

Date of Hearing: March 21, 2023

ASSEMBLY COMMITTEE ON HIGHER EDUCATION  
Mike Fong, Chair  
AB 91 (Alvarez) – As Amended March 13, 2023

**SUBJECT:** Community colleges: exemption from nonresident tuition fee: San Diego and Imperial Counties Community Colleges Association.

**SUMMARY:** Exempts, until January 1, 2029, from the nonresident tuition fee, a nonresident, low-income student who is a resident of México (MX), registers for lower division courses at a San Diego and Imperial Counties Community Colleges Association (SDICCCA) college, as defined, and has residence within 45 miles of the California-Mexico border. Specifically, **this bill:**

- 1) States the intent of the Legislature is to increase the pathways by which nonresident students who reside near the California-México border, and who might otherwise experience financial hardships, attend community colleges near the border.
- 2) Exempts a student who meets all of the following criteria from being charged nonresident tuition and fees:
  - a) Is a nonresident, low-income student who is a resident of México;
  - b) Registers for lower division courses at a SDICCCA college; and,
  - c) Has residence within 45 miles of the California-Mexico border for at least one year immediately before seeking the fee exemption pursuant to this paragraph.
- 3) Requires SDICCCA to adopt rules and regulations that accomplish all of the following:
  - a) Determine a student’s residence classification;
  - b) Establish procedures for an appeal and review of the residence classification; and,
  - c) Determine whether a student is low income.
- 4) Requires that a governing board of a community college district (CCD) with a SDICCCA college must, as a condition of its students receiving an exemption, approve all rules and regulations, as enumerated in (3) above.
- 5) Stipulates that no more than 150 full-time equivalent students (FTES) at each SDICCCA college will be exempted from payment of a nonresident tuition fee in any academic year.
- 6) Requires that on or before January 1, 2028, SDICCCA must submit a report to the Legislature that includes, but is not limited to, the demographics, attendance rate, and class completion rate of students receiving an exemption.
- 7) Defines, “SDICCCA college” as a community college that is a member of the San Diego and Imperial Counties Community Colleges Association.

8) Sunsets the provisions of this measure on January 1, 2029.

**EXISTING LAW:**

- 1) Authorizes the California Community Colleges (CCC) Board of Governors (BOG) to enter into an interstate attendance agreement with any statewide public agency of another state that is responsible for public institutions of postsecondary education providing the first two years of college instruction, and that is an agency of a state that is a member of Western Interstate Commission for Higher Education (WICHE) (Education Code (EC) Section 66801).
- 2) Authorizes a CCD to admit non-resident students and requires that these students be charged a tuition fee that is twice the amount of the fee established for in-state resident students, with certain specified exemptions. State statute prescribes a formula for the calculation of the non-resident fee. State law requires the non-resident tuition fee be increased to a level that is three times the amount of the fee established for in-state resident students (EC Section 76140).
- 3) Prohibits non-resident students from being reported as FTES for state apportionment purposes, except where: (1) the CCD has fewer than 1,500 FTES and is within 10 miles of another state and has a reciprocity agreement with that state or participates in WICHE; or, (2) if a CCD has between 1,501 and 3,000 FTES and is within 10 miles of another state and has a reciprocity agreement with that state or participates in WICHE, they can claim up to 100 FTES for state apportionment purposes (EC Section 76140(h)(i)).
- 4) Exempts no more than 200 students in any academic year from paying non-resident tuition fees if they attend the Lake Tahoe Community College (LTCC) and reside in specified communities in the State of Nevada, and; (2) permits the LTCC District to count these persons as resident FTES for purposes of determining California apportionment funding (EC Section 76140 (a)(6)).
- 5) Provides that specified nonresident students exempted from paying nonresident tuition may be reported as resident FTES for purposes of state apportionment. These students are required to pay one and one-half the amount of resident fees (EC Section 76140(j)).

