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# SENATE COMMITTEE ON EDUCATION

Senator Benjamin Allen, Chair

2017 - 2018 Regular

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**Bill No:** AB 343 **Hearing Date:** June 14, 2017  
**Author:** McCarty  
**Version:** April 20, 2017  
**Urgency:** No **Fiscal:** Yes  
**Consultant:** Olgalilia Ramirez

**Subject:** Public postsecondary education: holders of certain special immigrant visas

**NOTE:** This bill has been referred to the Committees on Education and *Judiciary*. A "do pass" motion should include referral to the Committee on *Judiciary*.

## SUMMARY

This bill exempts a Special Immigrant Visa (SIV) holder or is a refugee who has settled in California from paying nonresident tuition at a California Community College (CCC).

## BACKGROUND

Existing Law:

- 1) Under federal law, provides eligibility for SIVs to certain Iraqi and Afghan nationals who worked directly with the U.S. Armed Forces, as interpreters, translators, or otherwise. Upon admission to the U.S., holders of SIVs are granted lawful permanent resident status under the Immigration and Nationality Act. (§1244 of Public Law 110-181 and Public Law 109-163)
- 2) Under federal law, the Immigration and Nationality Act, as amended by the Refugee Act of 1980, also authorizes the admission and resettlement of refugees, which comprise a category of humanitarian admissions and are persons unwilling or unable to return to their home countries "because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion." After one year of refugee status in the U.S., refugees are required to apply to adjust to lawful permanent resident status. (8 U.S. Code § 1157).
- 3) Under state law, makes the following definitions:
  - a) "Resident" is a student who has residence in California for more than one year immediately preceding the residence determination date. (Education Code (EC) § 68017.)
  - b) "Resident classification" means classification as a resident at the University of California (UC), the California State University (CSU), or the CCC. (EC § 68022.)
  - c) "Residence determination date" is a date established by the university or community college district governing boards for each semester or quarter to determine a student's residence. (EC § 68023.)

- 4) Requires each student to be classified as a resident or nonresident. (EC § 68040.)
- 5) Requires the segment governing boards to adopt regulations for determining a student's residence classification, which are to include provisions requiring the financial independence of a student classified as a nonresident and seeking reclassification as a resident as a factor to be considered in the determination of residency, and establishes financial independence criteria. (EC § 68044.)
- 6) Requires a student classified as a nonresident to pay nonresident tuition in addition to other tuition and fees required by the institution. (EC § 68050.)
- 7) Exempts an Armed Forces member—stationed in the state on active duty for more than one year immediately prior to being discharged—from nonresident tuition at California State University (CSU) and the California Community Colleges (CCC) for the length of time he or she lives in the state after being discharged up to the minimum time necessary to become a resident. (EC § 68075.5(a).)
- 8) Exempts specified California nonresidents from paying nonresident tuition at University of California (UC) , CSU, and CCC, also known as the AB 540 nonresident tuition waiver (Firebaugh), Chapter 814, 2001, if they meet all of the following: (EC § 68130.5.)
  - 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 beginning after fall of the 2001-02 academic year; and,
  - d) If an alien without lawful immigration status, has filed an affidavit stating that the student has filed an application to legalize his or her immigration status or will file such an application as soon as he or she is eligible to so do.
- 4) Exempts students who are victims of trafficking, domestic violence, and other serious crimes who have been granted a "T" or "U" visa under specified federal law from paying nonresident tuition to the same extent as refugees. (EC § 68122.)

**ANALYSIS**

This bill exempts a special immigrant visa holder or is a refugee who has settled in California from paying nonresident tuition at a CCC. Specifically, it:

- 1) Exempts a student who is a special immigrant visa holder from Iraq and Afghanistan and refugees as defined, who upon entering the United States settle in California, from paying nonresident fees at a CCC up to the minimum time necessary to become a resident.

- 2) Makes various findings and declarations relative to the number of refugees and special immigrant visa holders who have resettled in California and the barriers they face when assimilating into the country.

#### STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “a large number of refugees have come to California. The largest numbers of refugees are in the counties of Monterey, San Diego and Sacramento. Many of these families have escaped war and persecution in order to improve the lives of their family, but encounter numerous barriers when assimilating into the United States such as the cost of higher education.” This bill seeks to ensure Iraqi and Afghani Special Immigrant Visa (SIV) immigrants and refugees access to higher education by granting these individuals immediate residency status for purposes of paying nonresident tuition at a California Community College (CCC).
- 2) ***Who is eligible?*** Individuals who meet the following criteria are eligible for the exemption granted by this bill:
  - a) ***Special Immigrant Visas.*** A report by the Congressional Research Service report on, “Iraqi and Afghan SIV Programs,” notes, Congress enacted a series of legislative provisions since 2006 to enable certain Iraqi and Afghan nationals to become U.S. lawful permanent residents. These provisions make certain Iraqis and Afghans who have worked as translators or interpreters, or who were employed by, or on behalf of, the U.S. government in Iraq or Afghanistan, eligible for special immigrant visas. There are three SIV programs, two of the three are temporary and cap the total number of visas issued for the life of the program. The remaining program is permanent with a cap of 50 visas per year. Through the end of 2015, more than 37,000 individuals were granted special immigrant status under those programs. Approximately 2,009 of those individuals settled in California in 2015.
  - b) ***Refugees.*** Unlike special immigrants, refugees comprise a category of humanitarian admissions under the Immigration and Nationality Act. As defined in the Immigration and Nationality Act, a refugee is a person who is unwilling or unable to return to his or her country, “because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.” After one year in refugee status they are required to apply to adjust to legal permit resident status. Some individuals may be eligible to apply for both refugee status and for classification under the Iraqi or Afghan SIV programs. In 2016, according to the California Department of Social Services-Refugee Programs Bureau, 7,908 refugees arrived in California.
- 3) ***Non-resident/resident tuition at California Community Colleges.*** Current law establishes the requirements for determining residency for purposes of paying the lower-cost resident student fees at CCC, which generally includes a demonstration that the student has resided in California for more than one year. Those who do not qualify for resident tuition pay the higher-cost non-resident

student fees. At CCCs, non-resident students pay roughly on average \$234 per unit, whereas California-resident students pay \$46 per unit. Currently, refugees and Special Immigrant Visa (SIV) immigrants living in California would not be eligible to pay resident tuition unless he/she could prove they were living in California for one-year, as is the requirement for the general student population. After meeting the one-year statutory residency requirement, this group of students is eligible to apply for institutional financial aid, Cal Grants, and Board of Governors (BOG) fee waivers. This bill waives the one-year requirement for those with special immigrant status and refugees.

- 4) **Existing exemptions to non-resident fees.** Various exemptions to non-resident fees charged are provided under current law, including to students who qualify for the AB 540 nonresident tuition waiver and a student who is a dependent of a member of the Armed Forces of the United States. The committee may wish to consider whether a similar privilege should be extended to refugees and SIV immigrants.

Staff notes, the Assembly Appropriations Committee analysis comments that the California Community College Chancellor’s Office does not anticipate revenue losses due to a reduced amount of nonresident tuition fees collected as a result of this bill.

**SUPPORT**

- Alliance for Boys and Men of Color
- California Health Advocates
- California Immigrant Policy Center
- California Teachers Association
- Community College League of California
- Foothill-De Anza Community College District
- Los Rios Community College District
- National Association of Social Workers
- Partnership for the Advancement of New Americans
- Sacramento Refugee Resettlement Agencies
- San Diego Community College District
- San Jose Evergreen Community College District
- South Orange County Community College District

**OPPOSITION**

None received

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