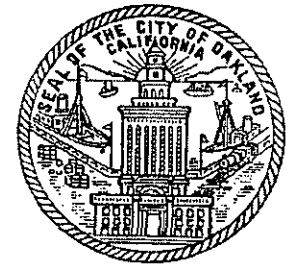


FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

CITY OF OAKLAND  
BILL ANALYSIS



Date: 2011 MAY -5 PM 5  
May 19, 2011

Bill Number: AB 130 & AB 131 (as amended)

Bill Author: Cedilio

DEPARTMENT INFORMATION

Contact: Claudia Burgos, District 5, 238-7051  
cburgos@oaklandnet.com

RECOMMENDED POSITION: SUPPORT

Summary of the Bills:

The California DREAM Act of 2011 was introduced as AB 130 & AB 131 by Assemblymember Gil Cedilio on January 11, 2011. Assemblymember Cedilio has introduced similar bills every year since 2005. Although former Gov. Arnold Schwarzenegger vetoed the legislation repeatedly, Governor Brown has expressed support for these bills.

AB 130 would allow students that meet the in-state tuition requirements to apply for and receive specified financial aid programs administered by California's public colleges and universities.

The types of aid these students would be eligible for include:

1. Board of Governors (BOG) Fee Waiver, and
2. Institutional Student Aid: Student aid program administered by the attending college or university (i.e. State University Grant, UC Grant)

AB 131 would allow students that meet the in-state tuition requirements to apply for and receive Cal Grants by California's public colleges and universities. These students would not be eligible to apply or receive any Competitive Cal Grant unless funding remains available after all California resident students have received Competitive awards that they are eligible for.

*The bills would not become operative until July 1, 2012.*

Eligible students are those who may qualify for in-state tuition at public colleges and universities in California (California Education Code §68130.5) and meet ALL of the following requirements:

1. Secondary school attendance in California for three or more years; at least one year of which shall have been at a California high school.
2. Graduation from a California secondary school or attainment of the equivalent thereof

Item: \_\_\_\_\_  
Rules & Legislation Comte.  
May 19, 2011

3. If undocumented, the filing of an affidavit with the college or university stating that they have applied for a lawful immigration status or will apply as soon as they are eligible to do so.

### **Positive Factors for Oakland**

There are an estimated 24,000 undocumented students who graduate every year from California high schools. These students confront a difficult challenge of financing their college education because they are ineligible for any federal grants or loans and are unable to legally work, even though they attended and graduated from a California high school. As [undocumented] immigrants, they cannot work legally. They are also effectively barred from developing academically beyond high school because of the high cost of pursuing higher education. In short, although these children have built their lives here, they have no possibility of achieving and living the American dream. AB 130 & AB 131 gives these students an opportunity to pursue a higher education upon graduating from high school and integrating into our society as educated professionals, where in turn, they will contribute to California's economy and strengthen our tax base.

Oakland Unified School District's last annual report (2008) indicates that in 2007-08 OUSD had 11,622 English Language Learners out of 38,826 students. Among OUSD's students, over 44 languages are spoken at home. Other than English, the most widely spoken primarily languages are Spanish and Cantonese. As such, it is predicted that AB 130 and AB 131 will positively impact thousands of OUSD graduates and their families each year.

### **Negative Factors for Oakland**

**NONE**

**PLEASE RATE THE EFFECT OF THIS MEASURE ON THE CITY OF OAKLAND:**

**Critical (top priority for City lobbyist, city position required ASAP)**

**Very Important (priority for City lobbyist, city position necessary)**

**Somewhat Important (City position desirable if time and resources are available)**

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\_\_\_ Minimal or \_\_\_ None (do not review with City Council, position not required)

Known support:

Known Opposition:

Respectfully Submitted,  
Councilmember De La Fuente,



A handwritten signature in black ink, appearing to read 'De La Fuente', is written over a horizontal line. A long, diagonal stroke extends from the bottom left of the signature area towards the center of the page.

