

ASSEMBLY BILL

No. 63

Introduced by Assembly Member Donnelly

December 9, 2010

An act to amend Sections 68074, 68075, and 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 63, as introduced, Donnelly. Public postsecondary education: tuition and fees.

(1) Existing law establishes uniform student residency requirements for purposes of ascertaining the amount of fees to be paid by students at public institutions of higher education in the state. Existing law entitles an undergraduate student who is a dependent of a member of the Armed Forces stationed in this state on active duty to resident classification for purposes of determining the amount of tuition and fees. Existing law entitles a graduate student, under the same circumstances, to resident classification for no more than one academic year, after which he or she is subject to the general provisions otherwise establishing student residency requirements.

Existing law allows a student dependent of a member of the Armed Forces to keep his or her resident classification until he or she has resided in the state for the minimum time necessary to become a resident in the event the member of the Armed Forces upon whom they are dependent is transferred outside of the state or retires as an active member of the Armed Forces.

Existing law also grants a member of the Armed Forces who is stationed in the state on active duty, except a member assigned for

educational purposes to a state-supported institution of higher education, to resident classification for tuition purposes. A member of the Armed Forces seeking a graduate degree is entitled to resident classification for no more than 2 academic years.

Federal law prohibits a state receiving federal assistance under the Higher Education Opportunity Act from charging a higher rate for attendance at a public institution of higher education than is charged to residents of the state to a member of the Armed Forces who is on active duty for more than 30 days and whose domicile or permanent duty station is in the state, or to his or her spouse or dependent child. Existing federal law requires that the rate continue to apply so long as the member or his or her spouse or dependent child is continuously enrolled at the institution, notwithstanding a subsequent change in the permanent duty station of the member to a location outside of the state.

This bill would amend state law to conform with federal law granting a member of the Armed Forces, or his or her dependent, as provided, entitlement to resident classification for so long as he or she is continuously enrolled at that institution.

(2) 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, is exempt from paying nonresident tuition at the California Community Colleges and the California State University. The act enacting that exemption also made related legislative findings and declarations.

This bill would delete a person without lawful immigration status from the exemption from paying nonresident tuition at the California Community Colleges and the California State University, and would repeal the legislative findings and declarations referenced above.

(3) The bill would request the Regents of the University of California to establish the same residency requirements as those established by this bill for students enrolled at the University of California.

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 68074 of the Education Code is amended
2 to read:

3 68074. (a) ~~(1) An undergraduate~~ A student who is a natural
4 or adopted child, stepchild, or spouse who is a dependent of a
5 member of the ~~armed forces~~ *Armed Forces* of the United States
6 stationed in this state on active duty ~~shall be~~ *is* entitled to resident
7 classification only for the purpose of determining the amount of
8 tuition and fees.

9 ~~(2) A student seeking a graduate degree who is a natural or~~
10 ~~adopted child, stepchild, or spouse who is a dependent of a member~~
11 ~~of the armed forces of the United States stationed in this state on~~
12 ~~active duty shall be entitled to resident classification only for the~~
13 ~~purpose of determining the amount of tuition and fees for no more~~
14 ~~than one academic year, and shall thereafter be subject to Article~~
15 ~~5 (commencing with Section 68060).~~

16 (b) If that member of the ~~armed forces~~ *Armed Forces* of the
17 United States, whose dependent natural or adopted child, stepchild,
18 or spouse is in attendance at an institution, (1) is thereafter
19 transferred on military orders to a place outside this state where
20 the member continues to serve in the ~~armed forces~~ *Armed Forces*
21 of the United States, or (2) is thereafter retired as an active member
22 of the ~~armed forces~~ *Armed Forces* of the United States, the student
23 dependent shall not lose his or her resident classification ~~until he~~
24 ~~or she has resided in the state the minimum time necessary to~~
25 ~~become a resident so long as he or she remains continuously~~
26 ~~enrolled at that institution.~~

27 SEC. 2. Section 68075 of the Education Code is amended to
28 read:

29 68075. (a) ~~An undergraduate~~ A student who is a member of
30 the *Armed Forces* of the United States stationed in this state on
31 active duty, except a member of the *Armed Forces* assigned for
32 educational purposes to a state-supported institution of higher
33 education, is entitled to resident classification only for the purpose
34 of determining the amount of tuition and fees.

35 (b) ~~A student seeking a graduate degree who is a member of~~
36 ~~the Armed Forces of the United States stationed in this state on~~
37 ~~active duty, except a member of the Armed Forces assigned for~~
38 ~~educational purposes to a state-supported institution of higher~~

1 education, shall be entitled to resident classification only for the
2 purpose of determining the amount of tuition and fees for no more
3 than two academic years, and shall thereafter be subject to Article
4 5 (commencing with Section 68060):

5 (b) *If that member of the Armed Forces of the United States*
6 *who is in attendance at an institution is thereafter transferred on*
7 *military orders to a place outside this state where the member*
8 *continues to serve in the Armed Forces of the United States, he or*
9 *she shall not lose his or her resident classification so long as he*
10 *or she remains continuously enrolled at that institution.*

11 SEC. 3. Section 68130.5 of the Education Code is amended to
12 read:

13 68130.5. Notwithstanding any other provision of law:

14 (a) A student, other than *a person without lawful immigration*
15 *status or a nonimmigrant alien within the meaning of paragraph*
16 *(15) of subsection (a) of Section 1101 of Title 8 of the United*
17 *States Code, who meets all of the following requirements shall be*
18 *exempt from paying nonresident tuition at the California State*
19 *University and the California Community Colleges:*

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

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

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

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

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

35 (c) The Board of Governors of the California Community
36 Colleges and the Trustees of the California State University shall
37 prescribe rules and regulations for the implementation of this
38 section.

39 (d) Student information obtained in the implementation of this
40 section is confidential.

1 SEC. 4. Section 1 of Chapter 814 of the Statutes of 2001 is
2 repealed.

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

5 ~~(1) There are high school pupils who have attended elementary~~
6 ~~and secondary schools in this state for most of their lives and who~~
7 ~~are likely to remain, but are precluded from obtaining an affordable~~
8 ~~college education because they are required to pay nonresident~~
9 ~~tuition rates.~~

10 ~~(2) These pupils have already proven their academic eligibility~~
11 ~~and merit by being accepted into our state's colleges and~~
12 ~~universities.~~

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

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

21 ~~(5) This act, as enacted during the 2001-02 Regular Session,~~
22 ~~does not confer postsecondary education benefits on the basis of~~
23 ~~residence within the meaning of Section 1623 of Title 8 of the~~
24 ~~United States Code.~~

25 ~~(b) It is the intent of the Legislature that:~~

26 ~~(1) A state court may award only prospective injunctive and~~
27 ~~declaratory relief to a party in any lawsuit interpreting Section~~
28 ~~68130.5 of the Education Code, as added by this act during the~~
29 ~~2001-02 Regular Session, or any lawsuit interpreting similar~~
30 ~~requirements adopted by the Regents of the University of California~~
31 ~~pursuant to Section 68134 of the Education Code.~~

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

35 SEC. 5. The Legislature hereby requests the Regents of the
36 University of California to establish the same residency
37 classifications for students enrolled at the University of California
38 as those enacted by this act.

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