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# SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2019 - 2020 Regular

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**Bill No:** AB 1234 **Hearing Date:** June 5, 2019  
**Author:** Patterson  
**Version:** April 1, 2019  
**Urgency:** No **Fiscal:** No  
**Consultant:** Brandon Darnell

**Subject:** Standardized tests

## SUMMARY

This bill revises reporting and disclosure requirements for college admissions-related standardized test sponsors.

## BACKGROUND

Existing law:

- 1) Requires test sponsors, on or before November 15 of each year, to submit to the appropriate state agency or make publicly available on the test sponsor's Internet Web site specified data and information, including all of the following:
  - a) Three copies of each version of the test which was disclosed in the prior testing year, along with the corresponding acceptable answers, and the methods used to convert raw scores into the test scores reported to test subjects and test score recipients, together with an explanation of that method.
  - b) The total number of test subjects who have taken the test once, who have taken it twice, and who have taken it more than twice during the testing year.
  - c) The total number of test subjects who registered for, but did not take, the test.
  - d) The total amount of fees received from test subjects by the test agency for the test for that testing year.
  - e) The expenses to the test sponsor of the test, as follows:
    - i) Those expenses which are directly attributable to the test.
    - ii) Those expenses which are indirectly attributable to the test. If the test sponsor also sponsors another test or related activities, the test sponsor may list indirectly attributable expenses, to the extent that they are identifiable, as they are proportionately related to the test. The test sponsor must also list expenses indirectly attributable to all activities of the test's sponsor, including expenses not identifiable

as attributable to a test. The financial disclosure must be submitted within 135 days after the close of the testing year and in sufficient detail to indicate the major categories of revenues and expenses associated with the test, and the information for different tests administered by the same test sponsor must be reported separately and by individual test.

- f) Where applicable, the national average test scores, state average test scores, the standard error of measurement, and any other existing information relevant to a comparison of the test scores of the state's test subjects with test scores of previous test subjects of the past five years.
- 2) Requires a test sponsor, within 90 days of the release to the test subject of the results of a standardized test, and upon the request of the test subject, to do either of the following:
    - a) Provide the test subject an opportunity to examine operational test questions and answers under closely monitored conditions. The examination must occur at a location to be mutually agreed upon by the test sponsor and test subject, and unless authorized by the test sponsor, questions, answers, or copies of questions or answers shall not be removed from the facility, except by a representative of the test sponsor. During the examination of test materials, the test subject may file with a representative of the test sponsor, and with an educational institution or institutions seeking results of the test examined, a written protest to any question or answer.
    - b) Make available to the test subject the test materials, including operational test questions, a copy of the test subject's response to each question, the test subject's raw scores, a copy of scoring and scaling instructions, a copy of the correct responses, and a copy of the conversion factor or table, or both.
  - 3) Requires a test sponsor shall provide to test subjects the test materials specified in (2) above for not fewer than 50 percent of regular test administrations, as determined by the test sponsor. If the application of 50 percent results in a number which includes a fraction, the number shall be rounded to the nearest larger whole number.

## ANALYSIS

This bill revises reporting and disclosure requirements for college admission-related standardized test sponsors. Specifically, this bill:

- 1) Modifies the information that a testing entity (test sponsor) must make available annually by November 15, either to an appropriate state agency or on the test sponsor's website, as follows:
  - a) Deletes the requirement to provide three copies of each version of the standardized test that was disclosed in the prior testing year, along with

corresponding acceptable answers, and instead requires the test sponsor to provide or post sample materials reflective of the content and method of testing, which describe the test, and sample test questions.

- b) Deletes the requirement to report how many test subjects have taken the test once, twice, and more than twice, and instead requires that the total number of test subject during the testing year be reported.
  - c) Deletes the requirement to provide the number of test subjects who registered for, but did not take, the test.
  - d) Deletes the requirement to report the amount of fees received from test subjects and instead requires that the cost of taking a test to the test subject for that testing year be provided.
  - e) Authorizes the test sponsor, in lieu of providing information regarding both the direct and indirect costs attributable to the test, to instead provide or post the appropriate Internal Revenue Service filing that includes these costs.
  - f) Requires that the standard deviation, rather than the standard error of measurement, be provided when reporting national and state average test scores.
- 2) Deletes the requirement to include, with information reported within 90 days after the close of each testing year, when and where the test was administered in the state.
  - 3) Modifies the method of determining the number of tests in a testing year that must be released to test subjects following the examination date – currently one-half of the number of examinations offered, rounded up the nearest whole number – to one-half of the number of examinations offered, rounded down to the nearest whole number.
  - 4) Makes other technical and conforming changes.

### STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author's office, "ACT (American College Testing) offers six testing dates per year to high school students who wish to apply to a college or university requiring the ACT but they would like to offer a seventh test date to students in July.

In order to offer high school students a seventh test date, current law (Education code, Section 99157(c)) would require ACT to release a fourth practice test form to remain in compliance. The retirement and release of a fourth test form would require the development of additional test forms, which is cost-prohibitive and onerous given many students do not take advantage of the in-person practice tests but rather access the preparation materials and practice tests ACT already offers online. In addition, the test provider must submit these practice tests to a

state entity, but since the dissolution of California Postsecondary Education Commission (CPEC), ACT has experienced great difficulty in finding a state entity who wants to accept such materials to comply with state law (Section 99154).

As a result, California students are not provided the same access to the test as students in other states... mainly the opportunity to take the ACT in July when they are out of school and have the best chance of success on the test.”

Last year, approximately 1,400 California residents took the July ACT out-of-state.

- 2) ***Which tests are covered by the bill’s provisions?*** While the ACT is the sponsor of this bill, its provisions apply to a variety of college admissions-related standardized tests. Existing law applies these provisions to “any test administered in California at the expense of the test subject which is used for the purposes of admission to, or class placement in, postsecondary educational institutions or their programs, or any test used for preliminary preparation for those tests.” This includes, but is not limited to, the Preliminary Scholastic Aptitude Test (PSAT), the Scholastic Aptitude Test (SAT), the College Board Achievement Tests and Advanced Placement Tests, the ACT Assessment, the Graduate Record Examination (GRE), the Medical College Admission Test (MCAT), the Law School Admission Test (LSAT), the Dental Admission Testing Program, the Graduate Management Admission Test (GMAT), and the Miller Analogies Test.
  
- 3) ***Dissolution of California Postsecondary Education Commission (CPEC).*** As noted by the Assembly Higher Education Committee, “until 2018, test sponsors like ACT were only required to submit the three sample tests, along with meeting the state’s other reporting requirements, to the CPEC – a now defunct state agency. ACT indicates that, since the dissolution of CPEC, it has had great difficulty finding a state agency that wanted to accept such materials, which were ultimately provided to the Department of Finance. During the conference committee process leading to the 2018-19 Budget Act, ACT sought the changes proposed in this bill. It was decided that these changes should instead be considered through the policy committee process. However, the higher education trailer bill to the 2018-19 Budget Act (AB 1809, Chapter 33) did add provisions allowing test sponsors, like ACT, the opportunity to either submit the required materials and reports to “the appropriate state agency” or to post the information on the sponsors’ respective websites.”

This session there are two proposals, AB 130 (Low) and SB 3 (Allen), to revive a higher education coordinating body. This bill retains the ability for test sponsors to submit to required information to the appropriate state agency. As this bill and those bills move forward, the author may wish to consider specifically naming the new higher education coordinating body as the appropriate state agency, if it becomes appropriate.

- 4) ***Actual tests and answers vs. sample materials.*** Existing law requires test sponsors to submit to the state or post online copies of each version of the test

which was disclosed in the prior testing year, along with the corresponding acceptable answers. This bill proposes to instead require only sample materials reflective of the content and method of testing that describe the test, sample test questions. While staff is informed that the ACT maintains a robust online tool that includes at least two full former exams, this bill applies to more than just the ACT, and any test sponsors, including ACT, could ultimately choose to provide the minimum required by law. Having access to full tests, including their corresponding acceptable answers, is a valuable study tool for prospective test takers. Sample materials reflective of the content and method of testing that describe the test and sample test questions, while useful, are an imperfect substitute for the real thing. Accordingly, **staff recommends that the bill be amended** to revert subdivision (a) of Section 99143 back to existing law.

- 5) **Related legislation.** SB 3 (Allen) establishes the Office of Higher Education Coordination, Accountability, and Performance, administered by the governing board of the Office, as the statewide postsecondary education coordination, oversight and planning entity, outlines its responsibilities, functions and authorities including data collection. SB 3 is pending before the Assembly Higher Education Committee.

AB 130 (Low) establishes the Higher Education Performance and Accountability Commission (HEPAC). AB 130 is scheduled to be heard by this committee on June 12th.

## SUPPORT

Association of California School Administrators  
Riverside County Office of Education

## OPPOSITION

None received

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