AMENDED IN ASSEMBLY MAY 2, 2011  
AMENDED IN ASSEMBLY APRIL 6, 2011  
AMENDED IN ASSEMBLY MARCH 17, 2011  
AMENDED IN ASSEMBLY MARCH 8, 2011  
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 130**

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**Introduced by Assembly Member Cedilio**  
**(Principal coauthors: Assembly Members Alejo, Roger Hernández,**  
**and Lara)**  
**(Principal coauthor: Senator De León)**  
**(Coauthors: Assembly Members Allen, Ammiano, Bonilla,**  
**Brownley, Campos, Eng, Fong, Furutani, Bonnie Lowenthal,**  
**Mendoza, Monning, and Yamada)**  
**(Coauthors: Senators Hancock, Padilla, and Yee)**

January 11, 2011

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An act to *amend Section 68130.7 of* and to add Section 66021.7 to, the Education Code, relating to student financial aid.

LEGISLATIVE COUNSEL'S DIGEST

AB 130, as amended, Cedilio. Student financial aid: eligibility: California Dream Act of 2011.

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 a prescribed affidavit, is exempt from paying nonresident tuition at the California Community Colleges and the California State University.

This bill would enact the California Dream Act of 2011.

This bill would provide that, on and after January 1, 2012, a student attending the California State University, the California Community Colleges, or the University of California who is exempt from paying nonresident tuition under the provision described above would be eligible to receive a scholarship derived from nonstate funds received, for the purpose of scholarships, by the segment at which he or she is a student.

The Donahoe Higher Education Act sets forth, among other things, the missions and functions of California's public and independent segments of higher education, and their respective institutions of higher education. Provisions of the act apply to the University of California only to the extent that the Regents of the University of California, by appropriate resolution, act to make a provision applicable.

This bill would find and declare that the amendments to the Donahoe Higher Education Act described above are state laws within the meaning of a specified federal provision.

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. This act shall be known, and may be cited, as the  
2 California Dream Act of 2011.
- 3 SEC. 2. (a) The Legislature finds and declares all of the  
4 following:
- 5 (1) It is the intent of the Legislature that all students who are  
6 exempt from nonresident tuition pursuant to Section 68130.5 of  
7 the Education Code and that are deemed to be in financial need  
8 shall be eligible for all financial aid.
- 9 (2) Increased access to financial aid for all students in  
10 California's universities and colleges increases the state's collective  
11 productivity and economic growth.
- 12 (h) It is, therefore, the intent of the Legislature to address these  
13 issues by enacting the California Dream Act of 2011.
- 14 SEC. 3. Section 66021.7 is added to the Education Code, to  
15 read:

1 66021.7. Notwithstanding any other law, on and after January  
2 1, 2012, a student attending the California State University, the  
3 California Community Colleges, or the University of California  
4 who is exempt from paying nonresident tuition under Section  
5 68130.5 shall be eligible to receive a scholarship that is derived  
6 from nonstate funds received, for the purpose of scholarships, by  
7 the segment at which he or she is a student. The Legislature finds  
8 and declares that this section is a state law within the meaning of  
9 subsection (d) of Section 1621 of Title 8 of the United States Code.

10 *SEC. 4. Section 68130.7 of the Education Code is amended to*  
11 *read:*

12 68130.7. If a state court finds that Section 66021.7 or 68130.5,  
13 or any similar provision adopted by the Regents of the University  
14 of California, is unlawful, the court may order, as equitable relief,  
15 that the administering entity that is the subject of the lawsuit  
16 terminate any waiver awarded under that statute or provision, but  
17 no money damages, tuition refund or waiver, or other retroactive  
18 relief, may be awarded. In any action in which the court finds that  
19 Section 66021.7 or 68130.5, or any similar provision adopted by  
20 the Regents of the University of California, is unlawful, the  
21 California Community Colleges, the California State University,  
22 and the University of California are immune from the imposition  
23 of any award of money damages, tuition refund or waiver, or other  
24 retroactive relief

AMENDED IN ASSEMBLY APRIL 6, 2011  
AMENDED IN ASSEMBLY MARCH 17, 2011  
AMENDED IN ASSEMBLY MARCH 8, 2011  
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 131**

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Introduced by Assembly Member Cedilio  
(Principal coauthors: Assembly Members Alejo, Roger Hernández,  
and Lara)  
(Principal coauthor: Senator De León)  
(Coauthors: Assembly Members Allen, Ammiano, Bonilia, Campos,  
Eng, Fong, Furutani, *Bonnie Lowenthal*, *Mendoza*, Mooning, and  
Yamada)  
(Coauthors: Senators Hancock, Padilla, and Yee)

January 11, 2011

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An act to amend ~~Section 68130.7~~ *Sections 68130.5 and 68130.7* of  
and to add Sections 66021.6, 69508.5, and 76300.5 to, the Education  
Code, relating to student financial aid.

