

Date of Hearing: April 17, 2018

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

AB 3008 (Burke) – As Amended April 9, 2018

SUBJECT: Public postsecondary education: exemption from paying nonresident tuition

SUMMARY: This bill requires the California State University (CSU) and the California Community Colleges (CCC), and requests the University of California (UC) to provide exemptions from paying nonresident tuition to a nonimmigrant, noncitizen student who is the dependent of someone with an E-2 nonimmigrant classification, as long as the student remains continuously enrolled and meets the same California high school attendance and graduation requirements as an undocumented student granted a nonresident tuition exemption pursuant to AB 540.

EXISTING LAW:

- 1) Makes the following definitions:
 - a) "Resident" is a student who has residence in California for more than one year immediately preceding the residence determination date. (Education Code (EC) Section 68017.)
 - b) "Resident classification" means classification as a resident at UC, CSU, or the CCC. (EC Sect. 68022.)
 - c) "Residence determination date" is a date established by the university or community college district governing boards for each semester or quarter to determine a student's residence. (EC Sect. 68023.)
- 2) Requires each student to be classified as a resident or nonresident. (EC Sect. 68040.)
- 3) Requires the segment governing boards to adopt regulations for determining a student's residence classification, which are to include provisions requiring the financial independence of a student classified as a nonresident and seeking reclassification as a resident as a factor to be considered in the determination of residency, and establishes financial independence criteria. (EC Sect. 68044.)
- 4) Requires a student classified as a nonresident to pay nonresident tuition in addition to other tuition and fees required by the institution. (EC Sect. 68050.)
- 5) Exempts specified California nonresidents, except nonimmigrant noncitizens within the meaning of paragraph (15) of subsection (a) of Section 1101 of Title 8 of the United States Code, from paying nonresident tuition at UC, CSU, and California Community Colleges (CCC), also known as the AB 540 nonresident tuition waiver, if they meet all of the following: (EC Sect. 68130.5(a))

- a) Attended or attained credits at a California high school, an adult school, a CCC campus, or a combination of these entities, for the equivalent of three or more years; or completed three or more years of full-time high school coursework, and a total of three or more years of attendance in California elementary schools, California secondary schools, or a combination of such elementary and secondary schools.
 - b) Graduated from a California high school or attained an equivalent degree; attained a CCC associate degree; or fulfilled the minimum transfer requirements from a CCC campus to a UC or CSU campus.
 - c) Registered or attended an accredited California higher education institution beginning after fall of the 2001-02 academic year; and,
 - d) If an undocumented student, has filed an affidavit stating that the student has filed an application to legalize his or her immigration status or will file such an application as soon as he or she is eligible to so do.
- 2) Provides that a student who is exempt from nonresident tuition pursuant to (1) may be reported by a CCC district as a full-time equivalent student for apportionment purposes. (EC Sect. 68130.5 (b))

FISCAL EFFECT: To the extent additional students at UC, CSU, and the CCC qualify for an exemption from nonresident tuition charges pursuant to this bill, the segments will experience revenue losses.

COMMENTS: *Background.* The federal E-2 nonimmigrant visa is authorized for a foreign national who is coming to the United States solely to direct and develop the operations of an enterprise in which the individual has invested or is actively involved in the process of investing a substantial amount of capital. Spouses and unmarried children under the age of 21 of an E-2 nonimmigrant may be granted the same status to accompany the E-2 visa holder to the U.S.

E-2 visa holders are allowed a maximum initial stay of two years. Requests for extension of stay may be granted in increments of up to two years each, and there is no maximum limit to the number of extensions that may be granted. All E-2 nonimmigrants, however, must maintain an intention to depart the United States when their status expires or is terminated.

As long as the dependents of an E-2 visa holder are also in E-2 status, they can attend school without changing to another nonimmigrant status until age 21. Once E-2 dependents enrolled in college reach age 21, they may apply for and transition to a student visa. Under a student visa, students are not exempt from paying nonresident tuition charges. The additional annual tuition charged to a nonresident full-time student is as follows: UC - \$28,992 for 2018-19; CSU – currently \$11,880 (based on \$396/unit), with a \$900 increase under consideration; CCC - varies by district (up to around \$210/unit).

Purpose. The author notes that current state law extends an exemption for nonresident tuition to UC, CSU, and CCC students who have attended three or more years at and graduated from a California high school, or equivalent. AB 3008 applies the nonresident tuition exemption to dependents of E-2 visa holders, and to such students after they transition to a student visa, if they have met these same eligibility requirements. According to the author, "Allowing these students

to complete the remainder of their education without increasing the cost creates consistency in statute and removes a potential disincentive for these students to complete their education."

Comment. The impact of this bill is not entirely clear, but would not likely be significant. UC policy, for example, states that California residence status, for tuition purposes, may be established by nonimmigrants that are not precluded from establishing domicile in the U.S. This encompasses nonimmigrants who hold one of several types of visas specified by UC, which includes any E-type visa but does not include F-type (student) visas. This bill would therefore provide assurance to UC students that they could continue receiving the nonresident tuition exemption upon turning 21, if they obtain a student visa. The impact for CSU students would likely be similar, though it could not be definitively determined at the time of this analysis.

Prior Legislation. In 2016, AB 2136 (Mayes), an essentially identical bill, passed this committee 11-0, but was held on Suspense in Assembly Appropriations.

The Legislature has enacted several bills to expand eligibility for, and benefits related to, AB 540:

- 1) SB 68 (Lara, Chapter 496, Statutes of 2017) expanded eligibility to include students to attain sufficient credits at California adult schools or community colleges.
- 2) AB 2000 (Gomez, Chapter 675, Statutes of 2015) expanded eligibility to students who have attained credits equivalent to three or more years of full-time high school coursework, and earned these credits in California from a California high school.
- 3) SB 141 (Correa, Chapter 576, Statutes of 2013) required the CSU and CCC districts, and requested the UC, to exempt from non-resident tuition charges, under specified circumstances, a United States citizen who moved abroad as a result of his/her parent's deportation.
- 4) SB 150 (Lara, Chapter 575, Statutes of 2013) authorized a CCC district to exempt pupils attending CCCs as special part-time students from paying nonresident tuition as a means of extending in-state tuition benefits to high school students who would ultimately be eligible for AB 540 benefits upon graduation.
- 5) AB 1899 (Mitchell, Chapter 509, Statute of 2012) grants students who are noncitizen victims of trafficking, domestic violence and other serious crimes (T and U visa students) the same exemption from nonresident tuition and eligibility to apply for and participate in state and institutional financial aid programs as that extended to AB 540 students.
- 6) AB 130 (Cedillo), Chapter 93, Statutes of 2011, in part, authorized AB 540 students to be eligible for campus scholarships derived from non-state funds.
- 7) AB 131 (Cedillo), Chapter 604, Statutes of 2011, in part, established the California Dream Act, which extended eligibility for state administered financial aid benefits to AB 540 students.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

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