**FISCAL EFFECT:** Unknown

**COMMENTS:** *Purpose of the measure.* According to the author, “Southern California and Baja-California (MX) operates as one region where living in one country while going to school or working on the other side has been a part of everyday life for decades. It is a dynamic region with over 100,000 daily border crossings where U.S. companies already rely on employees who commute across the border. San Diego County has a robust \$250 billion to \$300 billion annual economy, but the fact of the matter is that the region is facing the same staffing shortages plaguing California and the nation. This is especially true in fields like nursing, emergency services and behavioral health.”

The author contends that, “This bill will allow low-income residents who live close to the border to attend some of our local community colleges to better prepare our region for the future. Creating additional avenues for education to people living in Tijuana and other border regions in Mexico would increase the available workforce in San Diego and Imperial County. Since South San Diego County lacks a four-year university, many students do not have the option to pursue

an undergraduate degree. Exacerbating the problem is the high cost of living in the San Diego region, which can often make securing housing impossible.”

Additionally, the author states, “Passing Assembly Bill 91 would mitigate many of these problems and eventually, allow these students to enter the local workforce, where they would contribute to San Diego County’s thriving economy and ensure that the region remains an international player for years to come. Both Texas and Arizona have long recognized the economic benefits of facilitating cross-border education, and it is time California does too.”

Lastly, the author states, “One of the most significant barriers to higher education is the cost of tuition, which can be prohibitively expensive for many students. AB 91 will reduce the inequities in higher education by reducing the cost for lower-income individuals, first-generation college students, and students from historically marginalized communities to obtain a college education and improve their economic mobility. These students would naturally be served by the SDICCCA community colleges if living on the other side of the border had not required them to pay eight times the tuition rate.”

*What is CaliBaja?* According to a recent report, *The CaliBaja Regional Economy: Production, Employment, Trade & Investment*, published by the Knauss School of Business at the University of San Diego, CaliBaja is the label frequently used to describe the binational region comprising the two southernmost California counties (San Diego and Imperial), and the Mexican municipalities that make up the state of Baja California (Ensenada, Mexicali, Rosarito, San Quintin, Tecate, and Tijuana).

Further, according to the report, CaliBaja is the largest integrated economic zone along the U.S. – México border. CaliBaja is home to 7 million inhabitants and has a regional Gross Domestic Product (GDP) of \$250 billion and an estimated \$70 billion in cross border trade flows.

*Prior reciprocity agreements.* Between 1988 and 2011, California and Nevada operated under a “Good Neighbor Policy” (GNP) that complied with existing law (see EC Section 76140(j)) and allowed LTCC to provide a waiver of nonresident tuition for Nevada and claim the adjusted apportionment. However, in 2011, the Nevada Board of Regents voted to end the GNP, meaning that Nevada residents of the Tahoe Basin were required to pay the full nonresident tuition in order to attend LTCC.

In 2015, Nevada SB 414 (Settelmeyer), Chapter 380, Statutes of 2015, was signed into law on June 5, 2015, which, in part, encouraged the Board of Regents of the University of Nevada to enter into a reciprocal agreement with the State of California in order to authorize waivers of nonresident tuition to certain residents of the Lake Tahoe Basin. According to LTCC, the Chancellor of the Nevada System of Higher Education agreed to negotiate a GNP if California enacted similar legislation. The GNP between both states went into effect after the enactment of SB 605 (Gaines) of 2015, as described in the *Prior legislation* section of this analysis.

Following the passage of SB 605, the CCC BOG entered into the California Nevada Interstate Attendance Agreement (CNIAA) with the Nevada System of Higher Education. The CNIAA provides reciprocity for California Basin students to attend Western Nevada College (WNC) and pay resident fees.

This measure appears to be modeled after existing law for eligible students, who are residents of Nevada and live in specified locations of Nevada, and attend college in LTCC and are able to pay specified in-state tuition and fees.

*Reciprocity with other states.* According to the National Conference of State Legislatures (NCSL), other states have in-state tuition agreements for Mexican students living within a specified mile radius of the border; these states include:

- 1) The State of Texas has the *Mexican Citizens with Financial Need-Border Nations Waiver*. This waiver permits a small number of individuals with financial need, who are citizens of México, to enroll in any public institution of higher education in Texas, while paying the resident tuition rate. The process for applying for a tuition waiver varies from college to college. Typically, the office of the registrar processes tuition waivers. However, waivers may also be processed by the admissions and/or financial aid offices.