LEGISLATIVE COUNSEL'S DIGEST

AB 131, as amended, Cedilio. Student financial aid.

(1) The Donahoe Higher Education Act sets forth, among other things, the missions and functions of California's public and independent segments of higher education, and their respective institutions of higher education. Provisions of the act apply to the University of California only to the extent that the Regents of the University of California, by appropriate resolution, act to make a provision applicable.

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 a prescribed affidavit, is exempt from paying nonresident tuition at the California Community Colleges and the California State University.

*This bill would exempt a student who has attended, for 3 or more years, at least one of which shall have been in a high school, and graduated from, secondary school in California from paying nonresident tuition at the California Community Colleges and the California State University. The bill would include persons attending and graduating from California technical schools and adult schools, as well as high schools.*

This bill would amend the Donahoe Higher Education Act, as of July 1, 2012, to require the Trustees of the California State University and the Board of Governors of the California Community Colleges, and to request the regents, to establish procedures and forms that enable persons who are exempt from paying nonresident tuition under the *above-described* provision—~~described in (1) above~~, or who meet equivalent requirements adopted by the regents, to apply for, and participate in, all student aid programs administered by these segments to the full extent permitted by federal law, except as provided. This provision would apply to the University of California only if the regents, by appropriate resolution, act to make it applicable.

This bill would provide that persons who are exempt from paying nonresident tuition under the above provision, or who meet equivalent requirements adopted by the regents, are eligible to apply for, and participate in, any student financial aid program administered by the State of California to the full extent permitted by federal law. This bill would require the Student Aid Commission to establish procedures and forms that enable those persons who are exempt from paying nonresident tuition under the above provision to apply for, and participate in, all student financial aid programs administered by the State of California to the full extent permitted by federal law. This bill would prohibit persons who are exempt from paying nonresident tuition under the provision described above from being eligible for Competitive Cal Grant A and B Awards unless specified conditions are met. The bill would make these provisions operative as of July 1, 2012.



(2) Existing federal law requires that a state may provide that an alien who is not lawfully present in the United States is eligible for any state or local public benefit for which that alien would otherwise be ineligible under a specified federal law only through enactment of a state law that affirmatively provides for that eligibility.

This bill would find and declare that the amendments to the Donahoe Higher Education Act described above are state laws within the meaning of this federal provision.

(3) Existing law establishes the California Community Colleges under the administration of the Board of Governors of the California Community Colleges. Existing law authorizes the establishment of community college districts under the administration of community college governing boards, and authorizes these districts to provide instruction, for prescribed fees, at community college campuses throughout the state. Existing law authorizes the waiver of these fees for, among others, students who are eligible under income standards established by the board of governors.

This bill, as of July 1, 2012, would require community college districts to waive the fees of persons who are exempt from nonresident tuition under the provision described in (1) above, and who otherwise qualify for a waiver under this provision, under regulations and procedures adopted by the board of governors. Because the bill would impose new duties on community college districts with respect to determining eligibility for fee waivers, the bill would constitute a state-mandated local program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 66021.6 is added to the Education Code,  
2 to read:

1 66021.6. (a) Notwithstanding any other law, and except as  
2 provided for in subdivision (b), the Trustees of the California State  
3 University and the Board of Governors of the California  
4 Community Colleges shall, and the Regents of the University of  
5 California are requested to, establish procedures and forms that  
6 enable persons who are exempt from paying nonresident tuition  
7 under Section 68130.5, or who meet equivalent requirements  
8 adopted by the regents, to apply for, and participate in, all student  
9 aid programs administered by these segments to the full extent  
10 permitted by federal law. The Legislature finds and declares that  
11 this section is a state law within the meaning of Section 1621(d)  
12 of Title 8 of the United States Code.

