~~
13 ~~Community Colleges.~~

14 ~~(6) Notwithstanding Article 3 (commencing with Section 33050)~~
15 ~~of Chapter 1 of Part 20 of Division 2, compliance with this~~
16 ~~subdivision shall not be waived.~~

17 ~~(e) A pupil, other than a nonimmigrant alien within the meaning~~
18 ~~of subparagraphs (A) to (S), inclusive, of paragraph (15) of~~
19 ~~subsection (a) of Section 1101 of Title 8 of the United States Code,~~
20 ~~attending a community college as a special part-time student~~
21 ~~pursuant to this section shall be exempt from paying nonresident~~
22 ~~tuition at the California Community Colleges, if all of the following~~
23 ~~are satisfied:~~

24 ~~(1) He or she has attended school in California for one year or~~
25 ~~more.~~

26 ~~(2) He or she is enrolled in a California high school.~~

27 ~~(3) He or she is enrolled in a California community college~~
28 ~~pursuant to this section and Section 76001.~~

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

34 ~~(f) Paragraphs (3), (4), and (5) of subdivision (d) shall become~~
35 ~~inoperative on January 1, 2014.~~

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