House Bill 2787

Sponsored by Representatives DEMBROW, HUFFMAN, JENSON, KOMP, Senator COURTNEY; Representatives GALLEGOS, GELSER, HARKER, VEGA PEDERSON, Senators HASS, MONROE, THOMSEN

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced.**

Provides that certain students are entitled to exemption from nonresident tuition and fees at public universities. Allows for direct Supreme Court review of challenge to Act.
Declares emergency, effective July 1, 2013.

1 **A BILL FOR AN ACT**

2 Relating to exemption from nonresident status for higher education; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

4 <u>**SECTION 1.**</u> **Section 2 of this 2013 Act is added to and made a part of ORS chapter 351.**

5 <u>**SECTION 2.**</u> **(1) The State Board of Higher Education shall exempt a student who is not**

6 **a citizen or a lawful permanent resident of the United States from paying nonresident tuition**

7 **and fees for enrollment in a public university listed in ORS 352.002 if the student:**

8 **(a) During each of the three years immediately prior to receiving a high school diploma**

9 **or leaving school before receiving a high school diploma, attended an elementary or a sec-**

10 **ondary school in this state;**

11 **(b) During each of the five years immediately prior to receiving a high school diploma**

12 **or leaving school before receiving a high school diploma, attended an elementary or a sec-**

13 **ondary school in any state or territory of the United States, the District of Columbia or the**

14 **Commonwealth of Puerto Rico;**

15 **(c) No more than three years before initially enrolling in a public university listed in ORS**

16 **352.002, received a high school diploma from a secondary school in this state or received the**

17 **equivalent of a high school diploma; and**

18 **(d) Shows intention to become a citizen or a lawful permanent resident of the United**

19 **States by filing an affidavit with the public university the student attends or plans to attend**

20 **stating that the student has filed an application to legalize the student's immigration status,**

21 **or will file an application as soon as the student is eligible.**

22 **(2) The board shall exempt a student who is financially dependent upon a person who is**

23 **not a citizen or a lawful permanent resident of the United States from paying nonresident**

24 **tuition and fees for enrollment in a public university listed in ORS 352.002 if the student:**

25 **(a) During each of the three years immediately prior to receiving a high school diploma**

26 **or leaving school before receiving a high school diploma, attended an elementary or a sec-**

27 **ondary school in this state and resided in this state with the person upon whom the student**

28 **is dependent;**

29 **(b) During each of the five years immediately prior to receiving a high school diploma**

30 **or leaving school before receiving a high school diploma, attended an elementary or a sec-**

1 ondary school in any state or territory of the United States, the District of Columbia or the

2 Commonwealth of Puerto Rico and resided with the person upon whom the student is de-

3 pendent;

4 (c) No more than three years before initially enrolling in a public university listed in ORS

5 352.002, received a high school diploma from a secondary school in this state or received the

6 equivalent of a high school diploma; and

7 (d) For a student who is not already a citizen or lawful permanent resident of the United

8 States, shows intention to become a citizen or a lawful permanent resident of the United

9 States by filing an affidavit with the public university the student attends or plans to attend

10 stating that the student has filed an application to legalize the student's immigration status,

11 or will file an application as soon as the student is eligible.

12 (3) A student continues to qualify for exemption from nonresident tuition and fees under

13 subsection (1) or (2) of this section for five years after initial enrollment under the exemption

14 in a public university listed in ORS 352.002.

15 (4) The board shall adopt rules to implement the provisions of this section.

16 SECTION 3. (1) Jurisdiction is conferred on the Oregon Supreme Court to determine in

17 the manner provided by this section whether section 2 of this 2013 Act violates federal law

18 codified at 8 U.S.C. 1623.

19 (2) A person who is adversely affected by section 2 of this 2013 Act, or who will be ad-

20 versely affected by section 2 of this 2013 Act, may institute a proceeding for review by filing

21 with the Supreme Court a petition that meets the following requirements:

22 (a) The petition must be filed within 60 days after the effective date of this 2013 Act.

23 (b) The petition must include the following:

24 (A) A statement of the basis of the challenge; and

25 (B) A statement and supporting affidavit showing how the petitioner is adversely af-

26 fected.

27 (3) The petitioner shall serve a copy of the petition by registered or certified mail upon

28 the Attorney General and the Governor.

29 (4) Proceedings for review under this section shall be given priority over all other mat-

30 ters before the Supreme Court.

31 (5) In the event the Supreme Court determines that there are factual issues in the peti-

32 tion, the Supreme Court may appoint a special master to hear evidence and to prepare re-

33 commended findings of fact.

34 SECTION 4. Section 2 of this 2013 Act first applies to the 2013-2014 school year.

35 SECTION 5. This 2013 Act being necessary for the immediate preservation of the public

36 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect

37 July 1, 2013.

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