

ASSEMBLY BILL

No. 130

Introduced by Assembly Member Cedillo

(Principal coauthors: Assembly Members Alejo and Lara)

(Principal coauthor: Senator De León)

**(Coauthors: Assembly Members Allen, Ammiano, Bonilla, Fong,
Furutani, Monning, and Yamada)**

(Coauthors: Senators Hancock, Padilla, and Yee)

January 11, 2011

An act to amend Section 68130.7 of, to amend, repeal, and add Section 68130.5 of, and to add Sections 66021.6, 66021.7, and 76300.5 to, the Education Code, relating to student financial aid.

LEGISLATIVE COUNSEL'S DIGEST

AB 130, as introduced, Cedillo. Student financial aid: eligibility: California Dream Act of 2011.

(1) 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 enact the California Dream Act of 2011. The bill, as of July 1, 2011, would exempt a person who has attended, for 3 or more years, at least one of which shall have been in a high school, and graduated from, secondary school in California from paying nonresident

tuition at the California Community Colleges and the California State University. Under the bill, persons attending and graduating from California technical schools and adult schools, as well as high schools, would be included within the scope of this provision.

(2) 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.

In any action in which a state court finds that a specified law, or any similar provision adopted by the regents, is unlawful, existing law authorizes the court to order the administering entity that is the subject of the lawsuit to terminate any waiver awarded under that statute or action, as equitable relief, prohibits the award of money damages, tuition refund or waiver, or other retroactive relief, and provides that the California Community Colleges, the California State University, and the University of California are immune from the imposition of any award of money damages, tuition refund or waiver, or other retroactive relief in a lawsuit.

This bill would amend the Donahoe Higher Education Act, as of July 1, 2012, to require the Trustees of the California State University and the Board of Governors of the California Community Colleges, and to request the regents, to establish procedures and forms that enable persons who are exempt from paying nonresident tuition under the provision described in (1) above, or who meet equivalent requirements adopted by the regents, to apply for, and participate in, all student aid programs administered by these segments to the full extent permitted by federal law, except as provided. This provision would apply to the University of California only if the regents, by appropriate resolution, act to make it applicable. If a state court finds that this provision adopted by the regents, is unlawful, this bill would provide that the same limitations described above would apply.

This bill would further provide that, on and after January 1, 2012, a student attending the California State University, the California Community Colleges, or the University of California who is exempt from paying nonresident tuition under the provision described above would be eligible to receive a scholarship derived from nonstate funds received, for the purpose of scholarships, by the segment at which he or she is a student.

Existing federal law requires that a state may provide that an alien who is not lawfully present in the United States is eligible for any state or local public benefit for which that alien would otherwise be ineligible under a specified federal law only through enactment of a state law that affirmatively provides for that eligibility.

This bill would find and declare that the amendments to the Donahoe Higher Education Act described above are state laws within the meaning of this federal provision.

(3) 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, as of July 1, 2012, would require community college districts to waive the fees of persons who are exempt from nonresident tuition under the provision described in (1) above, 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.

(4) 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.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: 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 of 2011.

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

3 (1) It is the intent of the Legislature that all students who are
4 exempt from nonresident tuition pursuant to Section 68130.5 of
5 the Education Code and that are deemed to be in financial need
6 shall be eligible for all financial aid.

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

11 (3) Increased access to financial aid for all students in
12 California's universities and colleges increases the state's collective
13 productivity and economic growth.

14 (b) It is, therefore, the intent of the Legislature to address these
15 issues by enacting the California Dream Act of 2011.

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

18 66021.6. (a) Notwithstanding any other law, and except as
19 provided for in subdivision (b), the Trustees of the California State
20 University and the Board of Governors of the California
21 Community Colleges shall, and the Regents of the University of
22 California are requested to, establish procedures and forms that
23 enable persons who are exempt from paying nonresident tuition
24 under Section 68130.5, or who meet equivalent requirements
25 adopted by the regents, to apply for, and participate in, all student
26 aid programs administered by these segments to the full extent
27 permitted by federal law. The Legislature finds and declares that
28 this section is a state law within the meaning of subsection (d) of
29 Section 1621 of Title 8 of the United States Code.

30 (b) The number of financial aid awards received by California
31 resident students from financial aid programs administered by the
32 segments shall not be diminished as a result of the application of
33 subdivision (a). The University of California is requested to comply
34 with this subdivision.

35 (c) This section shall become operative on July 1, 2012.