13 (b) The number of financial aid awards received by California  
14 resident students from financial aid programs administered by the  
15 segments shall not be diminished as a result of the application of  
16 subdivision (a). The University of California is requested to comply  
17 with this subdivision.

18 (c) This section shall become operative on July 1, 2012.

19 *SEC 2. Section 68130.5 of the Education Code is amended to*  
20 *read:*

21 68130.5. Notwithstanding any other provision of law:

22 (a) A student, other than a nonimmigrant alien within the  
23 meaning of paragraph (15) of subsection (a) of Section 1101 of  
24 Title 8 of the United States Code, who meets all of the following  
25 requirements shall be exempt from paying nonresident tuition at  
26 the California State University and the California Community  
27 Colleges:

28 (1) ~~High~~ *Secondary* school attendance in California for three  
29 or more years, *at least one year of which shall have been at a high*  
30 *school.*

31 (2) Graduation from a California ~~high secondary~~ school or  
32 attainment of the equivalent thereof

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

37 (4) In the case of a person *student* without lawful immigration  
38 status, the filing of an affidavit with the ~~institution of higher~~  
39 *education stating campus of the California State University or the*  
40 *community college district* that the student has filed an application

1 to legalize his or her immigration status, or will file an application  
2 as soon as he or she is eligible to do so.

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

6 (c) The Board of Governors of the California Community  
7 Colleges and the Trustees of the California State University shall  
8 prescribe rules and regulations for the implementation of this  
9 section.

10 (d) Student information obtained in the implementation of this  
11 section is confidential.

12 ~~SEC. 2:~~

13 *SEC. 3.* Section 68130.7 of the Education Code is amended  
14 to read:

15 68130.7. If a state court finds that ~~Section 66021.6~~ *Sections*  
16 *66021.6, 66021.7, or 68130.5*, or any similar provision adopted  
17 by the Regents of the University of California, is unlawful, the  
18 court may order, as equitable relief, that the administering entity  
19 that is the subject of the lawsuit terminate any waiver awarded  
20 under that statute or provision, but no money damages, tuition  
21 refund or waiver, or other retroactive relief, may be awarded. In  
22 any action in which the court finds that ~~Section 66021.6~~ *Sections*  
23 *66021.6, 66021.7, or 68130.5*, or any similar provision adopted  
24 by the Regents of the University of California, is unlawful, the  
25 California Community Colleges, the California State University,  
26 and the University of California are immune from the imposition  
27 of any award of money damages, tuition refund or waiver, or other  
28 retroactive relief

29 ~~SEC. 3:~~

30 *SEC. 4.* Section 69508.5 is added to the Education Code, to  
31 read:

32 69508.5. (a) Notwithstanding any other law, and except as  
33 provided for in subdivision (c), a person who meets the  
34 requirements of subdivision (a) of Section 68130.5, or who meets  
35 equivalent requirements adopted by the Regents of the University  
36 of California, is eligible to apply for, and participate in, any student  
37 financial aid program administered by the State of California to  
38 the full extent permitted by federal law. The Legislature finds and  
39 declares that this section is a state law within the meaning of  
40 subsection (d) of Section 1621 of Title 8 of the United States Code.

1 (b) Notwithstanding any other law, the Student Aid Commission  
2 shall establish procedures and forms that enable persons who are  
3 exempt from paying nonresident tuition under Section 68130.5,  
4 or who meet equivalent requirements adopted by the regents, to  
5 apply for, and participate in, all student financial aid programs  
6 administered by the State of California to the full extent permitted  
7 by federal law.

8 (c) A student who is exempt from paying nonresident tuition  
9 under Section 68130.5 shall not be eligible for Competitive Cal  
10 Grant A and B Awards unless funding remains available after all  
11 California students not exempt pursuant to Section 68130.5 have  
12 received Competitive Cal Grant A and B Awards that they are  
13 eligible for.

14 (d) This section shall become operative on July 1, 2012.

