

AMENDED IN SENATE AUGUST 25, 1999  
AMENDED IN SENATE AUGUST 16, 1999  
AMENDED IN SENATE JULY 12, 1999  
AMENDED IN SENATE JUNE 30, 1999  
AMENDED IN ASSEMBLY MAY 28, 1999  
AMENDED IN ASSEMBLY APRIL 27, 1999  
AMENDED IN ASSEMBLY APRIL 6, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1197**

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**Introduced by Assembly Member Firebaugh**  
**(Coauthors: Assembly Members Honda, Kuehl, and**  
**Romero)**  
(Coauthor: Senator Vasconcellos)

February 26, 1999

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An act to amend Section 89706 of, and to add Section 76140.1 to, the Education Code, relating to public postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

AB 1197, as amended, Firebaugh. Public postsecondary education: residency.

Existing law establishes the California Community Colleges under the administration of the Board of Governors of the California Community Colleges. Existing law authorizes the

establishment of community college districts under the administration of community college governing boards, and authorizes these districts to provide instruction at community college campuses throughout the state. Existing law authorizes community college districts to admit, and charge a tuition fee for, nonresident students in accordance with specified criteria.

Existing law establishes the California State University and authorizes the operation of its various campuses under the administration of the Trustees of the California State University. Existing law authorizes the trustees, on the basis of demonstrated financial need and scholastic achievement, to waive entirely, or reduce below the minimum rate, the tuition fee of a nonresident student, as defined.

Existing law prescribes residency requirements for students at public institutions of postsecondary education, including, among others, the campuses of the California Community Colleges and the California State University. With respect to alien students, existing law specifies that an alien, including an unmarried minor alien, may establish his or her residence unless precluded by the federal Immigration and Nationality Act from establishing domicile in the United States.

This bill would require that a person, including an alien precluded from establishing California residency because of federal law, who has attended high school in California for 3 or more years, who has graduated from a California high school, who continues his or her education at a California institution of higher education within one year of high school graduation or on or before January 1, 2001, and who ~~files, or on whose behalf has been filed,~~ *if he or she is an alien precluded from establishing California residency because of federal law, presents documentation that he or she has initiated a petition or application for lawful immigration status, or that a petition or application has been initiated on his or her behalf,* be exempted, under specified circumstances, from paying nonresident tuition at the California Community Colleges or the California State University. The bill would request the Regents of the University of California to also exempt these persons from paying nonresident tuition. The bill would also make various



technical, nonsubstantive changes to the provisions relating to residency with respect to attendance at campuses of the California Community Colleges and the California State University.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Section 76140.1 is added to the  
2 Education Code, to read:

3 76140.1. Notwithstanding any other provision of law:

4 (a) (1) Any person, including an alien precluded  
5 from establishing California residency by reason of  
6 subdivision (h) of Section 68062, who meets all of the  
7 ~~following requirements~~ *requirements set forth in*  
8 *paragraph (2)* is exempt from nonresident tuition:

9 ~~(1)~~

10 (2) (A) High school attendance in California for three  
11 or more years.

12 ~~(2)~~

13 (B) Graduation from a California high school.

14 ~~(3)~~

15 (C) Continuation of his or her education at a California  
16 institution of higher education within one year of high  
17 school graduation or on or before January 1, 2001.

18 ~~(4) Filing of~~

19 (D) *Presentation of documentation that a petition or*  
20 *application for lawful immigration status has been*  
21 *initiated*, either by the person seeking the exemption  
22 from nonresident tuition or by another person on behalf  
23 of the person seeking the exemption.

24 (3) *Notwithstanding paragraph (1), subparagraph*  
25 *(D) of paragraph (2) is applicable only to an alien*  
26 *precluded from establishing California residency by*  
27 *reason of subdivision (h) of Section 68062.*

28 (b) For the purposes of this section:

29 (1) “A petition or application for lawful immigration  
30 status” includes a petition or application in relation to  
31 which the person is a derivative beneficiary.



1 (2) Documentation that a petition or application for  
2 lawful immigration status has been initiated may include  
3 either or both of the following:

4 (A) A photocopy of the petition or application.

5 (B) A letter or other document from the Immigration  
6 and Naturalization Service or from another appropriate  
7 government agency, or an affidavit from an attorney,  
8 indicating that the person is in the process of petitioning  
9 or applying for lawful immigration status.