36 SEC. 4. Section 66021.7 is added to the Education Code, to
37 read:

38 66021.7. Notwithstanding any other law, on and after January
39 1, 2012, a student attending the California State University, the
40 California Community Colleges, or the University of California

1 who is exempt from paying nonresident tuition under Section
2 68130.5 shall be eligible to receive a scholarship that is derived
3 from nonstate funds received, for the purpose of scholarships, by
4 the segment at which he or she is a student. The Legislature finds
5 and declares that this section is a state law within the meaning of
6 subsection (d) of Section 1621 of Title 8 of the United States Code.

7 SEC. 5. Section 68130.5 of the Education Code is amended to
8 read:

9 68130.5. Notwithstanding any other ~~provision of law~~:

10 (a) A student, other than a nonimmigrant alien within the
11 meaning of paragraph (15) of subsection (a) of Section 1101 of
12 Title 8 of the United States Code, who meets all of the following
13 requirements shall be exempt from paying nonresident tuition at
14 the California State University and the California Community
15 Colleges:

16 (1) High school attendance in California for three or more years.

17 (2) Graduation from a California high school or attainment of
18 the equivalent thereof.

19 (3) Registration as an entering student at, or current enrollment
20 at, an accredited institution of higher education in California not
21 earlier than the fall semester or quarter of the 2001–02 academic
22 year.

23 (4) In the case of a person without lawful immigration status,
24 the filing of an affidavit with the institution of higher education
25 stating that the student has filed an application to legalize his or
26 her immigration status, or will file an application as soon as he or
27 she is eligible to do so.

28 (b) A student exempt from nonresident tuition under this section
29 may be reported by a community college district as a full-time
30 equivalent student for apportionment purposes.

31 (c) The Board of Governors of the California Community
32 Colleges and the Trustees of the California State University shall
33 prescribe rules and regulations for the implementation of this
34 section.

35 (d) Student information obtained in the implementation of this
36 section is confidential.

37 (e) *This section shall remain in effect only until July 1, 2012,*
38 *and as of that date is repealed, unless a later enacted statute, that*
39 *is enacted before July 1, 2012, deletes or extends that date.*

1 SEC. 6. Section 68130.5 is added to the Education Code, to
2 read:

3 68130.5. Notwithstanding any other law:

4 (a) A student, other than a nonimmigrant alien within the
5 meaning of paragraph (15) of subsection (a) of Section 1101 of
6 Title 8 of the United States Code, who meets all of the following
7 requirements shall be exempt from paying nonresident tuition at
8 the California State University and the California Community
9 Colleges:

10 (1) Secondary school attendance in California for three or more
11 years, at least one year of which shall have been at high school.

12 (2) Graduation from a California secondary school or attainment
13 of the equivalent thereof.

14 (3) Registration as an entering student at, or current enrollment
15 at, an accredited institution of higher education in California not
16 earlier than the fall semester or quarter of the 2001–02 academic
17 year.

18 (4) In the case of a person without lawful immigration status,
19 the filing of an affidavit with the institution of higher education
20 stating that the student has filed an application to legalize his or
21 her immigration status, or will file an application as soon as he or
22 she is eligible to do so.

23 (b) A student exempt from nonresident tuition under this section
24 may be reported by a community college district as a full-time
25 equivalent student for apportionment purposes.

26 (c) The Board of Governors of the California Community
27 Colleges and the Trustees of the California State University shall
28 prescribe rules and regulations for the implementation of this
29 section.

30 (d) Student information obtained in the implementation of this
31 section is confidential.

32 (e) This section shall become operative on July 1, 2012.

33 SEC. 7. Section 68130.7 of the Education Code is amended to
34 read:

35 68130.7. If a state court finds that ~~Section~~ *Sections 66021.6*
36 *and* 68130.5, or any similar provision adopted by the Regents of
37 the University of California, is unlawful, the court may order, as
38 equitable relief, that the administering entity that is the subject of
39 the lawsuit terminate any waiver *or eligibility* awarded under that
40 statute or provision, but no money damages, tuition refund or

1 waiver, or other retroactive relief, may be awarded. In any action
2 in which the court finds that ~~Section~~ *Sections 66021.6 and 68130.5*,
3 or any similar provision adopted by the Regents of the University
4 of California, is unlawful, the California Community Colleges,
5 the California State University, and the University of California
6 are immune from the imposition of any award of money damages,
7 tuition refund or waiver, or other retroactive relief.

8 SEC. 8. Section 76300.5 is added to the Education Code, to
9 read:

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

17 (b) This section shall become operative on July 1, 2012.

18 SEC. 9. If the Commission on State Mandates determines that
19 this act contains costs mandated by the state, reimbursement to
20 local agencies and school districts for those costs shall be made
21 pursuant to Part 7 (commencing with Section 17500) of Division
22 4 of Title 2 of the Government Code.