An act to amend Section 76140 of the Education Code, relating to pupils.

LEGISLATIVE COUNSEL’S DIGEST


Existing law authorizes the governing board of a school district to allow pupils whom the school district has determined would benefit from advanced scholastic or vocational work to attend a community college as special part-time or full-time students, as specified. Existing law authorizes community college governing boards to exempt these special part-time students from paying the $46 per unit per semester enrollment fee.

This bill would authorize a community college district to exempt a pupil, other than a nonimmigrant alien, as specified, pupil attending a community college as a special part-time student from paying nonresident tuition at the community college, if certain conditions are satisfied.

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

SECTION 1. Section 76140 of the Education Code, as added by Section 66 of Chapter 38 of the Statutes of 2012, is amended to read:

76140. (a) A community college district may admit and shall charge a tuition fee to nonresident students. The district may exempt from all or parts of the fee any person described in paragraph (1), (2), or (3), or (4):

(1) All nonresidents who enroll for six or fewer units. Exemptions made pursuant to this paragraph shall not be made on an individual basis.

(2) Any nonresident who is both a citizen and resident of a foreign country, if the nonresident has demonstrated a financial need for the exemption. Not more than 10 percent of the nonresident foreign students attending any community college district may be so exempted. Exemptions made pursuant to this paragraph may be made on an individual basis.

(3) (A) A student who, as of August 29, 2005, was enrolled, or admitted with an intention to enroll, in the fall term of the 2005–06 academic year in a regionally accredited institution of higher education in Alabama, Louisiana, or Mississippi, and who could not continue his or her attendance at that institution as a direct consequence of damage sustained by that institution as a result of Hurricane Katrina.

(B) The chancellor shall develop guidelines for the implementation of this paragraph. These guidelines shall include standards for appropriate documentation of student eligibility to the extent feasible.

(C) This paragraph shall apply only to the 2005–06 academic year.

(4) A special part-time student admitted pursuant to Section 76001.

(b) A district may contract with a state, a county contiguous to California, the federal government, or a foreign country, or an agency thereof, for payment of all or a part of a nonresident student’s tuition fee.

(c) Nonresident students shall not be reported as full-time equivalent students (FTES) for state apportionment purposes,
except as provided by subdivision (j) or another statute, in which case a nonresident tuition fee may not be charged.

(d) The nonresident tuition fee shall be set by the governing board of each community college district not later than February 1 of each year for the succeeding fiscal year. The governing board of each community college district shall provide nonresident students with notice of nonresident tuition fee changes during the spring term before the fall term in which the change will take effect. Nonresident tuition fee increases shall be gradual, moderate, and predictable. The fee may be paid in installments, as determined by the governing board of the district.

(e) (1) The fee established by the governing board pursuant to subdivision (d) shall represent for nonresident students enrolled in 30 semester units or 45 quarter units of credit per fiscal year one or more of the following:

(A) The amount that was expended by the district for the expense of education as defined by the California Community College Budget and Accounting Manual in the preceding fiscal year increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the current fiscal year and succeeding fiscal year and divided by the FTES (including nonresident students) attending in the district in the preceding fiscal year. However, if for the district’s preceding fiscal year FTES of all students attending in the district in noncredit courses is equal to, or greater than, 10 percent of the district’s total FTES attending in the district, the district may substitute the data for expense of education in grades 13 and 14 and FTES in grades 13 and 14 attending in the district.

(B) The expense of education in the preceding fiscal year of all districts increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the fiscal year and succeeding fiscal year and divided by the FTES (including nonresident students) attending all districts during the preceding fiscal year. However, if the amount calculated under this paragraph for the succeeding fiscal year is less than the amount established for the current fiscal year or for any of the past four fiscal years, the district may set the nonresident tuition fee at the greater of the current or any of the past four-year amounts.

(C) An amount not to exceed the fee established by the governing board of any contiguous district.
(D) An amount not to exceed the amount that was expended by the district for the expense of education, but in no case less than the statewide average as set forth in subparagraph (B).

(E) An amount no greater than the average of the nonresident tuition fees of public community colleges of no less than 12 states that are comparable to California in cost of living. The determination of comparable states shall be based on a composite cost-of-living index as determined by the United States Department of Labor or a cooperating government agency.

(2) The additional revenue generated by the increased nonresident tuition permitted under the amendments made to this subdivision during the 2009–10 Regular Session shall be used to expand and enhance services to resident students. In no event shall the admission of nonresident students come at the expense of resident enrollment.

(f) The governing board of each community college district also shall adopt a tuition fee per unit of credit for nonresident students enrolled in more or less than 15 units of credit per term by dividing the fee determined in subdivision (e) by 30 for colleges operating on the semester system and 45 for colleges operating on the quarter system and rounding to the nearest whole dollar. The same rate shall be uniformly charged nonresident students attending any terms or sessions maintained by the community college. The rate charged shall be the rate established for the fiscal year in which the term or session ends.

(g) Any loss in district revenue generated by the nonresident tuition fee shall not be offset by additional state funding.

(h) Any district that has fewer than 1,500 FTES and whose boundary is within 10 miles of another state that has a reciprocity agreement with California governing student attendance and fees may exempt students from that state from the mandatory fee requirement described in subdivision (a) for nonresident students.

