

Date of Hearing: April 11, 2023

ASSEMBLY COMMITTEE ON HIGHER EDUCATION  
Mike Fong, Chair  
AB 680 (Blanca Rubio) – As Introduced February 13, 2023

**SUBJECT:** Public postsecondary education: nonresident tuition: exemption.

**SUMMARY:** Authorizes an alternative path to tuition exemptions for nonresident students of California Community Colleges (CCC) by allowing nonresident students to complete either 60-semester units of credit or 90-quarter units at any campus of the CCC or earn an associate degree for transfer.

**EXISTING LAW:**

- 1) Establishes a variety of residency requirements for students attending the CCC or the California State University (CSU). The determination of such residency status is required in order to assess either resident or nonresident tuition and fees. The University of California (UC) Regents may, by resolution, make these provisions of law applicable to the UC (and historically have done so) (Education Code (EC) Section 68000, et seq.).
- 2) Exempts California nonresident students, via AB 540 (Firebaugh, Chapter 814, Statutes of 2001), regardless of citizenship status (also referred as AB 540 student), from paying nonresident tuition at California public colleges and universities who meet all of the following requirements who have graduated from a California high school (or the equivalent) and either:
  - a) Satisfaction of the requirements of either (i) or (ii):
    - i) A total attendance of, or attainment of credits earned while in California equivalent to, three or more years of full-time attendance or attainment of credits at any of the following:
      - (1) California high schools;
      - (2) California high schools established by the State Board of Education;
      - (3) California adult schools established by any of the following entities:
        - (a) A county office of education;
        - (b) A unified school district or high school district; and,
        - (c) The Department of Corrections and Rehabilitation.
      - (4) Campuses of the CCC.
      - (5) A combination of those schools set forth in (1) to (4), inclusive.

- ii) Three or more years of full-time high school coursework in California, and a total of three or more years of attendance in California elementary schools, California secondary schools, or a combination of California elementary and secondary schools.
- b) Satisfaction of any of the following:
- i) Graduation from a California high school or attainment of the equivalent;
  - ii) Attainment of an associate degree from a campus of the CCC; and/or,
  - iii) Fulfillment of the minimum transfer requirements established for UC or CSU for students transferring from a campus of the CCC (EC Section 68130.5).
- 2) Provides that a student who meets the nonresident tuition exemption requirements under EC Section 68130.5 or who meets equivalent requirements adopted by the UC is eligible to apply for any financial aid program administered by the state to the full extent permitted by federal law (EC Section 69508.5).
- 3) Provides that a student attending a CCC, CSU, or UC who is exempt from paying nonresident tuition under EC Section 68130.5 is eligible to receive a scholarship derived from non-state funds received, for the purpose of scholarships, by the segment (i.e. CCC, CSU, or UC) at which the student is enrolled (EC Section 66021.7).

**FISCAL EFFECT:** Unknown

**COMMENTS:** *Purpose of the measure.* According to the author, “As California’s population reaches retirement age, our state must further increase access to a college degree so that we have enough workers to fill the jobs of tomorrow. An estimated 100,000 to 150,000 undocumented students attend a public college or university in California, yet many of these students cannot gain timely access to in-state tuition because they are incentivized to remain enrolled at a California Community College longer than the minimum time necessary.”

The authors states, “AB 680 rectifies this wrong by clarifying that community college students can qualify for a nonresident tuition exemption after meeting certain graduation requirements, ensuring more undocumented students can transfer, complete their bachelor’s degree, and enter the workforce.”

This measure seeks to provide an alternative path for students to receive nonresident tuition exemptions. Under current law, students who have attended California schools for three or more years can pay nonresident tuition at the CCC. However, these existing conditions can be challenging for students who may have attended schools outside of California for part of their education or may have taken a non-traditional path to higher education.

Additionally, this measure authorizes an alternative path to tuition exemptions for nonresident students by allowing nonresident students to complete either 60-semester units of credit or 90-quarter units at any campus of the CCC or earn an associate degree for transfer.

*Tuition rates.* The difference between paying resident tuition at the UC, the CSU, or the CCC, versus paying nonresident tuition is vast; nonresidents of California are charged a significantly higher tuition rate than the amount charged for resident tuition.

Residents of California currently pay \$46/unit at the CCC, while nonresidents pay \$346/unit. At the CSU, undergraduate resident students pay \$5,742/year in mandatory systemwide tuition and fees, while nonresident students pay \$15,246/year in mandatory systemwide tuition and fees. At the UC, commencing 2023-2024, undergraduate resident students will pay \$18,152/year, while nonresident students will pay \$50,726/year.

*How did we get here?* With AB 540 (Firebaugh), Chapter 814, Statutes of 2001, California first provided an exemption from nonresident tuition at its public colleges and universities for undocumented persons. In order to qualify for this benefit, AB 540 required these students to have attended high school in California for three or more years and to have graduated from a California high school or attained the equivalent thereof.

According to the author of AB 540, many of the students that would benefit were the children of parents who had been granted amnesty by the federal government and were waiting for their own applications for citizenship to be accepted by the Immigration and Naturalization Service. The majority of these students considered California their home and expected to become citizens. Supporters argue that the bill would help talented California high school students, who cannot afford to pay nonresident tuition, to attend college.

