

AMENDED IN SENATE JUNE 2, 2015

AMENDED IN SENATE APRIL 29, 2015

SENATE BILL

No. 605

Introduced by Senator Gaines

February 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 amended, 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. *The bill would authorize the reporting, for apportionment purposes, of the attendance*

of nonresident students exempted from nonresident tuition under this bill, but would require any nonresident student thus reported for apportionment purposes to pay a per unit fee that is 3 times the amount of the fee established for residents. These provisions would become inoperative on July 1, 2022, and would be repealed on January 1, 2023.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 Board of Governors of the California Community Colleges enters into an interstate attendance agreement with the Nevada System of Higher Education that provides reciprocal rights to California residents attending Western Nevada College 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), (4), or (6), and
7 shall exempt from all of the fee any person described in paragraph
8 (5):

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

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

10 (3) (A) A student who, as of August 29, 2005, was enrolled,
11 or admitted with an intention to enroll, in the fall term of the
12 2005–06 academic year in a regionally accredited institution of
13 higher education in Alabama, Louisiana, or Mississippi, and who
14 could not continue his or her attendance at that institution as a
15 direct consequence of damage sustained by that institution as a
16 result of Hurricane Katrina.

17 (B) The chancellor shall develop guidelines for the
18 implementation of this paragraph. These guidelines shall include
19 standards for appropriate documentation of student eligibility to
20 the extent feasible.

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

23 (4) A special part-time student admitted pursuant to Section
24 76001.

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

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

29 (B) Has a parent or guardian who has been deported or was
30 permitted to depart voluntarily under the federal Immigration and
31 Nationality Act in accordance with Section 1229c of Title 8 of the
32 United States Code. The student shall provide documents from the
33 United States Citizenship and Immigration Services evidencing
34 the deportation or voluntary departure of his or her parent or
35 guardian.

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

38 (D) Lived in California immediately before moving abroad. The
39 student shall provide information and evidence that demonstrates
40 the student previously lived in California.

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

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

11 (6) (A) A student who attends Lake Tahoe Community College
12 and who has residence, pursuant to subparagraph (B), in one of
13 the following communities in Nevada:

14 (i) Incline Village.

15 (ii) Kingsbury.

16 (iii) Round Hill.

17 (iv) Skyland.

18 (v) Stateline.

19 (vi) Zephyr Cove.

20 (B) Residence shall be determined pursuant to Article 5
21 (commencing with Section 68060) of Chapter 1 of Part 41 of
22 Division 5. A person shall have residence in one of the
23 communities listed in subparagraph (A) if the person has lived in
24 the community for more than one year immediately prior to seeking
25 the fee exemption pursuant to this paragraph.

26 (C) The governing board of the Lake Tahoe Community College
27 District shall adopt rules and regulations for determining a student's
28 residence classification and for establishing procedures for an
29 appeal and review of the residence classification. No more than
30 200 students shall be exempted from payment of a nonresident
31 tuition fee under this paragraph in any academic year.

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

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

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

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

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

37 (C) An amount not to exceed the fee established by the
38 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), (5),

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

12 (k) This section shall become inoperative on July 1, 2022, and,
13 as of January 1, 2023, is repealed, unless a later enacted statute,
14 that becomes operative on or before January 1, 2023, deletes or
15 extends the dates on which it becomes inoperative and is repealed.

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

17 76140. (a) A community college district may admit, and shall
18 charge a tuition fee to, nonresident students, except that a
19 community college district may exempt from all or parts of the
20 fee any person described in paragraph (1), (2), (3), or (4), and shall
21 exempt from all of the fee any person described in paragraph (5):

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

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

31 (3) (A) A student who, as of August 29, 2005, was enrolled,
32 or admitted with an intention to enroll, in the fall term of the
33 2005–06 academic year in a regionally accredited institution of
34 higher education in Alabama, Louisiana, or Mississippi, and who
35 could not continue his or her attendance at that institution as a
36 direct consequence of damage sustained by that institution as a
37 result of Hurricane Katrina.

38 (B) The chancellor shall develop guidelines for the
39 implementation of this paragraph. These guidelines shall include

1 standards for appropriate documentation of student eligibility to
2 the extent feasible.

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

5 (4) A special part-time student admitted pursuant to Section
6 76001.

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

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

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

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

20 (D) Lived in California immediately before moving abroad. The
21 student shall provide information and evidence that demonstrates
22 the student previously lived in California.

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

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

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

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

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

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

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

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

37 (C) An amount not to exceed the fee established by the
38 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) or

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

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

11 SEC. 3. The Legislature finds and declares that a special law
12 is necessary and that a general law cannot be made applicable
13 within the meaning of Section 16 of Article IV of the California
14 Constitution because of the unique circumstances of the Lake
15 Tahoe Community College District with respect to students who
16 reside in nearby communities located in Nevada.

17 SEC. 4. If the Commission on State Mandates determines that
18 this act contains costs mandated by the state, reimbursement to
19 local agencies and school districts for those costs shall be made
20 pursuant to Part 7 (commencing with Section 17500) of Division
21 4 of Title 2 of the Government Code.

22 SEC. 5. This act shall not become operative unless, on or before
23 July 1, 2021, the Board of Governors of the California Community
24 Colleges enters into an interstate attendance agreement with the
25 Nevada System of Higher Education that, in a manner that is
26 consistent with subdivision (a) of Section 66801 of the Education
27 Code, provides reciprocal rights to California residents attending
28 Western Nevada College that reasonably conform to the benefits
29 conferred upon Nevada residents by Section 1 of this act. The
30 Chancellor of the California Community Colleges shall promptly
31 post notice of this interstate attendance agreement on the Internet
32 Web site of the California Community Colleges.