

ASSEMBLY BILL

No. 454

Introduced by Assembly Member Knight

February 24, 2009

An act to repeal Section 68130.5 of the Education Code, and to repeal Section 1 of Chapter 814 of the Statutes of 2001, relating to public postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

AB 454, as introduced, Knight. Public postsecondary education: exemption from nonresident tuition.

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 an affidavit as specified, be exempt from paying nonresident tuition at the California Community Colleges and the California State University. The act enacting that exemption made related legislative findings and declarations.

This bill would repeal the exemption and those legislative findings and declarations.

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

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

1 SECTION 1. Section 68130.5 of the Education Code is
2 repealed.

3 ~~68130.5. Notwithstanding any other provision of 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) High school attendance in California for three or more years.~~

11 ~~(2) Graduation from a California high school or attainment of~~
12 ~~the equivalent thereof.~~

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

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

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

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

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

31 SEC. 2. Section 1 of Chapter 814 of the Statutes of 2001 is
32 repealed.

33 SECTION 1. ~~(a) The Legislature hereby finds and declares~~
34 ~~all of the following:~~

35 ~~(1) There are high school pupils who have attended elementary~~
36 ~~and secondary schools in this state for most of their lives and who~~
37 ~~are likely to remain, but are precluded from obtaining an affordable~~

1 college education because they are required to pay nonresident
2 tuition rates.

3 (2) These pupils have already proven their academic eligibility
4 and merit by being accepted into our state's colleges and
5 universities.

6 (3) A fair tuition policy for all high school pupils in California
7 ensures access to our state's colleges and universities, and thereby
8 increases the state's collective productivity and economic growth.

9 (4) This act, as enacted during the 2001-02 Regular Session,
10 allows all persons, including undocumented immigrant students
11 who meet the requirements set forth in Section 68130.5 of the
12 Education Code, to be exempt from nonresident tuition in
13 California's colleges and universities.

14 (5) This act, as enacted during the 2001-02 Regular Session,
15 does not confer postsecondary education benefits on the basis of
16 residence within the meaning of Section 1623 of Title 8 of the
17 United States Code.

18 (b) It is the intent of the Legislature that:

19 (1) A state court may award only prospective injunctive and
20 declaratory relief to a party in any lawsuit interpreting Section
21 68130.5 of the Education Code, as added by this act during the
22 2001-02 Regular Session, or any lawsuit interpreting similar
23 requirements adopted by the Regents of the University of California
24 pursuant to Section 68134 of the Education Code.

25 (2) This act will have no impact on the ability of California's
26 public colleges and universities to assess nonresident tuition on
27 students who are not within the scope of this act.