

A-Engrossed
Senate Bill 742

Ordered by the Senate March 24
Including Senate Amendments dated March 24

Sponsored by Senators MORSE, NELSON, Representatives DEMBROW, JENSON; Senators BONAMICI, DINGFELDER, EDWARDS, MONROE, SHIELDS, THOMSEN, Representatives BUCKLEY, GELSER, HARKER, JOHNSON, KOMP, KOTEK

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.

Provides that certain students are entitled to exemption from nonresident tuition and fees at state institutions of higher education. Allows for direct review of challenge to law by Oregon Supreme Court.

A BILL FOR AN ACT

Relating to exemption from nonresident status for higher education.

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

SECTION 1. Section 2 of this 2011 Act is added to and made a part of ORS chapter 351.

SECTION 2. (1) The State Board of Higher Education shall exempt a student who is not a citizen or a lawful permanent resident of the United States from paying nonresident tuition and fees for enrollment in an institution of higher education listed in ORS 352.002 if the student:

(a)(A) During each of the three years immediately prior to receiving a high school diploma or leaving school before receiving a high school diploma, attended an elementary or a secondary school in this state; and

(B) During each of the five years immediately prior to receiving a high school diploma or leaving school before receiving a high school diploma, attended an elementary or a secondary school in any state or territory of the United States, the District of Columbia or the Commonwealth of Puerto Rico;

(b) No more than three years before initially enrolling in an institution of higher education listed in ORS 352.002, received a high school diploma from a secondary school in this state or received the equivalent of a high school diploma; and

(c) Shows intention to become a citizen or a lawful permanent resident of the United States by filing an affidavit with the institution of higher education the student is attending or plans to attend stating that the student has filed an application to legalize the student's immigration status, or will file an application as soon as the student is eligible to do so.

(2) The board shall exempt a student who is financially dependent, as defined by the board by rule, upon a person who is not a citizen or a lawful permanent resident of the United States from paying nonresident tuition and fees for enrollment in an institution of higher education listed in ORS 352.002 if the student:

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (a)(A) During each of the three years immediately prior to receiving a high school di-
2 ploma or leaving school before receiving a high school diploma, attended an elementary or
3 a secondary school in this state and resided in this state with the person upon whom the
4 student is dependent; and

5 (B) During each of the five years immediately prior to receiving a high school diploma
6 or leaving school before receiving a high school diploma, attended an elementary or a sec-
7 ondary school in any state or territory of the United States, the District of Columbia or the
8 Commonwealth of Puerto Rico and resided with the person upon whom the student is de-
9 pendent;

10 (b) No more than three years before initially enrolling in an institution of higher educa-
11 tion listed in ORS 352.002, received a high school diploma from a secondary school in this
12 state or received the equivalent of a high school diploma; and

13 (c) For a student who is not already a citizen or lawful permanent resident of the United
14 States, shows intention to become a citizen or a lawful permanent resident of the United
15 States by filing an affidavit with the institution of higher education the student is attending
16 or plans to attend stating that the student has filed an application to legalize the student's
17 immigration status, or will file an application as soon as the student is eligible to do so.

18 (3) A student continues to qualify for exemption from nonresident tuition and fees under
19 subsection (1) or (2) of this section for a maximum of five years after initial enrollment un-
20 der the exemption in an institution of higher education listed in ORS 352.002.

21 **SECTION 3.** Section 2 of this 2011 Act first applies to the 2012 fall academic term.

22 **SECTION 4.** (1) Jurisdiction is conferred on the Oregon Supreme Court to determine in
23 the manner provided by this section whether section 2 of this 2011 Act violates federal law
24 codified at 8 U.S.C. 1623.

25 (2) A person who is adversely affected by section 2 of this 2011 Act, or who will be ad-
26 versely affected by section 2 of this 2011 Act, may institute a proceeding for review by filing
27 with the Supreme Court a petition that meets the following requirements:

28 (a) The petition must be filed within 60 days after the effective date of this 2011 Act.

29 (b) The petition must include the following:

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

31 (B) A statement and supporting affidavit showing how the petitioner is adversely af-
32 fected.

33 (3) The petitioner shall serve a copy of the petition by registered or certified mail upon
34 the Attorney General and the Governor.

35 (4) Proceedings for review under this section shall be given priority over all other mat-
36 ters before the Supreme Court.

37 (5) In the event the Supreme Court determines that there are factual issues in the peti-
38 tion, the Supreme Court may appoint a special master to hear evidence and to prepare re-
39 commended findings of fact.

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