

Introduced by Senator GainesFebruary 27, 2015

An act to amend, repeal, and add Section 76140 of the Education Code, relating to community colleges.

LEGISLATIVE COUNSEL'S DIGEST

SB 605, as introduced, Gaines. Community colleges: exemption from nonresident tuition fee: Lake Tahoe Community College District.

(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 postsecondary education in this state. Existing law establishes community college districts throughout the state, including the Lake Tahoe Community College District, and authorizes them to operate campuses and provide instruction to students. Existing law authorizes community college districts to admit nonresident students, and requires that nonresident students be charged a nonresident tuition fee unless an exemption is applicable.

This bill would exempt from the nonresident tuition fee students who attend Lake Tahoe Community College and who have residence in one of several designated communities in Nevada, as provided. The bill would require the governing board of the Lake Tahoe Community College District to adopt rules and regulations for determining a student's residence classification and for establishing procedures for an appeal and review of the residence classification. These provisions would become inoperative on July 1, 2022, and would be repealed on January 1, 2023.

By imposing new duties on the Lake Tahoe Community College District, the bill would create a state-mandated local program.

(2) This bill would make a legislative finding and declaration as to the necessity of a special statute for the Lake Tahoe Community College District with respect to students who reside in nearby communities located in Nevada.

(3) 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.

(4) This bill would declare that it would not become operative unless, on or before July 1, 2021, the Chancellor of the California Community Colleges determines that the State of Nevada has enacted a statute providing reciprocal rights to California residents attending Nevada colleges that reasonably conform to the benefits conferred upon Nevada residents by this bill.

Vote: majority. 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)~~, (4), or
7 (6), and shall exempt from all of the fee any person described in
8 paragraph (5):

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) *A student who attends Lake Tahoe Community College*
4 *and who has residence, pursuant to subparagraph (B), in one of*
5 *the following communities in Nevada:*

6 (i) *Incline Village.*

7 (ii) *Kingsbury.*

8 (iii) *Round Hill.*

9 (iv) *Skyland.*

10 (v) *Stateline.*

11 (vi) *Zephyr Cove.*

12 (B) *Residence shall be determined pursuant to Article 5*
13 *(commencing with Section 68060) of Chapter 1 of Part 41 of*
14 *Division 5. A person shall have residence in one of the communities*
15 *listed in subparagraph (A) if the person has lived in the community*
16 *for more than one year immediately prior to seeking the fee*
17 *exemption pursuant to this paragraph.*

18 (C) *The governing board of the Lake Tahoe Community College*
19 *District shall adopt rules and regulations for determining a*
20 *student’s residence classification and for establishing procedures*
21 *for an appeal and review of the residence classification. No more*
22 *than 200 students shall be exempted from payment of a nonresident*
23 *tuition fee under this paragraph in any academic year.*

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

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

32 (d) The nonresident tuition fee shall be set by the governing
33 board of each community college district not later than February
34 1 of each year for the succeeding fiscal year. The governing board
35 of each community college district shall provide nonresident
36 students with notice of nonresident tuition fee changes during the
37 spring term before the fall term in which the change will take
38 effect. Nonresident tuition fee increases shall be gradual, moderate,
39 and predictable. The fee may be paid in installments, as determined
40 by the governing board of the district.

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

5 (A) The amount that was expended by the district for the
6 expense of education as defined by the California Community
7 College Budget and Accounting Manual in the preceding fiscal
8 year increased by the projected percent increase in the United
9 States Consumer Price Index as determined by the Department of
10 Finance for the current fiscal year and succeeding fiscal year and
11 divided by the FTES (including nonresident students) attending
12 in the district in the preceding fiscal year. However, if for the
13 district's preceding fiscal year FTES of all students attending in
14 the district in noncredit courses is equal to, or greater than, 10
15 percent of the district's total FTES attending in the district, the
16 district may substitute the data for expense of education in grades
17 13 and 14 and FTES in grades 13 and 14 attending in the district.

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

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

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

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

39 (2) The additional revenue generated by the increased
40 nonresident tuition permitted under the amendments made to this

1 subdivision during the 2009–10 Regular Session shall be used to
2 expand and enhance services to resident students. In no event shall
3 the admission of nonresident students come at the expense of
4 resident enrollment.

5 (f) The governing board of each community college district also
6 shall adopt a tuition fee per unit of credit for nonresident students
7 enrolled in more or less than 15 units of credit per term by dividing
8 the fee determined in subdivision (e) by 30 for colleges operating
9 on the semester system and 45 for colleges operating on the quarter
10 system and rounding to the nearest whole dollar. The same rate
11 shall be uniformly charged nonresident students attending any
12 terms or sessions maintained by the community college. The rate
13 charged shall be the rate established for the fiscal year in which
14 the term or session ends.

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

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

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

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

39 (k) *This section shall become inoperative on July 1, 2022, and,*
40 *as of January 1, 2023, is repealed, unless a later enacted statute,*

1 *that becomes operative on or before January 1, 2023, deletes or*
2 *extends the dates on which it becomes inoperative and is repealed.*

3 SEC. 2. Section 76140 is added to the Education Code, to read:

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

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
23 direct consequence of damage sustained by that institution as a
24 result of Hurricane Katrina.

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

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

31 (4) A special part-time student admitted pursuant to Section
32 76001.

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

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

37 (B) Has a parent or guardian who has been deported or was
38 permitted to depart voluntarily under the federal Immigration and
39 Nationality Act in accordance with Section 1229c of Title 8 of the
40 United States Code. The student shall provide documents from the

1 United States Citizenship and Immigration Services evidencing
2 the deportation or voluntary departure of his or her parent or
3 guardian.

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

6 (D) Lived in California immediately before moving abroad. The
7 student shall provide information and evidence that demonstrates
8 the student previously lived in California.

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

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

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

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

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

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

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

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

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

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

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

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

1 (f) The governing board of each community college district also
2 shall adopt a tuition fee per unit of credit for nonresident students
3 enrolled in more or less than 15 units of credit per term by dividing
4 the fee determined in subdivision (e) by 30 for colleges operating
5 on the semester system and 45 for colleges operating on the quarter
6 system and rounding to the nearest whole dollar. The same rate
7 shall be uniformly charged nonresident students attending any
8 terms or sessions maintained by the community college. The rate
9 charged shall be the rate established for the fiscal year in which
10 the term or session ends.

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

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

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

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

35 (k) This section shall become operative on July 1, 2022.

36 SEC. 3. The Legislature finds and declares that a special law
37 is necessary and that a general law cannot be made applicable
38 within the meaning of Section 16 of Article IV of the California
39 Constitution because of the unique circumstances of the Lake

1 Tahoe Community College District with respect to students who
2 reside in nearby communities located in Nevada.

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

8 SEC. 5. This act shall not become operative unless, on or before
9 July 1, 2021, the Chancellor of the California Community Colleges
10 determines that the State of Nevada has enacted a statute providing
11 reciprocal rights to California residents attending Nevada colleges
12 that reasonably conform to the benefits conferred upon Nevada
13 residents by Section 1 of this act. The chancellor shall promptly
14 post this determination on the Internet Web site of the California
15 Community Colleges.

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