

AMENDED IN SENATE SEPTEMBER 7, 2007

AMENDED IN ASSEMBLY APRIL 16, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1279

Introduced by Assembly Member Coto
(Principal coauthor: Senator Cedillo)

February 23, 2007

~~An act to amend Section 8450 of the Education Code, relating to child care.~~ *An act to add Sections 66021.6, 69508.5, and 76300.5 to the Education Code, relating to student financial aid.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1279, as amended, Coto. ~~Child care: child development contractors: reserve funds.~~ *Student financial aid: eligibility: California Dream Act.*

(1) The Donahoe Higher Education Act sets forth, among other things, the missions and functions of California's public and independent segments of higher education, and their respective institutions of higher education. Provisions of the act apply to the University of California only to the extent that the Regents of the University of California, by appropriate resolution, act to make a provision applicable.

Existing law requires that a person, other than a nonimmigrant alien, as defined, who has attended high school in California for 3 or more years, who has graduated from a California high school or attained the equivalent thereof, who has registered at or attends an accredited institution of higher education in California not earlier than the fall semester or quarter of the 2001–02 academic year, and who, if he or she is an alien without lawful immigration status, has filed a prescribed

affidavit, is exempt from paying nonresident tuition at the California Community Colleges and the California State University.

This bill would amend the Donahoe Higher Education Act to require the Trustees of the California State University and the Board of Governors of the California Community Colleges, and request the Regents of the University of California, to establish procedures and forms that enable persons who are exempt from paying nonresident tuition under this provision, or who meet equivalent requirements adopted by the regents, to be eligible to receive student aid awards from private entities that are administered by these segments. The bill would declare that this provision is a state law within the meaning of a federal statute that permits a state to only provide an alien who is not lawfully present in the United States with eligibility for a state or local public benefit through the enactment of a state law affirmatively providing for that eligibility. This provision would apply to the University of California only if the regents, by appropriate resolution, act to make it applicable.

This bill would also provide that persons meeting these requirements, or who meet equivalent requirements adopted by the regents, are eligible to apply for, and participate in, any student financial aid program administered by the State of California except the Competitive Cal Grant A and B award program and the Cal Grant C and T award programs. The bill would declare that this provision is a state law within the meaning of a federal statute that permits a state to only provide an alien who is not lawfully present in the United States with eligibility for a state or local public benefit through the enactment of a state law affirmatively providing for that eligibility.

(2) Existing law establishes the California Community Colleges under the administration of the Board of Governors of the California Community Colleges. Existing law authorizes the establishment of community college districts under the administration of community college governing boards, and authorizes these districts to provide instruction, for prescribed fees, at community college campuses throughout the state. Existing law authorizes the waiver of these fees for, among others, students who are eligible under income standards established by the board of governors.

This bill would require community college districts to waive the fees of persons who are exempt from nonresident tuition under the provision described in (1), and who otherwise qualify for a waiver under this provision, under regulations and procedures adopted by the board of

governors. Because the bill would impose new duties on community college districts with respect to determining eligibility for fee waivers, the bill would constitute a state-mandated local program.

(3) 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.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~The Child Care and Development Services Act provides child care and development services to children from birth to age 13 and their parents through full- and part-time programs. The act encourages child development contractors to develop and maintain a reserve within the child development fund derived from earned but expended funds. The act authorizes child development contractors to retain a reserve fund for alternative payment model and certificate child care contracts not to exceed the greater of 2% of the sum of the parts of each contract to which the contractor is a party or \$1,000.~~

~~This bill instead would limit the reserve fund for alternative payment model and certificate child care contracts to 5% of the sum of the parts of each contract to which the contractor is a party.~~

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

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

1 *SECTION 1. This act shall be known and may be cited as the*
2 *California Dream Act.*

3 *SEC. 2. (a) The Legislature finds and declares all of the*
4 *following:*

5 *(1) Section 66021.6 of the Education Code, as added by Section*
6 *3 of this act, does not grant these pupils any advantage over the*
7 *student population as a whole in determining who qualifies for,*
8 *or receives, financial aid.*

9 *(2) The community college fee waiver standards are not*
10 *competitive grants and are based upon the federal income*
11 *guidelines.*

1 (3) Student aid pursuant to Sections 69434 and 69435 of the
2 Education Code is not competitive and allows academically and
3 financially eligible California high school graduates to apply for
4 a grant.

