

Assembly Bill No. 1197

Passed the Assembly August 31, 2000

Chief Clerk of the Assembly

Passed the Senate August 29, 2000

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2000, at _____ o'clock ____M.

Private Secretary of the Governor



CHAPTER _____

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, 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 presents documentation that he or she is lawfully in the United States, or, 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 and 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 and nonsubstantive changes to the provisions relating to residency with respect to attendance at campuses of the California Community Colleges and the California State University.

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

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

76140.1. Notwithstanding any other provision of law:

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

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

(B) Graduation from a California high school.

(C) Continuation of 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.

(D) Presentation of documentation that the person is lawfully in the United States, or in the case of an alien



precluded from establishing California residency by reason of subdivision (h) of Section 68062, presentation of documentation that a petition or application for lawful immigration status has been initiated, either by the person seeking the exemption from nonresident tuition or by another person on behalf of the person seeking the exemption.

(b) For the purposes of this section:

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

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

(A) A photocopy of the petition or application.

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

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

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

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

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



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

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

(B) Graduation from a California high school.

(C) Continuation of 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.

(D) Presentation of documentation that the person is lawfully in the United States, or in the case of an alien precluded from establishing California residency by reason of subdivision (h) of Section 68062, presentation of documentation that a petition or application for lawful immigration status has been initiated, either by the person seeking the exemption from nonresident tuition or by another person on behalf of the person seeking the exemption.

(3) For the purposes of this subdivision:

(A) "A petition or application for lawful immigration status" includes a petition or application in relation to which the person is a derivative beneficiary.

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

(i) A photocopy of the petition or application.

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

SEC. 3. (a) The Legislature hereby requests the Regents of the University of California to take action to exempt from nonresident tuition any person, including an alien precluded from establishing California residency by reason of subdivision (h) of Section 68062 of the Education Code, who has attended high school in



California for three 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 presents documentation that he or she is lawfully in the United States, or in the case of an alien precluded from establishing California residency by reason of subdivision (h) of Section 68062, presents documentation that he or she has initiated a petition or application for lawful immigration status, or that a petition or application for lawful immigration status has been initiated on his or her behalf.

(b) For the purposes of this section:

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

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

(A) A photocopy of the petition or application.

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



Approved _____, 2000

Governor

