
SENATE COMMITTEE ON EDUCATION

Senator Carol Liu, Chair
2015 - 2016 Regular

Bill No: AB 2364
Author: Holden
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Consultant: Kathleen Chavira
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Fiscal: Yes

Subject: Public postsecondary education: community colleges: exemption from nonresident tuition

SUMMARY

This bill deletes the requirement that a community college district participating in a College and Career Access Pathways (CCAP) partnership with the governing board of a school district waive the nonresident tuition fee for special part-time students, deletes the authority of a community college governing board to waive nonresident fees for special part-time students and instead requires that a community college district exempt any special part-time student admitted, as specified, from nonresident fees.

BACKGROUND

Existing law authorizes the governing board of a school district, upon recommendation of the principal of a pupil's school and with parental consent, to authorize a student to concurrently enroll in a community college during any session or term to undertake one or more courses of instruction. Existing law prohibits a principal from recommending, more than 5% of the total number of students in the same grade level for community college summer session attendance. A community college district governing board is authorized to admit these students and requires that they be assigned a low enrollment priority in order to ensure that they do not displace regularly admitted community college students. An exemption to this requirement is extended to Middle College High School (MCHS) students. (Education Code § 48800, et seq.) (EC § 76001)

Existing law requires a community college to charge a tuition fee to nonresident students and also authorizes a community college district to exempt a special admit student from all or part of a nonresident student tuition fee. A district is prohibited from reporting nonresident students as full-time equivalent students (FTES) for state apportionment purposes except as provided by statute in which case a nonresident tuition fee may not be charged. (EC § 76140)

Existing law authorizes the governing board of a community college district to enter into a College and Career Access Pathways (CCAP) partnership with the governing board of a school district for the purpose of offering or expanding dual enrollment opportunities for students who may not already be college bound or who are underrepresented in higher education, with the goal of developing seamless pathways from high school to community college for career technical education or preparation for transfer, improving high school graduation rates, or helping high school pupils achieve college and career readiness. Districts that participate in the program are required to exempt participating

special part-time students from various fee requirements including student representation fees, nonresident fees, enrollment fees, apprenticeship course fees, and child development center fees. (EC § 76004)

Existing law also establishes the College Promise Partnership Act until June 30, 2017, and provides for the crediting of additional units of full-time equivalent students (FTES) attributable to the attendance of partnership students at the community college, as specified. These special part-time and special full-time students may be admitted in any session or term of the partnership and the Long Beach Community College District is authorized to include these students for purposes of receiving state apportionment (FTES) provided that no school district has received reimbursement for the same instructional activity. An evaluation of the program is due to the Legislature, by December 30, 2016. These provisions are sunset in June 2017. (EC § 48810 – 48814, § 76003)

ANALYSIS

This bill:

- 1) Deletes the requirement that a community college district participating in a College and Career Access Pathways (CCAP) partnership waive the nonresident tuition fee for special part-time students that enroll at a community college as part of their participation in a CCAP partnership agreement.
- 2) Deletes the authority of a California Community College (CCC) district to waive nonresident fees for special part-time students.
- 3) Requires that a CCC district to waive nonresident fees for all special part time students (other than a nonimmigrant student, as defined by specified federal law).

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, this bill was prompted by the efforts of the Compton Unified School District to enter into a partnership agreement with the El Camino College Compton Center under the newly established dual enrollment option implemented by AB 288 (Holden, Chapter 618, Statutes of 2015), the College and Career Access Pathways (CCAP) partnership. Current law specifically *requires* the waiver of nonresident fees for part-time special students as a condition of the CCAP partnerships. However, according to the Chancellor's Office, these provisions do not provide explicit authority for the CCC to claim FTES for these students. Reportedly, an element of the proposed agreement in Compton was that the school district agrees to pay the average daily attendance it receives for these students to the community college. While this appears to be a provision in other similar partnership agreements (the Long Beach Promise program, for example), the large number of nonresident students within the Compton School District appears to create a barrier to a partnership agreement that is fiscally viable for the partnering districts, jeopardizing the ability of this student community to benefit from the new CCAP provisions.

This bill responds to this situation by requiring the waiver of nonresident fees of any nonresident special part-time student that enrolls at any community college.

- 2) **Current policy.** In 2013, SB 150 (Lara, Chapter 575, Statutes of 2013) was enacted to authorize a California Community College (CCC) to exempt special part-time students from any nonresident tuition fees. The bill was enacted in response to varying district interpretations of their authority to serve California high school students who are nonresidents in concurrent enrollment programs. Some districts had been advised by their legal counsel that because current law allows a district to waive fees for special part-time students that they may also waive nonresident fees, while others had been advised that they have no authority to waive a nonresident fee for special part-time students. Still other districts had made the decision not to waive any fees for special part-time students, given the economic climate and severe budget cuts at the time. SB 150 clarified that CCC districts have the authority to waive these fees if they so choose.

In February 2014, the Chancellor's Office issued guidance on the implementation of these provisions. The guidance clarifies that CCC districts are permitted to exempt nonresident special part-time students from nonresident tuition, the exemption does not apply to special full-time students, and the exemption is not intended to apply to students who would be precluded from qualifying for the AB 540 exemption (distance education enrollees or students on nonimmigrant visas). In addition the exemption does not authorize districts to claim apportionment for these students.