5 (4) Increased access to financial aid for all students in
6 California's universities and colleges increases the state's
7 collective productivity and economic growth.

8 (5) It is the intent of the Legislature that all students who are
9 exempt from nonresident tuition pursuant to Section 68130.5 of
10 the Education Code that are deemed to be in financial need be
11 eligible for financial aid.

12 (6) It is the intent of the Legislature to fully utilize student aid
13 programs to encourage qualified California high school graduates
14 to attend a postsecondary institution.

15 (b) It is, therefore, the intent of the Legislature to address these
16 issues by enacting the California Dream Act.

17 SEC. 3. Section 66021.6 is added to the Education Code, to
18 read:

19 66021.6. Notwithstanding any other law, the Trustees of the
20 California State University and the Board of Governors of the
21 California Community Colleges shall, and the Regents of the
22 University of California are requested to, establish procedures
23 and forms that enable persons who are exempt from paying
24 nonresident tuition under Section 68130.5, or who meet equivalent
25 requirements adopted by the regents, to be eligible to receive
26 student aid awards from private entities that are administered by
27 these segments. The Legislature finds and declares that this section
28 is a state law within the meaning of Section 1621(d) of Title 8 of
29 the United States Code.

30 SEC. 4. Section 69508.5 is added to the Education Code, to
31 read:

32 69508.5. Notwithstanding any other law, a person who meets
33 the requirements of subdivision (a) of Section 68130.5, or who
34 meets equivalent requirements adopted by the Regents of the
35 University of California, is eligible to apply for, and participate
36 in, any student financial aid program administered by the State of
37 California except the Competitive Cal Grant A and B award
38 program established pursuant to Section 69437, the Cal Grant C
39 award program established pursuant to Section 69439, and the
40 Cal Grant T award program established pursuant to Section 69440.

1 *The Legislature finds and declares that this section is a state law*
2 *within the meaning of Section 1621(d) of Title 8 of the United*
3 *States Code.*

4 *SEC. 5. Section 76300.5 is added to the Education Code, to*
5 *read:*

6 *76300.5. A district shall waive the fees of a person who is*
7 *exempt from paying nonresident tuition under Section 68130.5,*
8 *and who otherwise qualifies for a waiver under Section 76300,*
9 *under regulations and procedures adopted by the board of*
10 *governors. The Legislature finds and declares that this section is*
11 *a state law within the meaning of Section 1621(d) of Title 8 of the*
12 *United States Code.*

13 *SEC. 6. If the Commission on State Mandates determines that*
14 *this act contains costs mandated by the state, reimbursement to*
15 *local agencies and school districts for those costs shall be made*
16 *pursuant to Part 7 (commencing with Section 17500) of Division*
17 *4 of Title 2 of the Government Code.*

18 ~~SECTION 1. (a) The Legislature finds and declares all of the~~
19 ~~following:~~

20 ~~(1) Alternative payment programs have many variable costs~~
21 ~~that make maintaining a prudent reserve of funds vital to the overall~~
22 ~~fiscal health of the program.~~

23 ~~(2) Allowing child care contractors to maintain a fiscally prudent~~
24 ~~reserve will extend the life of funds appropriated for child care~~
25 ~~purposes.~~

26 ~~(3) Every other year the state is required by federal law to~~
27 ~~conduct a regional market rate (RMR) survey. If the RMR~~
28 ~~maximums are raised significantly in a county in which an~~
29 ~~alternative payment program is located, a child care contractor's~~
30 ~~costs can be increased to a higher level than anticipated. That type~~
31 ~~of increase is a major concern for high-cost counties that, as a~~
32 ~~result of RMR surveys, have been forced to stop providing services~~
33 ~~to some children due to a lack of funds.~~