While AB 540 provided considerable financial relief to undocumented students, as of its enactment, these students could not avail themselves to state financial aid programs. This was subsequently addressed in 2011, when, after several years of failed attempts, the Legislature enacted AB 130 (Cedillo) and AB 131 (Cedillo), which allowed AB 540 students to be able to receive institutional scholarships derived from nonstate funds (AB 130) and to participate in state and institutional financial aid programs (AB 131). The legislation is known as the California DREAM Act.

In 2014, eligibility under AB 540 was expanded, through enactment of AB 2000 (Gomez), to include attainment of credits earned in California from a California high school equivalent to three or more years of full-time coursework and a total of three or more years of attendance in California elementary schools, California secondary schools, or a combination of those schools. According to the author, the bill was intended to provide eligibility for high school students that accelerate their learning (e.g. through concurrent or dual community college enrollment to obtain high school credits) and graduate ahead of completing the existing three-year high school attendance requirement of AB 540.

In 2017, AB 540 eligibility was expanded considerably. SB 68 (Lara) (as described in the *Prior Legislation section of this analysis*), provided eligibility to students who have 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 California elementary and secondary schools; and, required that the students graduate from a California high school or attain the equivalent, attain an associate degree from a campus of the CCC, or fulfill minimum transfer requirements established for the UC or CSU for students transferring from CCC campuses.

The author of SB 68 contended that many undocumented students often cannot complete high school in time to qualify under AB 540, as it existed at that time, and instead may take a path through adult school and community college to access higher education. As noted in the Senate Education Committee analysis of SB 68, the bill was in part expanding eligibility to students that are likely to be older than traditional students.

*Does this measure conflict with recent court rulings of Martinez v. Regents of University of California?* In 2005, a lawsuit was filed, *Martinez v. Regents of UC*, seeking to invalidate EC Section 68130.5. The plaintiffs argued that out-of-state students were being charged higher tuition rates relative to undocumented immigrants.

The law was originally upheld, but on September 15, 2008, the California Court of Appeal reversed that ruling. On November 15, 2010, the California Supreme Court reversed the California Court of Appeal, finding EC Section 68130.5 valid; thus ruling against the plaintiffs. The Court stated, “because the exemption is given to all who have attended high school in California for at least three years (and meet the other requirements), and not all who have done so qualify as California residents for purposes of in-state tuition, and further because not all unlawful [immigrants] who would qualify as residents but for their unlawful status are eligible for the exemption, we conclude the exemption is not based on residence in California.”

This measure does not change the definition of residency, and all students, regardless of their residency, may qualify for the nonresident tuition exemption.

*Who ultimately benefits?* Many people have a misconceived notion regarding provisions in current law that exempt nonresident students from paying out-of-state tuition. People believe that the exemption only applies to eligible undocumented students. As it stands, a person determined to be a nonresident for purposes of assessing tuition at a California college or university *may* include U.S. citizens that reside in another state. Students who fit the aforementioned scenario could benefit from the changes as prescribed in this measure.

It is presently unclear how many students will qualify for nonresident tuition exemptions under the proposed exemptions in this bill.

*Moving forward, the author may wish to work with the Appropriations and Budget Committees, in order to ensure adequate funding is available. Additionally, the author may wish to make the provisions of this measure contingent upon an appropriation by the Legislature.*

*Prior legislation.* SB 1141 (Limón), Chapter 490, Statutes of 2022, in part, modifies the eligibility for paying nonresident tuition exemption at a California public postsecondary institution established for long-term California residents, regardless of citizenship status, by removing the two-year cap on full-time attendance achieved in credit courses at a campus of the CCC that may count towards the three-year total attendance requirement.

SB 1160 (Durazo) of 2022, which was held on the Suspense File in the Senate Committee on Appropriations, would have extended the exemption from paying nonresident tuition at California’s public postsecondary institutions to nonresident international students.

AB 1620 (Santiago) of 2019, which was held on the Suspense File in the Assembly Committee on Appropriations, was substantially similar to SB 1141 (as described above).

SB 68 (Lara), Chapter 496, Statutes of 2017, which, in part, made various changes to residency for in-state tuition purposes; including requiring three years of full-time attendance and attainment of credits at a California school or CCC or at a combination of such schools in order to gain resident tuition.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California Community Colleges Chancellor's Office (Sponsor)  
Academic Senate for California Community Colleges  
Antelope Valley Community College District  
California Federation of Teachers AFL-CIO  
California Student Aid Commission  
Citrus College  
Community College League of California  
Contra Costa Community College District  
Faculty Association of California Community Colleges  
GENup  
John Burton Advocates for Youth  
Long Beach Community College District  
Los Angeles College Faculty Guild, Local 1521  
Mt. San Antonio College  
National Association of Social Workers, California Chapter  
North Orange Community College District  
Porterville College  
Rio Hondo College  
San Bernardino Community College District  
San Jose-Evergreen Community College District  
Southern California College Attainment Network  
Student Senate for California Community Colleges  
uAspire  
One individual

**Opposition**

None on file.

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