10 (c) A student who is exempt from nonresident tuition  
11 pursuant to this section may be reported by a community  
12 college district as a full-time equivalent student for  
13 apportionment purposes.

14 SEC. 2. Section 89706 of the Education Code is  
15 amended to read:

16 89706. (a) The trustees may, on the basis of  
17 demonstrated financial need and scholastic achievement,  
18 waive entirely, or reduce below the rate, or the minimum  
19 rate, fixed by Section 89705, the tuition fee of a  
20 nonresident student, as defined in Section 68018, who is  
21 a citizen and resident of a foreign country, who is an  
22 undergraduate student of exceptional scholastic ability  
23 and prior scholastic achievement, and who is enrolled in  
24 a course of study of no less than 10 semester units.

25 (b) The number of reductions and waivers granted by  
26 the trustees under this section shall at no time exceed  $7\frac{1}{2}$   
27 percent of the nonresident undergraduate students who  
28 are citizens and residents of a foreign country, then  
29 enrolled in the California State University.

30 (c) (1) Notwithstanding any other provision of law,  
31 any person, including an alien precluded from  
32 establishing California residency by reason of subdivision  
33 (h) of Section 68062, who meets all of the ~~following~~  
34 ~~requirements~~ *requirements set forth in paragraph (2)* is  
35 exempt from nonresident tuition:

36 ~~(A)~~

37 (2) (A) High school attendance in California for three  
38 or more years.

39 (B) Graduation from a California high school.



1 (C) Continuation of his or her education at a California  
2 institution of higher education within one year of high  
3 school graduation or on or before January 1, 2001.

4 (D) ~~Filing of~~ *Presentation of documentation that a*  
5 *petition or application for lawful immigration status has*  
6 *been initiated*, either by the person seeking the  
7 exemption from nonresident tuition or by another person  
8 on behalf of the person seeking the exemption.

9 ~~(2)~~

10 (3) *Notwithstanding paragraph (1), subparagraph*  
11 *(D) of paragraph (2) is applicable only to an alien*  
12 *precluded from establishing California residency by*  
13 *reason of subdivision (h) of Section 68062.*

14 (4) For the purposes of this subdivision:

15 (A) “A petition or application for lawful immigration  
16 status” includes a petition or application in relation to  
17 which the person is a derivative beneficiary.

18 (B) Documentation that a petition or application for  
19 lawful immigration status has been initiated may include  
20 either or both of the following:

21 (i) A photocopy of the petition or application.

22 (ii) A letter or other document from the Immigration  
23 and Naturalization Service or from another appropriate  
24 government agency, or an affidavit from an attorney,  
25 indicating that the person is in the process of petitioning  
26 or applying for lawful immigration status.

27 SEC. 3. (a) The Legislature hereby requests the  
28 Regents of the University of California to take action to  
29 exempt from nonresident tuition any person, including  
30 an alien precluded from establishing California residency  
31 by reason of subdivision (h) of Section 68062 of the  
32 Education Code, who has attended high school in  
33 California for three or more years, who has graduated  
34 from a California high school, who continues his or her  
35 education at a California institution of higher education  
36 within one year of high school graduation or on or before  
37 January 1, 2001, and who ~~has filed~~, *only if he or she is an*  
38 *alien precluded from establishing California residency by*  
39 *reason of subdivision (h) of Section 68062, presents*  
40 *documentation that he or she has initiated a petition or*



1 application for lawful immigration status, or ~~on whose~~  
2 ~~behalf~~ *that* a petition or application for lawful  
3 immigration status has been ~~filed~~ *initiated on his or her*  
4 *behalf.*

5 (b) For the purposes of this section:

6 (1) “A petition or application for lawful immigration  
7 status” includes a petition or application in relation to  
8 which the person is a derivative beneficiary.

9 (2) Documentation that a petition or application for  
10 lawful immigration status has been initiated may include  
11 either or both of the following:

12 (A) A photocopy of the petition or application.

13 (B) A letter or other document from the Immigration  
14 and Naturalization Service or from another appropriate  
15 government agency, or an affidavit from an attorney,  
16 indicating that the person is in the process of petitioning  
17 or applying for lawful immigration status.

