

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 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



1 district may exempt from all or parts of the fee any person  
2 described in paragraph (1) or (2):

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

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

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

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

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

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



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

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

38 (g) In adopting a tuition fee for nonresident students,  
39 the governing board of each community college district



1 shall consider nonresident tuition fees of public  
2 community colleges in other states.

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

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

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

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

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



1 or herself of the exemption provided by this subdivision,  
2 a student precluded from establishing California  
3 residency by subdivision (h) of Section 68062 shall submit  
4 a declaration to the community college he or she attends  
5 declaring his or her intent to seek the legalization of his  
6 or her immigration status.

7 SEC. 2. Section 89706 of the Education Code is  
8 amended to read:

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

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

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



1 SEC. 3. The Legislature hereby requests the Regents  
2 of the University of California to take action to exempt  
3 from nonresident tuition any student, including an alien  
4 precluded from establishing California residency by  
5 reason of subdivision (h) of Section 68062 of the  
6 Education Code, who has attended high school in  
7 California for three or more years, who has graduated  
8 from a California high school, and who continues his or  
9 her education at a California institution of higher  
10 education within one year of high school graduation on or  
11 before January 1, 2001, and to require each of those  
12 students, in order to avail himself or herself of that  
13 exemption, to submit a declaration to the campus of the  
14 University of California that he or she attends declaring  
15 his or her intent to seek the legalization of his or her  
16 immigration status.

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