

Date of Hearing: August 6, 2013

ASSEMBLY COMMITTEE ON HIGHER EDUCATION  
Das Williams, Chair  
SB 141 (Correa) – As Amended: May 8, 2013

SENATE VOTE: 35-1

SUBJECT: Postsecondary education benefits: children of deported or voluntarily departed parents.

SUMMARY: Requires the California State University (CSU) and California Community College (CCC) districts, and requests the University of California (UC) 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. Specifically, this bill:

- 1) Requires the Trustees of the CSU and a CCC district to exempt from non-resident tuition charges a student who is a United States citizen who meets all of the following requirements:
  - a) Demonstrates a financial need for the exemption.
  - b) Has a parent or guardian who has been deported or was permitted to depart voluntarily under the federal Immigration and Nationality Act in accordance with Section 1229c of Title 8 of the United States Code. The student must provide documents from the United States Citizenship and Immigration Services evidencing the deportation or voluntary departure of his or her parent or guardian.
  - c) Moved abroad as a result of the deportation or voluntary departure.
  - d) Lived in California immediately before moving abroad. The student must provide information and evidence that demonstrates the student previously lived in California.
  - e) Attended a secondary school in the state for three or more years.
  - f) Is in his or her first academic year as a matriculated student in California public higher education.
- 2) Requests the Regents of the UC to enact regulations and procedures to exempt from nonresident tuition students who meet all of the aforementioned requirements.
- 3) Provides for reimbursement to local agencies and school districts if the Commission on State Mandates determines that this act contains costs mandated by the state.

EXISTING LAW:

- 1) Establishes uniform residency requirements for the purposes of ascertaining the amount of fees to be paid by students at UC, CSU and CCC and establishes various exemptions to these residency requirements.

- 2) Authorizes CCC districts to admit a nonresident student and requires that these students be charged a nonresident tuition fee, with certain specific exemptions, including authorizing a CCC district to exempt any nonresident who is both a citizen and resident of a foreign country, if the nonresident has demonstrated financial need for the exemption, up to a maximum of 10 percent of the nonresident foreign students attending the CCC district.
- 3) Exempts specified California nonresidents from paying nonresident tuition at UC, CSU, and the CCCs if they meet all of the following requirements:
  - a) Attended a California high school for three or more years.
  - b) Graduated from a California high school or attained an equivalent degree.
  - c) Registered or attended an accredited California higher education institution not before the fall of the 2001-02 academic year.
  - d) Filed an affidavit, if an alien without lawful immigration status, stating that the student has filed an application to legalize their immigration status or will file such an application as soon as eligible to do so.

FISCAL EFFECT: According to the Senate Appropriations Committee, the number of students who would be eligible for in-state tuition under this bill is unknown; however, potentially substantial fee revenue loss could result from this proposal:

CCC: Each eligible CCC student would pay \$46 per unit, rather than \$244 per unit. For each full time student (enrolled in 30 units per academic year), CCC would lose \$5,920 in fee revenue.

CSU: Each eligible student enrolling as an undergraduate in the CSU would be eligible to pay \$5,472 per year, instead of \$5,472 + \$372 per unit (which would be an additional \$11,160 per year for two 15-unit course load semesters).

UC: Each eligible student enrolling as an undergraduate in the UC would be eligible to pay \$12,192 instead of \$35,070, a difference of \$22,878.

COMMENTS: Purpose of this Bill. According to the author, it is estimated that over 5 million children are living in the U.S. with at least one undocumented parent. Approximately 75% of these children are U.S. citizens. When undocumented parents are deported, their U.S. born children are often forced to move abroad. As a result, these children lose their state residency, and with it, affordable access to California institutions of higher learning. This bill would restore affordable access to California resident tuition for children forced to live abroad as a result of their parent's deportation.

Financial need. To qualify for the non-resident tuition waiver provided in this bill, a student must, among other requirements, demonstrate financial need. The income levels and process for determining financial need are not outlined in this legislation. CCC notes that one option would be to utilize the Board of Governor's (BOG) Fee Waiver income threshold and application process. Alternatively, as U.S. citizens, students would be eligible to complete the FAFSA,

which the segments could then utilize to determine financial need. The bill in its current form leaves these questions to CCC, CSU, and UC, to be addressed through the regulatory process.

Voluntary departure. Students eligible for this benefit must, among other requirements, have a parent or guardian who has been deported or was permitted to depart voluntarily under the federal Immigration and Nationality Act. The terms of voluntary departure are outlined in section 1229c of Title 8 of the United States Code and provide that the Attorney General may permit an individual to voluntarily depart the United States at the individual's own expense in lieu of being subject to deportation proceedings. To be eligible for voluntary departure, an individual must not be deportable for conviction of an aggravated felony or terrorist activities.

Undergraduate and graduate programs. As currently drafted, this bill would provide non-resident tuition waivers to qualifying students in their first academic year as a matriculated student in California public higher education; the benefit is available to students entering undergraduate or graduate level programs. Further, the benefit would be available to a qualifying student regardless of the length of time the student has been separated from the U.S. following the deportation/voluntary departure. If the Author and/or Committee feel it appropriate, this bill could be amended to narrow the scope of the benefit to limit the number of years of separation or limit the benefit to enrollment in undergraduate level programs only.

California secondary school. This bill requires eligible students to, among other requirements, to have attended three years of secondary school in California. Secondary school, as defined in Education Code §52-53 for purposes of public education, includes junior high school and high school. It should be noted that public postsecondary educational institutions do not currently access the junior high school records of applicants. The process for accessing and verifying junior high school educational documents would need to be addressed by the segments in the implementation of this bill. ***Committee staff recommends an amendment clarifying that secondary school, for purposes of this bill, means a California public or private school that meets the definition contained in Education Code §52-53.***

UC Office of the President (UCOP) has requested an amendment to clarify that students must provide documentation of their secondary school attendance in California. Specifically, UC states "we have struggled with the administrative implementation of the bill, specifically, how our campuses would obtain transcripts from students whose three years of secondary school included grades 7 and 8. In our previous communications with the author, we focused on narrowing the bill to minimize these administrative challenges. However, we believe this amendment provides a simpler and more inclusive solution, especially since SB 141 currently requires students to provide documentation regarding deportation of their parents and evidence of their prior residence in California."

Establishing residency. This bill establishes that a student must be in his or her first academic year as a matriculated student in California public higher education in order to be eligible for the benefit. This language appears intended to provide students the waiver for the one year necessary to establish residency. ***Committee staff recommends an amendment clarifying that the student, in order to qualify for the non-resident tuition waiver, must be living in California and must file an affidavit with the institution stating an intention to establish residency in California.***

REGISTERED SUPPORT / OPPOSITION:

Support

American Federation of State, County and Municipal Employees  
California Catholic Conference  
California Communities United Institute  
California Federation of Teachers  
California Teachers Association  
Faculty Association of California Community Colleges

Opposition

None on File

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