

AMENDED IN ASSEMBLY MARCH 4, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 13**

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**Introduced by Assembly Member Chávez**

December 1, 2014

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An act to amend Section 76140 of the Education Code, relating to public postsecondary education, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 13, as amended, Chávez. Public postsecondary education: community colleges: exemptions from nonresident tuition.

(1) Existing law establishes the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, as one of the segments of public higher education in the state. Existing law generally requires community college districts to charge a tuition fee to nonresident students, but exempts specified community college students from paying that nonresident tuition fee.

This bill would additionally exempt nonresident students *living in California and* enrolled at a community college who are *covered individuals, as defined in a specified federal statute*, using, or are intending to use, Federal GI Bill education benefits, as specified, to cover the costs associated with enrollment as a community college student.

This bill would authorize community college districts to report students exempted from nonresident tuition under this bill as resident full-time equivalent students for purposes of calculating ~~apportionments-~~  
*apportionments* to those districts.

To the extent that this bill would place additional requirements on community college districts regarding the provision of postsecondary education benefits to ~~additional categories of~~ *certain* students, the bill would impose a state-mandated local program.

(2) 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.

(3) *This bill would declare that it is to take effect immediately as an urgency statute.*

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 76140 of the Education Code is amended  
2 to read:

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

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

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

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

1 direct consequence of damage sustained by that institution as a  
2 result of Hurricane Katrina.

3 (B) The chancellor shall develop guidelines for the  
4 implementation of this paragraph. These guidelines shall include  
5 standards for appropriate documentation of student eligibility to  
6 the extent feasible.

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

9 (4) A special part-time student admitted pursuant to Section  
10 76001.

11 (5) A nonresident student who is a United States citizen who  
12 resides in a foreign country, if that nonresident meets all of the  
13 following requirements:

14 (A) Demonstrates a financial need for the exemption.

15 (B) Has a parent or guardian who has been deported or was  
16 permitted to depart voluntarily under the federal Immigration and  
17 Nationality Act in accordance with Section 1229c of Title 8 of the  
18 United States Code. The student shall provide documents from the  
19 United States Citizenship and Immigration Services evidencing  
20 the deportation or voluntary departure of his or her parent or  
21 guardian.

22 (C) Moved abroad as a result of the deportation or voluntary  
23 departure specified in subparagraph (B).

24 (D) Lived in California immediately before moving abroad. The  
25 student shall provide information and evidence that demonstrates  
26 the student previously lived in California.

27 (E) Attended a public or private secondary school, as described  
28 in Sections 52 and 53, in the state for three or more years. The  
29 student shall provide documents that demonstrate his or her  
30 secondary school attendance.

31 (F) Upon enrollment, will be in his or her first academic year  
32 as a matriculated student in California public higher education, as  
33 that term is defined in subdivision (a) of Section 66010, will be  
34 living in California, and will file an affidavit with the institution  
35 stating that he or she intends to establish residency in California  
36 as soon as possible.

37 (6) A nonresident student who is *a covered individual as defined*  
38 *pursuant to Section 702 of the federal Veterans Access, Choice,*  
39 *and Accountability Act of 2014 (Public Law 113-146), as it read*  
40 *on July 1, 2015, who is using, or is intending to use, GI Bill*

1 education benefits while *living in California and* enrolled at a  
2 community college. As used in this paragraph, “GI Bill education  
3 benefits” refers to any education benefit administered by the United  
4 States Department of Veterans Affairs pursuant to Title 38 of the  
5 United States Code that is designed to help eligible veterans of the  
6 Armed Forces of the United States or ~~other-eligible persons with~~  
7 *persons eligible for those benefits because of* a relationship to a  
8 veteran of the Armed Forces of the United States to cover the costs  
9 associated with enrollment as a community college student.

10 (b) A district may contract with a state, a county contiguous to  
11 California, the federal government, or a foreign country, or an  
12 agency thereof, for payment of all or a part of a nonresident  
13 student’s tuition fee.