The Texas Legislature appropriates the funds for the waivers.

- 2) The State of New Mexico has the *Descubre Program for Mexican Students*. This Program offers new students with Mexican citizenship the Descubre Tuition Rate, which is 1.5 times the in-state tuition rate. The Program does not require an application; qualified students will automatically be enrolled in the program upon admission to the New Mexico State University (NMSU) Las Cruces campus. The eligibility requirements: a) Mexican citizenship; b) Admission to NMSU; c) Enrollment in 15 new Las Cruces credits per semester; and, d) Meeting satisfactory academic progress to continue receiving the Descubre Tuition Rate each semester.

The NMSU Board of Regents approves the fiscal appropriations for the Program.

- 3) The State of Arizona has *Gatos MX Tuition Discount*. Through agreements with the States of Baja California, Chihuahua, Sinaloa, and Sonora in México, qualified new incoming first-year students who are residents of said states, are eligible for the Gatos MX Discount. The Discount is a partial tuition scholarship and places 2023-2024 tuition at \$19,800 per academic year (which is approximately 50% of out-of-state tuition). Students must meet a variety of specified eligibility requirements, including, but not limited to the following: a) Be first-year undergraduate admits to the University of Arizona; and, b) Will graduate high school from one of following states: i) Baja California; ii) Chihuahua; iii) Sinaloa; and, iv) Sonora.

The Arizona Board of Regents approves the fiscal appropriations for the Discount.

*Committee comments.* As currently drafted, this measure, in part, will, in any academic year, prohibit more than 150 FTES at each SDICCCA college from being exempted from payment of the nonresident tuition fee. While the number of FTES is limited to 150 FTES, if the pilot is successful, the number could grow.

*Moving forward, the author may wish to work with the appropriate Budget Committees to ensure that funding for this measure is appropriated in the annual State Budget Act.*

Additionally, as currently drafted, this measure requires that SDICCCA submit a report to the legislature on the pilot. While it is imperative for the Legislature to obtain a report with specified

data on the pilot, it is presently unclear if SDICCCA is the appropriate entity to produce the report.

*Moving forward, the author may wish to work with the CCCCCO and SDICCCA in order to ensure the appropriate entity produces the report.*

*Prior legislation.* SB 436 (Dahle), Chapter 573, Statutes of 2021, removes the sunset date of provisions in current law, authorizing LTCC to waive non-resident tuition fees and claim apportionment for a limited number of students residing in specified communities in the State of Nevada (in the Lake Tahoe Basin), thereby making the authorization permanent.

SB 605 (Gaines), Chapter 657, Statutes of 2015, in part, until July 1, 2022, exempts persons residing in specified communities in the State of Nevada from paying non-resident tuition fees if they attend LTCC.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

California Federation of Teachers, AFL-CIO  
City of Chula Vista Office of Deputy Mayor Jose Preciado  
Community Health Group  
Councilmember Sean Elo-Rivera, City of San Diego, District 9  
Councilmember Vivian Moreno, City of San Diego, Council District 8  
Cuyamaca College  
Energy Communications Corp.  
Governor of The State of Baja California (MX)  
Grossmont-Cuyamaca Community College District  
Imperial Community College District  
Los Angeles Community College District  
Office of Supervisor Nora Vargas, County of San Diego  
Otay Mesa Chamber of Commerce  
Palomar Community College District  
San Bernardino Community College District  
San Diego and Imperial Counties Community College Association  
San Diego and Imperial Valley Hispanic Chamber of Commerce  
San Diego City College  
San Diego Community College District  
San Diego Regional Chamber of Commerce  
South County Economic Development Council  
Southwestern Community College District  
The City of Chula Vista, the Office of Councilmember Carolina Chavez

### **Opposition**

None on file.

**Analysis Prepared by:** Jeanice Warden / HIGHER ED. / (916) 319-3960