

AMENDED IN ASSEMBLY MAY 28, 2015

AMENDED IN ASSEMBLY MARCH 4, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 13

Introduced by Assembly Member Chávez
(Coauthor: Assembly Member Kim)
(Coauthor: Senator Nguyen)

December 1, 2014

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 *college, as specified*, 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 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 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: $\frac{2}{3}$. 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.

- 1 (3) (A) A student who, as of August 29, 2005, was enrolled,
2 or admitted with an intention to enroll, in the fall term of the
3 2005–06 academic year in a regionally accredited institution of
4 higher education in Alabama, Louisiana, or Mississippi, and who
5 could not continue his or her attendance at that institution as a
6 direct consequence of damage sustained by that institution as a
7 result of Hurricane Katrina.
- 8 (B) The chancellor shall develop guidelines for the
9 implementation of this paragraph. These guidelines shall include
10 standards for appropriate documentation of student eligibility to
11 the extent feasible.
- 12 (C) This paragraph shall apply only to the 2005–06 academic
13 year.
- 14 (4) A special part-time student admitted pursuant to Section
15 76001.
- 16 (5) A nonresident student who is a United States citizen who
17 resides in a foreign country, if that nonresident meets all of the
18 following requirements:
- 19 (A) Demonstrates a financial need for the exemption.
- 20 (B) Has a parent or guardian who has been deported or was
21 permitted to depart voluntarily under the federal Immigration and
22 Nationality Act in accordance with Section 1229c of Title 8 of the
23 United States Code. The student shall provide documents from the
24 United States Citizenship and Immigration Services evidencing
25 the deportation or voluntary departure of his or her parent or
26 guardian.
- 27 (C) Moved abroad as a result of the deportation or voluntary
28 departure specified in subparagraph (B).
- 29 (D) Lived in California immediately before moving abroad. The
30 student shall provide information and evidence that demonstrates
31 the student previously lived in California.
- 32 (E) Attended a public or private secondary school, as described
33 in Sections 52 and 53, in the state for three or more years. The
34 student shall provide documents that demonstrate his or her
35 secondary school attendance.
- 36 (F) Upon enrollment, will be in his or her first academic year
37 as a matriculated student in California public higher education, as
38 that term is defined in subdivision (a) of Section 66010, will be
39 living in California, and will file an affidavit with the institution

1 stating that he or she intends to establish residency in California
2 as soon as possible.

3 (6) A nonresident student who is a covered individual as defined
4 ~~pursuant to~~ *in* Section 702 of the federal Veterans Access, Choice,
5 and Accountability Act of 2014 (Public Law 113-146), as it read
6 on July 1, 2015, who is using, or is intending to use, GI Bill
7 education benefits while living in California and enrolled at a
8 ~~community college~~ *college on or after July 1, 2015*. As used in
9 this paragraph, “GI Bill education benefits” refers to any education
10 benefit administered by the United States Department of Veterans
11 Affairs pursuant to Title 38 of the United States Code that is
12 designed to help eligible veterans of the Armed Forces of the
13 United States or other persons eligible for those benefits because
14 of a relationship to a veteran of the Armed Forces of the United
15 States to cover the costs associated with enrollment as a community
16 college student.

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

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

25 (d) The nonresident tuition fee shall be set by the governing
26 board of each community college district not later than February
27 1 of each year for the succeeding fiscal year. The governing board
28 of each community college district shall provide nonresident
29 students with notice of nonresident tuition fee changes during the
30 spring term before the fall term in which the change will take
31 effect. Nonresident tuition fee increases shall be gradual, moderate,
32 and predictable. The fee may be paid in installments, as determined
33 by the governing board of the district.

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

38 (A) The amount that was expended by the district for the
39 expense of education as defined by the California Community
40 College Budget and Accounting Manual in the preceding fiscal

1 year increased by the projected percent increase in the United
2 States Consumer Price Index as determined by the Department of
3 Finance for the current fiscal year and succeeding fiscal year and
4 divided by the FTES (including nonresident students) attending
5 in the district in the preceding fiscal year. However, if for the
6 district's preceding fiscal year FTES of all students attending in
7 the district in noncredit courses is equal to, or greater than, 10
8 percent of the district's total FTES attending in the district, the
9 district may substitute the data for expense of education in grades
10 13 and 14 and FTES in grades 13 and 14 attending in the district.

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

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

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

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

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

38 (f) The governing board of each community college district also
39 shall adopt a tuition fee per unit of credit for nonresident students
40 enrolled in more or less than 15 units of credit per term by dividing

1 the fee determined in subdivision (e) by 30 for colleges operating
2 on the semester system and 45 for colleges operating on the quarter
3 system and rounding to the nearest whole dollar. The same rate
4 shall be uniformly charged nonresident students attending any
5 terms or sessions maintained by the community college. The rate
6 charged shall be the rate established for the fiscal year in which
7 the term or session ends.

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

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

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

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

32 SEC. 2. If the Commission on State Mandates determines that
33 this act contains costs mandated by the state, reimbursement to
34 local agencies and school districts for those costs shall be made
35 pursuant to Part 7 (commencing with Section 17500) of Division
36 4 of Title 2 of the Government Code.

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

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

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