## 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.

## A BILL FOR AN ACT

- Relating to exemption from nonresident status for higher education; and declaring an emergency.
  - Be It Enacted by the People of the State of Oregon:
    - SECTION 1. Section 2 of this 2013 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 a public university listed in ORS 352.002 if the student:
  - (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;
  - (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;
  - (c) No more than three years before initially enrolling in a public university 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
  - (d) Shows intention to become a citizen or a lawful permanent resident of the United States by filing an affidavit with the public university the student attends 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.
  - (2) The board shall exempt a student who is financially dependent 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 a public university listed in ORS 352.002 if the student:
  - (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 resided in this state with the person upon whom the student is dependent;
  - (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 sec-

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- ondary school in any state or territory of the United States, the District of Columbia or the Commonwealth of Puerto Rico and resided with the person upon whom the student is dependent;
- (c) No more than three years before initially enrolling in a public university 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
- (d) For a student who is not already a citizen or lawful permanent resident of the United States, shows intention to become a citizen or a lawful permanent resident of the United States by filing an affidavit with the public university the student attends 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.
- (3) A student continues to qualify for exemption from nonresident tuition and fees under subsection (1) or (2) of this section for five years after initial enrollment under the exemption in a public university listed in ORS 352.002.
  - (4) The board shall adopt rules to implement the provisions of this section.
- <u>SECTION 3.</u> (1) Jurisdiction is conferred on the Oregon Supreme Court to determine in the manner provided by this section whether section 2 of this 2013 Act violates federal law codified at 8 U.S.C. 1623.
- (2) A person who is adversely affected by section 2 of this 2013 Act, or who will be adversely affected by section 2 of this 2013 Act, may institute a proceeding for review by filing with the Supreme Court a petition that meets the following requirements:
  - (a) The petition must be filed within 60 days after the effective date of this 2013 Act.
  - (b) The petition must include the following:
  - (A) A statement of the basis of the challenge; and
- (B) A statement and supporting affidavit showing how the petitioner is adversely affected.
  - (3) The petitioner shall serve a copy of the petition by registered or certified mail upon the Attorney General and the Governor.
  - (4) Proceedings for review under this section shall be given priority over all other matters before the Supreme Court.
  - (5) In the event the Supreme Court determines that there are factual issues in the petition, the Supreme Court may appoint a special master to hear evidence and to prepare recommended findings of fact.
    - SECTION 4. Section 2 of this 2013 Act first applies to the 2013-2014 school year.
  - <u>SECTION 5.</u> This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect July 1, 2013.