

Minority Report
A-Engrossed
House Bill 2787

Ordered by the House February 19
Including House Minority Report Amendments dated February 19

Sponsored by nonconcurring members of the House Committee on Higher Education and Workforce Development:
Representatives GILLIAM, WHISNANT

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 public universities. **Directs Oregon University System to make annual report to Legislative Assembly on impact of Act.** Allows for direct Supreme Court review of challenge to Act.

Sunsets exemption on January 2, 2016.
Declares emergency, effective July 1, 2013.

A BILL FOR AN ACT

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

5 **SECTION 2. (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 submitting to the public university the student attends or plans to attend:**

20 (A) **A notarized copy of the student's application to become a citizen of the United States**
21 **or an official copy of the student's application to register with a federal immigration program**
22 **or federal deportation deferral program; and**

23 (B) **Evidence that the student has applied for and acquired a federal individual taxpayer**
24 **identification number or other official federal identification document.**

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 **(2) The board shall exempt a student who is financially dependent upon a person who is**
2 **not a citizen or a lawful permanent resident of the United States from paying nonresident**
3 **tuition and fees for enrollment in a public university listed in ORS 352.002 if the student:**

4 **(a) During each of the three years immediately prior to receiving a high school diploma**
5 **or leaving school before receiving a high school diploma, attended an elementary or a sec-**
6 **ondary school in this state and resided in this state with the person upon whom the student**
7 **is dependent;**

8 **(b) During each of the five 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 any state or territory of the United States, the District of Columbia or the**
11 **Commonwealth of Puerto Rico and resided with the person upon whom the student is de-**
12 **pendent;**

13 **(c) No more than three years before initially enrolling in a public university listed in ORS**
14 **352.002, received a high school diploma from a secondary school in this state or received the**
15 **equivalent of a high school diploma; and**

16 **(d) For a student who is not already a citizen or lawful permanent resident of the United**
17 **States, shows intention to become a citizen or a lawful permanent resident of the United**
18 **States by submitting to the public university the student attends or plans to attend:**

19 **(A) A notarized copy of the student's application to become a citizen of the United States**
20 **or an official copy of the student's application to register with a federal immigration program**
21 **or federal deportation deferral program; and**

22 **(B) Evidence that the student has applied for and acquired a federal individual taxpayer**
23 **identification number or other official federal identification document.**

24 **(3) A student continues to qualify for exemption from nonresident tuition and fees under**
25 **subsection (1) or (2) of this section for five years after initial enrollment under the exemption**
26 **in a public university listed in ORS 352.002.**

27 **(4) A student who has resided outside of Oregon for more than three years while serving**
28 **in the Armed Forces of the United States, but who otherwise meets the requirements of**
29 **subsection (1) or (2) of this section, shall qualify for exemption from nonresident tuition and**
30 **fees for enrollment in a public university listed in ORS 352.002 without having to reestablish**
31 **residency in Oregon.**

32 **(5) A public university listed in ORS 352.002 may not grant admission status to a student**
33 **exempted under this section that is greater than the admission status granted to Oregon**
34 **residents who are citizens or lawful permanent residents of the United States.**

35 **(6) Subsections (1) to (5) of this section apply only to students who are residents of the**
36 **United States on the effective date of this 2013 Act.**

37 **(7) The board shall adopt rules to implement the provisions of this section.**

38 **(8) Not later than July 1 of each year, the Oregon University System shall report to the**
39 **Legislative Assembly, for the preceding academic year:**

40 **(a) The number of students that applied and were accepted into public universities under**
41 **this section; and**

42 **(b) The financial impact of this section on the Oregon University System.**

43 **SECTION 3. (1) Jurisdiction is conferred on the Oregon Supreme Court to determine in**
44 **the manner provided by this section whether section 2 of this 2013 Act violates federal law**
45 **codified at 8 U.S.C. 1623.**

1 **(2) A person who is adversely affected by section 2 of this 2013 Act, or who will be ad-**
2 **versely affected by section 2 of this 2013 Act, may institute a proceeding for review by filing**
3 **with the Supreme Court a petition that meets the following requirements:**

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

5 **(b) The petition must include the following:**

6 **(A) A statement of the basis of the challenge; and**

7 **(B) A statement and supporting affidavit showing how the petitioner is adversely af-**
8 **ected.**

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

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

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

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

17 **SECTION 5.** **Sections 1 to 4 of this 2013 Act are repealed on January 2, 2016.**

18 **SECTION 6.** **This 2013 Act being necessary for the immediate preservation of the public**
19 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
20 **July 1, 2013.**

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