The Chancellor's Office reports that the authorization granted by SB 150 and their statutory guidance appear to have addressed this issue and that districts are generally waiving these fees for nonresident special part-time students. The outstanding issue appears to be districts' ability to *claim FTES* for these students, not whether these fees are being waived.

Staff recommends the bill be amended to delete sections 2 and 3 from the bill.

- 3) **College and Career Access Pathways Act.** Community college districts have several statutorily authorized means by which apportionment can be claimed for minors enrolled by the district. However, a variety of conditions must be met by CCC districts that admit special part-time students either through principal recommendation or via Early College and Middle College high school programs.

In an effort to expand the availability of dual enrollment programs to a broader range of students, AB 288 (Holden, Chapter 618, Statutes of 2015) created another category of special admit options, the College and Career Access Pathways Act. The intent of this new pathway was to serve lower achieving students in an effort to reduce remediation, increase degree completion, decrease time to degree, and stimulate interest in higher education among high school students for students who may not already be college bound or who are underrepresented in higher education. According to the sponsors of AB 288, the program was structured to authorize a model more like the Long Beach Promise that offers dual enrollment as a pathway, rather than a series of disconnected

individual courses, and provide greater flexibility in the delivery of courses at the high school campus. Unlike other concurrent enrollment options, AB 288 authorized community colleges to offer courses that are closed to the general public if offered on a high school campus, to grant special admit students higher enrollment priority than currently possible, and to exceed the current 11 unit cap per semester if the student is receiving both a high school diploma and an associate's degree. In exchange for the greater flexibility, College and Career Access Pathways (CCAP) program districts must meet a variety of requirements relative to instructors, job displacement, preserving access for adult students, and allowances and apportionments.

While districts that operate a dual enrollment partnership through an early college high school, middle college high school, or a California Career Pathways Trust may continue to operate as they have previously, they are prohibited from operating as a CCAP partnership unless they comply with the provisions established by AB 288.

- 4) **ADA/ FTES within the CCAP program.** The CCAP program established various requirements relative to state allowances and apportionments. Among these, it required the crediting of full-time equivalent students (FTES) for eligible high school students attributable to a California Community College (CCC) district conducting a closed course on a high school campus. It also authorized the crediting of FTES for high school students attending courses at the CCC. In both instances, however, districts are prohibited from receiving FTES or average daily attendance for the same instructional activity. This was, in part, to limit "double-dipping", i.e. paying both the community colleges and the K-12 districts for educating the same high school student, an ongoing concern regarding dual enrollment programs generally.

In order to ensure that CCAP programs would serve a broad range of students, AB 288 required that a participating CCC district exempt special part-time students from the nonresident fee. However, the statute does not explicitly authorize the CCC district to report these students for state apportionment. As a result, it appears that, for a few CCC districts that want to partner with K-12 districts with large numbers of nonresident students, it may be economically unfeasible to do so.

However, should this issue be addressed by endorsing a policy that could expand the potential for "double dipping"?

Staff recommends the bill be amended to reinstate the requirement that the nonresident tuition/fees be waived for a special part student participating in a CCAP program, and clarify that, subject to the conditions outlined in 76004(r) and (s), a nonresident special admit student participating in a CCAP program may be reported as FTES for state apportionment purposes.

- 5) **Long Beach Promise Program.** The Long Beach Promise Program was established in 2008 as a collaborative partnership between the Long Beach Unified School District (LBUSD), the Long Beach City College (LBCC) and the California State University at Long Beach (CSULB) with the general goals of

increasing college preparation, college access, and ultimately college success. In 2011, SB 650 (Lowenthal, Chapter 633, Statutes of 2011) statutorily authorized the partnership and granted greater flexibility in the program's implementation than normally allowed for dual enrollment programs as well as authorizing the crediting of FTES for these students. The statutory authority for this partnership sunsets on January 1, 2018. As previously noted, the College and Career Access Pathways (CCAP) program was based upon the Long Beach Promise Program.

Reportedly, the partnership agreement between the K-12 and community college district ensures access for all students of the K-12 district that choose to participate. In addition, given that the elements of the CCAP were based upon the Long Beach Promise Program, it is unclear whether any specific statute is necessary as it appears that the Promise Program could continue to operate as a CCAP program once its statutory authorization sunsets, if it so chooses.

It does not appear that the application of this bill's provisions to the Long Beach Promise program are necessary.

SUPPORT

Adelante Youth Alliance
 Association of California Community College Administrators
 California Coalition of Early and Middle Colleges
 California Immigrant Policy Center
 California State Conference of the National Association for the Advancement of Colored People
 Chaffey Community College District
 Children's Defense Fund – CA
 Compton Community College District
 Compton Unified School District
 Compton Unified School District
 Dream Outreach Center, CSU Fresno
 El Camino Community College District
 Firebaugh–Las Deltas Unified School District
 Foothill-DeAnza Community College District
 Gateway to College, Contra Costa College
 High School at Moorpark College
 Los Angeles Community College District
 Los Rios Community College District
 MALDEF
 Middle College High School at San Bernardino Valley College
 North Orange County Community College District
 Peralta Community College District
 Riverside County Superintendent of Schools
 San Diego Community College District
 San Francisco Community College District
 San Jose Evergreen Community College District
 West Sacramento Early College Prep
 Yuba Community College District

OPPOSITION

None received.

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