14 (c) Nonresident students shall not be reported as full-time  
15 equivalent students (FTES) for state apportionment purposes,  
16 except as provided by subdivision (j) or another statute, in which  
17 case a nonresident tuition fee may not be charged.

18 (d) The nonresident tuition fee shall be set by the governing  
19 board of each community college district not later than February  
20 1 of each year for the succeeding fiscal year. The governing board  
21 of each community college district shall provide nonresident  
22 students with notice of nonresident tuition fee changes during the  
23 spring term before the fall term in which the change will take  
24 effect. Nonresident tuition fee increases shall be gradual, moderate,  
25 and predictable. The fee may be paid in installments, as determined  
26 by the governing board of the district.

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

31 (A) The amount that was expended by the district for the  
32 expense of education as defined by the California Community  
33 College Budget and Accounting Manual in the preceding fiscal  
34 year increased by the projected percent increase in the United  
35 States Consumer Price Index as determined by the Department of  
36 Finance for the current fiscal year and succeeding fiscal year and  
37 divided by the FTES (including nonresident students) attending  
38 in the district in the preceding fiscal year. However, if for the  
39 district’s preceding fiscal year FTES of all students attending in  
40 the district in noncredit courses is equal to, or greater than, 10

1 percent of the district's total FTES attending in the district, the  
2 district may substitute the data for expense of education in grades  
3 13 and 14 and FTES in grades 13 and 14 attending in the district.

4 (B) The expense of education in the preceding fiscal year of all  
5 districts increased by the projected percent increase in the United  
6 States Consumer Price Index as determined by the Department of  
7 Finance for the fiscal year and succeeding fiscal year and divided  
8 by the FTES (including nonresident students) attending all districts  
9 during the preceding fiscal year. However, if the amount calculated  
10 under this paragraph for the succeeding fiscal year is less than the  
11 amount established for the current fiscal year or for any of the past  
12 four fiscal years, the district may set the nonresident tuition fee at  
13 the greater of the current or any of the past four-year amounts.

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

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

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

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

31 (f) The governing board of each community college district also  
32 shall adopt a tuition fee per unit of credit for nonresident students  
33 enrolled in more or less than 15 units of credit per term by dividing  
34 the fee determined in subdivision (e) by 30 for colleges operating  
35 on the semester system and 45 for colleges operating on the quarter  
36 system and rounding to the nearest whole dollar. The same rate  
37 shall be uniformly charged nonresident students attending any  
38 terms or sessions maintained by the community college. The rate  
39 charged shall be the rate established for the fiscal year in which  
40 the term or session ends.

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

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

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

14 (j) The attendance of nonresident students who are exempted  
15 pursuant to subdivision (h) or (i), or pursuant to paragraph (3), (5),  
16 or (6) of subdivision (a), from the mandatory fee requirement  
17 described in subdivision (a) for nonresident students may be  
18 reported as resident FTES for state apportionment purposes. Any  
19 nonresident student reported as resident FTES for state  
20 apportionment purposes pursuant to subdivision (h) or (i) shall  
21 pay a per unit fee that is three times the amount of the fee  
22 established for residents pursuant to Section 76300. That fee is to  
23 be included in the FTES adjustments described in Section 76300  
24 for purposes of computing apportionments.

25 SEC. 2. If the Commission on State Mandates determines that  
26 this act contains costs mandated by the state, reimbursement to  
27 local agencies and school districts for those costs shall be made  
28 pursuant to Part 7 (commencing with Section 17500) of Division  
29 4 of Title 2 of the Government Code.

30 SEC. 3. *This act is an urgency statute necessary for the*  
31 *immediate preservation of the public peace, health, or safety within*  
32 *the meaning of Article IV of the Constitution and shall go into*  
33 *immediate effect. The facts constituting the necessity are:*

34 *In order for the nonresident tuition exemption authorized by this*  
35 *act to be in effect for the 2015–16 academic year, it is necessary*  
36 *that this act take effect immediately.*