

AMENDED IN ASSEMBLY APRIL 6, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1197**

**Introduced by Assembly Member Firebaugh**

February 26, 1999

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An act to amend Sections 76140 and 89706 of the Education Code, relating to public postsecondary education, ~~and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

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

~~(1) Existing~~

*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.

~~This bill would make various technical, nonsubstantive changes to the provisions relating to nonresident tuition for community college students.~~

~~(2) Existing~~

*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 student, including an alien student precluded from establishing California residency because of federal law, who has attended high school in California for 3 or more years, and who has graduated from a California high school, be exempted, under specified circumstances, from paying nonresident tuition at the California Community Colleges or the California State University. The bill would also make various technical, nonsubstantive changes to ~~this provision~~ the provisions relating to residency with respect to attendance at campuses of the California Community Colleges and the California State University.*

~~(3) This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote:  $\frac{2}{3}$  majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

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

- 1 SECTION 1. Section 76140 of the Education Code is
- 2 amended to read:
- 3 76140. (a) A community college district may admit
- 4 and shall charge a tuition fee to nonresident students. The
- 5 district may exempt from all or parts of the fee any person
- 6 described in paragraph (1) or (2):



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

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

11 (b) A community college district may contract with a  
12 state, a county contiguous to California, the federal  
13 government, or a foreign country, or an agency thereof,  
14 for payment of all or a part of a nonresident student's  
15 tuition fee.

16 (c) Nonresident students shall not be reported as  
17 full-time equivalent students (FTES) for state  
18 apportionment purposes, except as provided by  
19 subdivision (k) or another statute, in which case a  
20 nonresident tuition fee may not be charged.

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

32 (e) The fee established by the governing board of a  
33 community college district pursuant to subdivision (d)  
34 shall represent for nonresident students enrolled in 30  
35 semester units or 45 quarter units of credit per fiscal year  
36 (1) the amount that was expended by the district for the  
37 expense of education as defined by the California  
38 Community College Budget and Accounting Manual in  
39 the preceding fiscal year, increased by the projected  
40 percent increase in the United States Consumer Price



1 Index as determined by the Department of Finance for  
2 the current fiscal year and succeeding fiscal year and  
3 divided by the FTES (including nonresident students)  
4 attending in the district in the preceding fiscal year, (2)  
5 the expense of education in the preceding fiscal year of  
6 all districts increased by the projected percent increase  
7 in the United States Consumer Price Index as determined  
8 by the Department of Finance for the fiscal year and  
9 succeeding fiscal year and divided by the FTES  
10 (including nonresident students) attending all districts  
11 during the preceding fiscal year, (3) an amount not to  
12 exceed the fee established by the governing board of any  
13 contiguous district, or (4) an amount not to exceed the  
14 amount that was expended by the district for the expense  
15 of education, but in no case less than the statewide  
16 average as set forth in paragraph (2). However, if for the  
17 district's preceding fiscal year FTES of all students  
18 attending in the district in noncredit courses is equal to,  
19 or greater than, 10 percent of the district's total FTES  
20 attending in the district, the district, in calculating the  
21 amount in paragraph (1), may substitute, instead, the  
22 data for expense of education in grades 13 and 14 and  
23 FTES in grades 13 and 14 attending in the district.

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

36 (g) In adopting a tuition fee for nonresident students,  
37 the governing board of each community college district  
38 shall consider nonresident tuition fees of public  
39 community colleges in other states.



1 (h) Any loss in district revenue generated by the  
2 nonresident tuition fee shall not be offset by additional  
3 state funding.

4 (i) Any community college district that has fewer than  
5 1,500 FTES and whose boundary is within 10 miles of  
6 another state that has a reciprocity agreement with  
7 California governing student attendance and fees may  
8 exempt students from that state from the mandatory fee  
9 requirement described in subdivision (a) for nonresident  
10 students.

11 (j) Any community college district that has more than  
12 1,500, but less than 3,001, FTES and whose boundary is  
13 within 10 miles of another state that has a reciprocity  
14 agreement with California governing student attendance  
15 and fees may, in any one fiscal year, exempt up to 100  
16 FTES from that state from the mandatory fee  
17 requirement described in subdivision (a) for nonresident  
18 students.

19 (k) The attendance of nonresident students who are  
20 ~~exempted~~ *exempt* pursuant to subdivision (i) or (j) from  
21 the mandatory fee requirement described in subdivision  
22 (a) for nonresident students may be reported as resident  
23 FTES for state apportionment purposes. Any nonresident  
24 student reported as *a* resident FTES for state  
25 apportionment purposes pursuant to subdivision (i) or  
26 (j) shall pay a fee of forty-two dollars (\$42) per course  
27 unit. That fee is to be included in the FTES adjustments  
28 described in Section 76330 for purposes of computing  
29 apportionments.

30 *(l) Any student, including an alien precluded from*  
31 *establishing California residency by reason of subdivision*  
32 *(h) of Section 68062, who has attended high school in*  
33 *California for three or more years, who has graduated*  
34 *from a California high school, and who obtains admission*  
35 *to a California community college within one year of high*  
36 *school graduation or on or before January 1, 2001, shall be*  
37 *exempt from nonresident tuition.*

38 SEC. 2. Section 89706 of the Education Code is  
39 amended to read:



1 89706. (a) The trustees may, on the basis of  
2 demonstrated financial need and scholastic achievement,  
3 waive entirely, or reduce below the rate, or the minimum  
4 rate, fixed by Section 89705, the tuition fee of a  
5 nonresident student, as defined in Section 68018, who is  
6 a citizen and resident of a foreign country, who is an  
7 undergraduate student of exceptional scholastic ability  
8 and prior scholastic achievement, and who is enrolled in  
9 a course of study of no less than 10 semester units.

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

15 ~~SEC. 3. This act is an urgency statute necessary for the~~  
16 ~~immediate preservation of the public peace, health, or~~  
17 ~~safety within the meaning of Article IV of the~~  
18 ~~Constitution and shall go into immediate effect. The facts~~  
19 ~~constituting the necessity are:~~

20 ~~So that important revisions to the law relating to~~  
21 ~~residency requirements in the state's public institutions~~  
22 ~~of high education may be made in time for the~~  
23 ~~commencement of the 1999-2000 academic year, it is~~  
24 ~~necessary that this act take effect immediately.~~

25 *(c) Any student, including an alien precluded from*  
26 *establishing California residency by reason of subdivision*  
27 *(h) of Section 68062, who has attended high school in*  
28 *California for three or more years, who has graduated*  
29 *from a California high school, and who continues his or*  
30 *her education at a California institution of higher*  
31 *education within one year of high school graduation or on*  
32 *or before January 1, 2001, shall be exempt from*  
33 *nonresident tuition at the California State University.*

