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AMENDED IN ASSEMBLY APRIL 6, 2011

AMENDED IN ASSEMBLY MARCH 17, 2011

AMENDED IN ASSEMBLY MARCH 8, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

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**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, Fuentes, Furutani, Bonnie Lowenthal, Mendoza,  
Monning, John A. Pérez, and Yamada)**

(Coauthors: Senators Hancock, Padilla, and Yee)

January 11, 2011

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An act to amend Sections 68130.5 and 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~~ *student*, 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 exempt a student 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. The bill would include ~~persons~~ *students* attending and graduating from California technical schools and adult schools, as well as high schools.

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~~ *students* who are exempt from paying nonresident tuition under the above-described provision, 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~~ *students* 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~~ *students* 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~~ *students* 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~~ *students* 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  
13 this section is a state law within the meaning of Section 1621(d)  
14 of Title 8 of the United States Code.

15 (b) The number of financial aid awards received by California  
16 resident students from financial aid programs administered by the  
17 segments shall not be diminished as a result of the application of  
18 subdivision (a). The University of California is requested to comply  
19 with this subdivision.

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

21 SEC. 2. Section 68130.5 of the Education Code is amended to  
22 read:

23 68130.5. Notwithstanding any other law:

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

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

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

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

1 (4) In the case of a student without lawful immigration status,  
2 the filing of an affidavit with the campus of the California State  
3 University or the community college district that the student has  
4 filed an application to legalize his or her immigration status, or  
5 will file an application as soon as he or she is eligible to do so.

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

9 (c) The Board of Governors of the California Community  
10 Colleges and the Trustees of the California State University shall  
11 prescribe rules and regulations for the implementation of this  
12 section.

13 (d) Student information obtained in the implementation of this  
14 section is confidential.

15 SEC. 3. Section 68130.7 of the Education Code is amended to  
16 read:

17 68130.7. If a state court finds that ~~Sections~~ *Section* 66021.6,  
18 66021.7, or 68130.5, or any similar provision adopted by the  
19 Regents of the University of California, is unlawful, the court may  
20 order, as equitable relief, that the administering entity that is the  
21 subject of the lawsuit terminate any waiver awarded under that  
22 statute or provision, but no money damages, tuition refund or  
23 waiver, or other retroactive relief, may be awarded. In any action  
24 in which the court finds that ~~Sections~~ *Section* 66021.6, 66021.7,  
25 or 68130.5, or any similar provision adopted by the Regents of the  
26 University of California, is unlawful, the California Community  
27 Colleges, the California State University, and the University of  
28 California are immune from the imposition of any award of money  
29 damages, tuition refund or waiver, or other retroactive relief.

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

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

1 (b) Notwithstanding any other law, the Student Aid Commission  
 2 shall establish procedures and forms that enable ~~persons~~ *students*  
 3 who are exempt from paying nonresident tuition under Section  
 4 68130.5, or who meet equivalent requirements adopted by the  
 5 regents, to apply for, and participate in, all student financial aid  
 6 programs administered by the State of California to the full extent  
 7 permitted by federal law.

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

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

15 SEC. 5. Section 76300.5 is added to the Education Code, to  
 16 read:

17 76300.5. (a) A district shall waive the fees of a ~~person~~ *student*  
 18 who is exempt from paying nonresident tuition under Section  
 19 68130.5, and who otherwise qualifies for a waiver under Section  
 20 76300, under regulations and procedures adopted by the board of  
 21 governors. The Legislature finds and declares that this section is  
 22 a state law within the meaning of Section 1621(d) of Title 8 of the  
 23 United States Code.

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

25 SEC. 6. If the Commission on State Mandates determines that  
 26 this act contains costs mandated by the state, reimbursement to  
 27 local agencies and school districts for those costs shall be made  
 28 pursuant to Part 7 (commencing with Section 17500) of Division  
 29 4 of Title 2 of the Government Code.