

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

Introduced by Assembly Member Firebaugh

February 26, 1999

An act to amend Sections 76140 and 89706 of 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 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 state that the Legislature requests the Regents of the University of California also to take that action to exempt those students from 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 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):

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



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

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

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

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

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



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

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

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

37 (h) Any loss in district revenue generated by the
38 nonresident tuition fee shall not be offset by additional
39 state funding.



1 (i) Any community college district that has fewer than
2 1,500 FTES and whose boundary is within 10 miles of
3 another state that has a reciprocity agreement with
4 California governing student attendance and fees may
5 exempt students from that state from the mandatory fee
6 requirement described in subdivision (a) for nonresident
7 students.

8 (j) Any community college district that has more than
9 1,500, but less than 3,001, FTES and whose boundary is
10 within 10 miles of another state that has a reciprocity
11 agreement with California governing student attendance
12 and fees may, in any one fiscal year, exempt up to 100
13 FTES from that state from the mandatory fee
14 requirement described in subdivision (a) for nonresident
15 students.

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

27 (l) Notwithstanding any other provision of law, any
28 student, including an alien precluded from establishing
29 California residency by reason of subdivision (h) of
30 Section 68062, who has attended high school in California
31 for three or more years, who has graduated from a
32 California high school, and who obtains admission to a
33 California community college within one year of high
34 school graduation or on or before January 1, 2001, shall be
35 exempt from nonresident tuition. In order to avail himself
36 or herself of the exemption provided by this subdivision,
37 a student precluded from establishing California
38 residency by subdivision (h) of Section 68062 shall submit
39 a declaration to the community college he or she attends



1 declaring his or her intent to seek the legalization of his
2 or her immigration status.

3 SEC. 2. Section 89706 of the Education Code is
4 amended to read:

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

14 (b) The number of reductions and waivers granted by
15 the trustees under this section shall at no time exceed 7¹/₂
16 percent of the nonresident undergraduate students who
17 are citizens and residents of a foreign country, then
18 enrolled in the California State University.

19 (c) Notwithstanding any other provision of law, any
20 student, including an alien precluded from establishing
21 California residency by reason of subdivision (h) of
22 Section 68062, who has attended high school in California
23 for three or more years, who has graduated from a
24 California high school, and who continues his or her
25 education at a California institution of higher education
26 within one year of high school graduation or on or before
27 January 1, 2001, shall be exempt from nonresident tuition
28 at the California State University. In order to avail himself
29 or herself of the exemption provided by this subdivision,
30 a student precluded from establishing California
31 residency by subdivision (h) of Section 68062 shall submit
32 a declaration to the campus of the California State
33 University that he or she attends declaring his or her
34 intent to seek the legalization of his or her immigration
35 status.

36 SEC. 3. *The Legislature hereby requests the Regents*
37 *of the University of California to take action to exempt*
38 *from nonresident tuition any student, including an alien*
39 *precluded from establishing California residency by*
40 *reason of subdivision (h) of Section 68062 of the*



1 *Education Code, who has attended high school in*
2 *California for three or more years, who has graduated*
3 *from a California high school, and who continues his or*
4 *her education at a California institution of higher*
5 *education within one year of high school graduation on or*
6 *before January 1, 2001, and to require each of those*
7 *students, in order to avail himself or herself of that*
8 *exemption, to submit a declaration to the campus of the*
9 *University of California that he or she attends declaring*
10 *his or her intent to seek the legalization of his or her*
11 *immigration status.*

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