

ASSEMBLY BILL

No. 211

Introduced by Assembly Member Solis

March 5, 1993

An act to amend Section 68052 of, and to add Section 6806 to, the Education Code, relating to postsecondary education

LEGISLATIVE COUNSEL'S DIGEST

AB 2114, as amended, Solis. Postsecondary education student residency requirements.

(1) Under existing law, a student classified as a nonresident is required to pay nonresident tuition in addition to any other fees. Existing law establishes various rules for determining the place of residence of students. Among other rules, the residence of an unmarried minor alien is required to be derived from his or her parents, as specified.

This bill would require that the residence of an unmarried minor *alien citizen* be derived from his or her parents, as specified, unless his or her parents are precluded by the Immigration and Nationality Act from establishing domicile in the United States, in which case the unmarried minor *alien citizen* would be authorized to establish his or her own residence. By requiring community colleges to charge resident tuition to the persons affected by this bill if those persons establish residency, rather than charging those persons tuition at the nonresident rate at that time, the bill would impose a state-mandated local program.

The bill would preclude any person who is in the United States on a nonimmigrant visa that precludes him or her from establishing residence in the United States and any person

1 that person:
 2 (1) He or she graduated from a high school in
 3 California.
 4 (2) He or she entered the United States as a minor and
 5 attended school in California for three or more years.
 6 (3) He or she has filed a timely application to obtain
 7 a change of status from the Immigration and
 8 Naturalization Service to a classification that permits him
 9 or her to remain in the United States indefinitely.
 10 (4) He or she is currently enrolled at an institution of
 11 higher education in California under a determination
 12 that he or she is a resident of California.
 13 SEC. 3. Notwithstanding Section 17610 of the
 14 Government Code, if the Commission on State Mandates
 15 determines that this act contains costs mandated by the
 16 state, reimbursement to local agencies and school
 17 districts for those costs shall be made pursuant to Part 7
 18 (commencing with Section 17500) of Division 4 of Title
 19 2 of the Government Code. If the statewide cost of the
 20 claim for reimbursement does not exceed one million
 21 dollars (\$1,000,000), reimbursement shall be made from
 22 the State Mandates Claims Fund. Notwithstanding
 23 Section 17580 of the Government Code, unless otherwise
 24 specified in this act, the provisions of this act shall become
 25 operative on the same date that the act takes effect
 26 pursuant to the California Constitution.

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ATTACHMENT TO AS-2159-93/AA

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who is in an undocumented status without reasonable likelihood of remaining in the United States from establishing residence in California for purposes of student residency requirements. The bill would establish criteria for determining whether a person would be considered as having reasonable likelihood of remaining in the United States.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$1,000,000, shall be made from the State Mandates Claims Fund.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

SECTION 1. Section 68062 of the Education Code is amended to read:

68062. In determining the place of residence the following rules are to be observed:

- (a) There can only be one residence.
- (b) A residence is the place where one remains when not called elsewhere for labor or other special or temporary purpose, and to which he or she returns in seasons of repose.
- (c) A residence cannot be lost until another is gained.
- (d) The residence can be changed only by the union of act and intent.
- (e) A man or woman may establish his or her residence. A woman's residence shall not be derivative from that of her husband.

(f) The residence of the parent with whom an unmarried minor child maintains his or her place of abode is the residence of the unmarried minor child. When the minor lives with neither parent his or her residence is that of the parent with whom he or she maintained his or her last place of abode, provided the minor may establish his or her residence when both parents are deceased and a legal guardian has not been appointed.

(g) The residence of an unmarried minor who has a parent living cannot be changed by his or her own act, by the appointment of a legal guardian, or by relinquishment of a parent's right of control.

(h) An alien, including an unmarried minor alien, may establish his or her residence, unless precluded by the Immigration and Nationality Act (8 U.S.C. 1101, et seq.) from establishing domicile in the United States.

(i) The residence of an unmarried minor alien citizen shall be derived from his or her parents pursuant to subdivisions (f) and (g) unless his or her parents are precluded by the Immigration and Nationality Act (8 U.S.C. 1101, et seq.) from establishing domicile in the United States, in which case the unmarried minor alien citizen may establish his or her own residence pursuant to subdivision (h).

SEC. 2. Section 68063 is added to the Education Code, to read:

68063. (a) For purposes of this chapter, the following persons are precluded, to the extent permitted by federal law, from establishing residence in California:

(1) Any person who is in the United States on a nonimmigrant visa that precludes him or her from establishing residence in the United States.

(2) Any person who is in an undocumented status without reasonable likelihood of remaining in the United States.

(b) For purposes of this section, a person is considered as having a reasonable likelihood of remaining in the United States and is not precluded from establishing residence in California if any of the following applies to