

AMENDED IN ASSEMBLY JULY 16, 2015

AMENDED IN SENATE JUNE 2, 2015

AMENDED IN SENATE APRIL 29, 2015

**SENATE BILL**

**No. 605**

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**Introduced by Senator Gaines**

February 27, 2015

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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 These provisions would become inoperative on July 1, 2022, and would be repealed on January 1, 2023.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.~~

~~(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 no reimbursement is required by this act for a specified reason.~~

(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:

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

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

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

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

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

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

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

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

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

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

1 the deportation or voluntary departure of his or her parent or  
2 guardian.

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

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

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

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

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

21 (i) Incline Village.

22 (ii) Kingsbury.

23 (iii) Round Hill.

24 (iv) Skyland.

25 (v) Stateline.

26 (vi) Zephyr Cove.

27 (B) Residence shall be determined pursuant to Article 5  
28 (commencing with Section 68060) of Chapter 1 of Part 41 of  
29 Division 5. A person shall have residence in one of the  
30 communities listed in subparagraph (A) if the person has lived in  
31 the community for more than one year immediately prior to seeking  
32 the fee exemption pursuant to this paragraph.

33 (C) The governing board of the Lake Tahoe Community College  
34 District shall adopt rules and regulations for determining a student's  
35 residence classification and for establishing procedures for an  
36 appeal and review of the residence classification. No more than  
37 200 students shall be exempted from payment of a nonresident  
38 tuition fee under this paragraph in any academic year.

39 (b) A district may contract with a state, a county contiguous to  
40 California, the federal government, or a foreign country, or an

1 agency thereof, for payment of all or a part of a nonresident  
2 student's tuition fee.

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

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

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

20 (A) The amount that was expended by the district for the  
21 expense of education as defined by the California Community  
22 Colleges Budget and Accounting Manual in the preceding fiscal  
23 year increased by the projected percent increase in the United  
24 States Consumer Price Index as determined by the Department of  
25 Finance for the current fiscal year and succeeding fiscal year and  
26 divided by the FTES (including nonresident students) attending  
27 in the district in the preceding fiscal year. However, if for the  
28 district's preceding fiscal year FTES of all students attending in  
29 the district in noncredit courses is equal to, or greater than, 10  
30 percent of the district's total FTES attending in the district, the  
31 district may substitute the data for expense of education in grades  
32 13 and 14 and FTES in grades 13 and 14 attending in the district.

33 (B) The expense of education in the preceding fiscal year of all  
34 districts increased by the projected percent increase in the United  
35 States Consumer Price Index as determined by the Department of  
36 Finance for the fiscal year and succeeding fiscal year and divided  
37 by the FTES (including nonresident students) attending all districts  
38 during the preceding fiscal year. However, if the amount calculated  
39 under this paragraph for the succeeding fiscal year is less than the  
40 amount established for the current fiscal year or for any of the past

1 four fiscal years, the district may set the nonresident tuition fee at  
2 the greater of the current or any of the past four-year amounts.

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

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

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

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

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

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

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

37 (i) Any district that has more than 1,500, but less than 3,001,  
38 FTES and whose boundary is within 10 miles of another state that  
39 has a reciprocity agreement with California governing student  
40 attendance and fees may, in any one fiscal year, exempt up to 100

1 FTES from that state from the mandatory fee requirement described  
2 in subdivision (a) for nonresident students.

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

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

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

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

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

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

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

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

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

7 (4) A special part-time student admitted pursuant to Section  
8 76001.

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

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

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

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

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

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

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

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

39 (c) Nonresident students shall not be reported as full-time  
40 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 Colleges 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) 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 *No reimbursement is required by this act pursuant to Section 6*  
23 *of Article XIII B of the California Constitution because the only*  
24 *costs that may be incurred by a local agency or school district are*  
25 *the result of a program for which legislative authority was*  
26 *requested by that local agency or school district, within the*  
27 *meaning of Section 17556 of the Government Code and Section 6*  
28 *of Article XIII B of the California Constitution.*

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

- 1 post notice of this interstate attendance agreement on the Internet
- 2 Web site of the California Community Colleges.

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