

AMENDED IN ASSEMBLY MARCH 17, 2011

AMENDED IN ASSEMBLY MARCH 8, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 131

Introduced by Assembly Member Cedillo

**(Principal coauthors: Assembly Members Alejo, Roger Hernández,
and Lara)**

(Principal coauthor: Senator De León)

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

(Coauthors: Senators Hancock, Padilla, and Yee)

January 11, 2011

An act to *amend Section 68130.7 of, and to add Sections 66021.6, 69508.5, and 76300.5 to, the Education Code, relating to student financial aid.*

LEGISLATIVE COUNSEL'S DIGEST

AB 131, as amended, Cedillo. Student financial aid.

(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, 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.

This bill would provide that persons who are exempt from paying nonresident tuition under the above provision, 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 to the full extent permitted by federal law. This bill would require the Student Aid Commission to establish procedures and forms that enable those persons who are exempt from paying nonresident tuition under the above provision to apply for, and participate in, all student financial aid programs administered by the State of California to the full extent permitted by federal law. This bill would prohibit persons who are exempt from paying nonresident tuition under the provision described above from being eligible for Competitive Cal Grant A and B Awards unless specified conditions are met. The bill would make these provisions operative as of July 1, 2012.

(2) 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. Section 66021.6 is added to the Education Code,
2 to read:
3 66021.6. (a) Notwithstanding any other law, and except as
4 provided for in subdivision (b), the Trustees of the California State
5 University and the Board of Governors of the California
6 Community Colleges shall, and the Regents of the University of
7 California are requested to, establish procedures and forms that
8 enable persons who are exempt from paying nonresident tuition
9 under Section 68130.5, or who meet equivalent requirements
10 adopted by the regents, to apply for, and participate in, all student
11 aid programs administered by these segments to the full extent
12 permitted by federal law. The Legislature finds and declares that

1 this section is a state law within the meaning of Section 1621(d)
2 of Title 8 of the United States Code.

3 (b) The number of financial aid awards received by California
4 resident students from financial aid programs administered by the
5 segments shall not be diminished as a result of the application of
6 subdivision (a). The University of California is requested to comply
7 with this subdivision.

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

9 *SEC. 2. Section 68130.7 of the Education Code is amended to*
10 *read:*

11 68130.7. If a state court finds that Section 66021.6 or 68130.5,
12 or any similar provision adopted by the Regents of the University
13 of California, is unlawful, the court may order, as equitable relief,
14 that the administering entity that is the subject of the lawsuit
15 terminate any waiver awarded under that statute or provision, but
16 no money damages, tuition refund or waiver, or other retroactive
17 relief, may be awarded. In any action in which the court finds that
18 Section 66021.6 or 68130.5, or any similar provision adopted by
19 the Regents of the University of California, is unlawful, the
20 California Community Colleges, the California State University,
21 and the University of California are immune from the imposition
22 of any award of money damages, tuition refund or waiver, or other
23 retroactive relief.

24 ~~SEC. 2.~~

25 *SEC. 3. Section 69508.5 is added to the Education Code, to*
26 *read:*

27 69508.5. (a) Notwithstanding any other law, and except as
28 provided for in subdivision (c), a person who meets the
29 requirements of subdivision (a) of Section 68130.5, or who meets
30 equivalent requirements adopted by the Regents of the University
31 of California, is eligible to apply for, and participate in, any student
32 financial aid program administered by the State of California to
33 the full extent permitted by federal law. The Legislature finds and
34 declares that this section is a state law within the meaning of
35 subsection (d) of Section 1621 of Title 8 of the United States Code.

36 (b) Notwithstanding any other law, the Student Aid Commission
37 shall establish procedures and forms that enable persons who are
38 exempt from paying nonresident tuition under Section 68130.5,
39 or who meet equivalent requirements adopted by the regents, to
40 apply for, and participate in, all student financial aid programs

1 administered by the State of California to the full extent permitted
2 by federal law.

3 (c) A student who is exempt from paying nonresident tuition
4 under Section 68130.5 shall not be eligible for Competitive Cal
5 Grant A and B Awards unless funding remains available after all
6 California students not exempt pursuant to Section 68130.5 have
7 received Competitive Cal Grant A and B Awards that they are
8 eligible for.

9 (d) This section shall become operative on July 1, 2012.

10 ~~SEC. 3.~~

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

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

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

21 ~~SEC. 4.~~

22 *SEC. 5.* If the Commission on State Mandates determines that
23 this act contains costs mandated by the state, reimbursement to
24 local agencies and school districts for those costs shall be made
25 pursuant to Part 7 (commencing with Section 17500) of Division
26 4 of Title 2 of the Government Code.