34 ~~(4) Maintaining a prudent reserve account will provide a safety~~
35 ~~net for child care contractors that do not know the exact cost of~~
36 ~~care for each enrolled child due to changes in the parent schedule,~~
37 ~~the type of provider, and the attrition rate.~~

38 ~~(b) It is the intent of the Legislature in enacting this act to do~~
39 ~~all of the following:~~

1 ~~(1) Establish reserve funds for child care and development~~
2 ~~contractors to ensure the continuation of approved early childhood~~
3 ~~development and educational services for working poor families~~
4 ~~and children.~~

5 ~~(2) Allow alternative payment programs to maximize services~~
6 ~~for working poor families who are currently placed on the~~
7 ~~countywide centralized eligibility list.~~

8 ~~(3) Continue funding child care contractors as changes in the~~
9 ~~California regional market rates are implemented.~~

10 ~~(4) Ensure that all earned family support and administration~~
11 ~~funds stay within the community serviced by an alternative~~
12 ~~payment program for the purpose of supporting child care and~~
13 ~~early education programs that serve the children of working poor~~
14 ~~families.~~

15 ~~SEC. 2 Section 8450 of the Education Code is amended to~~
16 ~~read:~~

17 ~~8450. (a) All child development contractors are encouraged~~
18 ~~to develop and maintain a reserve within the child development~~
19 ~~fund, derived from earned but unexpended funds. Child~~
20 ~~development contractors may retain all earned funds. For the~~
21 ~~purpose of this section, "earned funds" are those for which the~~
22 ~~required number of eligible service units have been provided.~~

23 ~~(b) Earned funds may not be expended for the activities~~
24 ~~proscribed by Section 8406.7. Earned but unexpended funds shall~~
25 ~~remain in the contractor's reserve account within the child~~
26 ~~development fund and shall be expended only by direct service~~
27 ~~child development programs that are funded under contract with~~
28 ~~the department.~~

29 ~~(c) Notwithstanding subdivisions (a) and (b), a contractor may~~
30 ~~retain a reserve fund balance for a resource and referral program,~~
31 ~~separate from the balance retained pursuant to subdivision (b), not~~
32 ~~to exceed 3 percent of the contract amount. Funds from this reserve~~
33 ~~account may be expended only by resource and referral programs~~
34 ~~that are funded under contract with the department.~~

35 ~~(d) Notwithstanding subdivisions (a) and (b), a contractor may~~
36 ~~retain a reserve fund for alternative payment model and certificate~~
37 ~~child care contracts, separate from the reserve fund retained~~
38 ~~pursuant to subdivisions (b) and (c). Funds from this reserve~~
39 ~~account may be expended only by alternative payment model and~~
40 ~~certificate child care programs that are funded under contract with~~

1 the department. The reserve amount allowed by this section may
2 not exceed five percent of the sum of the parts of each contract to
3 which that contractor is a party that is allowed for administration
4 pursuant to Section 8276.7 and that is allowed for supportive
5 services pursuant to the provisions of the contract.

6 ~~(e) Each contractor's audit shall identify any funds earned by
7 the contractor for each contract through the provision of contracted
8 services in excess of funds expended.~~

9 ~~(f) Any interest earned on reserve funds shall be included in the
10 fund balance of the reserve. This reserve fund shall be maintained
11 in an interest-bearing account.~~

12 ~~(g) Moneys in a contractor's reserve fund may be used only for
13 expenses that are reasonable and necessary costs as defined in
14 subdivision (n) of Section 8208.~~

15 ~~(h) Any reserve fund balance in excess of the amount authorized
16 pursuant to subdivisions (e) and (d) shall be returned to the
17 department pursuant to procedures established by the department
18 and reappropriated as second-year funds consistent with Section
19 8278.~~

20 ~~(i) Upon termination of all child development contracts between
21 a contractor and the department, all moneys in a contractor's
22 reserve fund shall be returned to the department pursuant to
23 procedures established by the department, and reappropriated as
24 second-year funds consistent with Section 8278.~~

25 ~~(j) Expenditures from, additions to, and balances in, the reserve
26 fund shall be included in the agency's annual financial statements
27 and audit.~~

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