15 ~~SEC-4:~~

16 *SEC. 5.* Section 76300.5 is added to the Education Code, to  
17 read:

18 76300.5. (a) A district shall waive the fees of a person who is  
19 exempt from paying nonresident tuition under Section 68130.5,  
20 and who otherwise qualifies for a waiver under Section 76300,  
21 under regulations and procedures adopted by the board of  
22 governors. The Legislature finds and declares that this section is  
23 a state law within the meaning of Section 1621(d) of Title 8 of the  
24 United States Code.

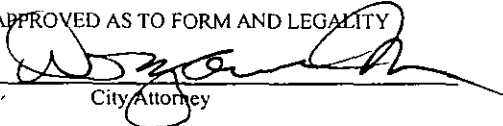
25 (b) This section shall become operative on July 1, 2012.

26 ~~SEC-5:~~

27 *SEC. 6.* If the Commission on State Mandates determines that  
28 this act contains costs mandated by the state, reimbursement to  
29 local agencies and school districts for those costs shall be made  
30 pursuant to Part 7 (commencing with Section 17500) of Division  
31 4 of Title 2 of the Government Code.

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

APPROVED AS TO FORM AND LEGALITY

  
City Attorney

11 MAY -5 PM 6:58

## OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

INTRODUCED BY COUNCILMEMBER IGNACIO DE LA FUENTE

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**RESOLUTION SUPPORTING ASSEMBLY BILLS 130 AND 131 (CEDILLO), "CALIFORNIA DREAM ACT OF 2011" AB 130 WHICH WOULD OPEN ACCESS TO INSTITUTIONAL AID TO ALL ELIGIBLE AB 540 UNDOCUMENTED STUDENTS AND AB 131 WOULD ALLOW ELIGIBLE AB 540 UNDOCUMENTED STUDENTS ACCESS TO ANY FINANCIAL AID PROGRAM RUN BY THE STATE OF CALIFORNIA**

**WHEREAS**, each year an estimated 24,000 undocumented students prepare to graduate from high school in California; and

**WHEREAS**, many of these students, defying the odds that predicted their failure, achieved academic excellence and gained admission to the best public universities and colleges of our nation; and

**WHEREAS**, their ineligibility for financial aid and inability to seek employment precludes them from affording the one opportunity to earn a college degree and fulfill a dream; and

**WHEREAS**, University of California student fees have increased from \$3,429 in 2000 to \$10,302 in 2010; and

**WHEREAS**, AB 130 would allow students that meet the in-state tuition requirements to apply for and receive specified financial aid programs administered by California's public colleges and universities; and

**WHEREAS**, AB 130 would open access to institutional aid to all eligible AB 540 undocumented students; and

**WHEREAS**, AB 131 would allow eligible AB 540 undocumented students access to any financial aid program run by the State of California; and

**WHEREAS**, in order to be eligible, an undocumented student would need to have attended a California high school for three or more years, graduated from a California high school or obtained a G.E.D., currently attend a California public institution of higher education and have signed an affidavit with his or her university; and

**WHEREAS**, in the event that the State of California passes the bills and that Governor Brown signs them, the Regents of the University of California will still need to approve the provision in order for it to take effect in their system; and

**WHEREAS**, as these students graduate and integrate into our society as educated professionals, they will contribute to California's economy and strengthen our tax base; and

**WHEREAS**, AB 130 and AB 131 would directly benefit thousands of Oakland students and their families by providing them the financial support to pursue a higher education; now, therefore be it

**RESOLVED**: The City of Oakland declares its support for AB 130 & AB 131; and be it

**FURTHER RESOLVED**: That the City Council hereby directs the City Administrator and the City's legislative lobbyist to advocate for the above position in the California State Legislature.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2011  
PASSED BY THE FOLLOWING VOTE:

PASSED BY THE FOLLOWING VOTE:

AYES -       BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL,  
                  SCHAAF, AND PRESIDENT REID

NOES -

ABSENT -

ABSTENTION-

Attest: \_\_\_\_\_  
          **LATONDA SIMMONS**  
          City Clerk and Clerk of the Council  
          of the City of Oakland, California