(i) Any district that has more than 1,500, but less than 3,001, FTES and whose boundary is within 10 miles of another state that has a reciprocity agreement with California governing student attendance and fees may, in any one fiscal year, exempt up to 100 FTES from that state from the mandatory fee requirement described in subdivision (a) for nonresident students.

(j) The attendance of nonresident students who are exempted pursuant to subdivision (h) or (i), or pursuant to paragraph (3) of
subdivision (a), from the mandatory fee requirement described in subdivision (a) for nonresident students may be reported as resident FTES for state apportionment purposes. Any nonresident student reported as resident FTES for state apportionment purposes pursuant to subdivision (h) or (i) shall pay a per unit fee that is three times the amount of the fee established for residents pursuant to Section 76300. That fee is to be included in the FTES adjustments described in Section 76330 for purposes of computing apportionments.

(k) This section shall become operative on July 1, 2013.

SECTION 1. Section 48800 of the Education Code is amended to read:

48800. (a) The governing board of a school district may determine which pupils would benefit from advanced scholastic or vocational work. The intent of this section is to provide educational enrichment opportunities for a limited number of eligible pupils, rather than to reduce current course requirements of elementary and secondary schools, and also to help ensure a smoother transition from high school to college for pupils by providing them with greater exposure to the collegiate atmosphere. The governing board of the school district may authorize those pupils, upon recommendation of the principal of the pupil's school of attendance, and with parental consent, to attend a community college during any session or term as special part-time or full-time students and to undertake one or more courses of instruction offered at the community college level.

(b) If the governing board of the school district denies a request for special part-time or full-time enrollment at a community college for any session or term for a pupil who is identified as highly gifted, the governing board of the school district shall issue its written recommendation and the reasons for the denial within 60 days. The written recommendation and denial shall be issued at the next regularly scheduled board meeting that falls at least 30 days after the request has been submitted.

(c) A pupil shall receive credit for community college courses that he or she completes at the level determined appropriate by the governing boards of the school district and community college district.
(d) (1) The principal of a school may recommend a pupil for community college summer session only if the pupil meets all of the following criteria:

(A) Demonstrates adequate preparation in the discipline to be studied.

(B) Exhausts all opportunities to enroll in an equivalent course; if any, at his or her school of attendance.

(2) For any particular grade level, a principal shall not recommend for community college summer session attendance more than 5 percent of the total number of pupils who completed that grade immediately before the time of recommendation.

(3) A high school pupil recommended by his or her principal for enrollment in a course shall not be included in the 5 percent limitation of pupils allowed to be recommended pursuant to paragraph (2) if the course in which the pupil is enrolled meets one of the criterion listed in subparagraphs (A) to (C), inclusive; and the high school principal who recommends the pupil for enrollment provides the Chancellor of the California Community Colleges, upon the request of the chancellor’s office, with the data required for purposes of paragraph (4):

(A) The course is a lower-division, college-level course for credit that is designated as part of the Intersegmental General Education Transfer Curriculum or applies toward the general education breadth requirements of the California State University.

(B) The course is a college-level, occupational course for credit assigned a priority code of “A,” “B,” or “C,” pursuant to the Student Accountability Model, as defined by the Chancellor of the California Community Colleges and reported in the management information system, and the course is part of a sequence of vocational or career technical education courses leading to a degree or certificate in the subject area covered by the sequence.

(C) The course is necessary to assist a pupil who has not passed the California High School Exit Examination (CAHSEE), does not offer college credit in English language arts or mathematics, and the pupil meets both of the following requirements:

(i) The pupil is in his or her senior year of high school.

(ii) The pupil has completed all other graduation requirements before the end of his or her senior year, or will complete all remaining graduation requirements during a community college
summer session, which he or she is recommended to enroll in,
following his or her senior year of high school:

(4) On or before March 1 of each year, the Chancellor of the
California Community Colleges shall report to the Department of
Finance the number of pupils recommended pursuant to paragraph
(3) who enroll in community college summer session courses and
receive passing grades. The information in this report may be
submitted with the report required by subdivision (c) of Section
76002:

(5) The Board of Governors of the California Community
Colleges shall not include enrollment growth attributable to
paragraph (3) as part of its annual budget request for the California
Community Colleges:

(6) Notwithstanding Article 3 (commencing with Section 33050)
of Chapter 1 of Part 20 of Division 2, compliance with this
subdivision shall not be waived:

(e) A pupil, other than a nonimmigrant alien within the meaning
of subparagraphs (A) to (S), inclusive, of paragraph (15) of
subsection (a) of Section 1101 of Title 8 of the United States Code,
attending a community college as a special part-time student
pursuant to this section shall be exempt from paying nonresident
tuition at the California Community Colleges, if all of the following
are satisfied:

(1) He or she has attended school in California for one year or
more;

(2) He or she is enrolled in a California high school;

(3) He or she is enrolled in a California community college
pursuant to this section and Section 76001;

(4) In the case of a pupil without lawful immigration status, an
affidavit has been filed with the institution of higher education
stating that the student has filed an application to legalize his or
her immigration status, or will file an application as soon as he or
she is eligible to do so;

(f) Paragraphs (3), (4), and (5) of subdivision (d) shall become
inoperative on January 1, 2014: