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## SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2019 - 2020 Regular

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**Bill No:** AB 1340 **Hearing Date:** July 10, 2019  
**Author:** Chiu, et al.  
**Version:** June 26, 2019  
**Urgency:** No **Fiscal:** Yes  
**Consultant:** Olgalilia Ramirez

**Subject:** Private postsecondary education: California Private Postsecondary Education Act of 2009: labor market outcome data reporting.

### SUMMARY

This bill requires institutions regulated by the Bureau for Private Postsecondary Education (bureau) to report identifying, program enrollment, and loan debt information to bureau. Authorizes bureau to match student information with wage data provided by the Employment Development Department (EDD). Requires bureau to make information available on its website when the Director of the Department of Consumer Affairs (DCA) certifies that an updated information technology system is capable of processing data.

### BACKGROUND

Existing law:

- 1) Establishes the California Private Postsecondary Act of 2009 and requires the bureau to, among other things, review, investigate and approve private postsecondary institutions, programs and courses of instruction and authorizes bureau to take formal actions against an institution/school to ensure compliance with the Act, including seeking closure of an institution/school if determined necessary. The Act also provides for specified disclosures and enrollment agreements for students, requirements for cancellations, withdrawals and refunds, and that bureau shall administer the Student Tuition Recovery Fund to provide refunds to students affected by the possible closure of an institution/school. Existing law repeals the act on January 1, 2021. (Education Code (EC) § 94800 et seq.)
- 2) Under the Act, requires a private postsecondary institution to provide a prospective student, prior to enrollment, with a School Performance Fact Sheet for each educational program containing information related to completion rates, job placement rates within the career fields for which the program was designed, license examination passage rates, salaries or wages, and the most recent three-year cohort default rate. In order to remain in compliance, the California Private Postsecondary Education Act of 2009 (Act) requires an institution to submit an annual report to the bureau that includes, among other things, the School Performance Fact Sheet. The report and fact sheets are made available on the institution's as well as the bureau's Internet Web site. (EC § 94910, 9434, 94913 and 94878)

- 3) Requires the Director of Employment Development to permit access to certain wage data by various state entities including:
  - a) The bureau to access relevant quarterly wage data, as necessary, for the bureau's evaluation and reporting of program performance outcomes as required and permitted by various state and federal laws, including the federal Workforce Innovation and Opportunity Act of 2014. Existing law makes a person who knowingly accesses, uses, or discloses this confidential information without authorization guilty of a misdemeanor. (Unemployment Insurance Code (UIC § 1095 (aj)))
  - b) The Student Aid Commission to provide wage information in order to verify the employment status of an individual applying for a Cal Grant C award. (UIC § 7095 (ag))
  - c) The State Department of Education, the University of California, the California State University, and the Chancellor of the California Community Colleges, to obtain quarterly wage data on students who have attended their respective systems to assess the impact of education on the employment and earnings of those students, to conduct the annual analysis of district-level and individual district or postsecondary education system performance in achieving priority educational outcomes, and to submit the required reports to the Legislature and the Governor. Existing law requires that information be provided to the extent permitted by federal statutes and regulations. (UIC § 1095 (ab))

## ANALYSIS

This bill:

- 1) Requires an institution, for each of its graduates, to report to the bureau all of the following data:
  - a) Individual identifying information for each graduate of the institution sufficient to match to wage data from the EDD.
  - b) The program the graduate was enrolled in.
  - c) The graduate's student loan debt information reported on the School Performance Fact Sheet, if applicable.
- 2) Requires that the bureau match the data reported by institutions with wage data from the EDD.
- 3) States that its provisions would not be operative until the DCA certifies that the bureau's information technology system has been updated and is capable of process data as required by the bill.
- 4) Requires that the bureau make available on its internet website the relevant program-level and institution-level statistics, presented in terms of easily

understood labor market measures and consistent with all pertinent state and federal privacy laws, regarding the earning levels of graduates and student debt information reported on the School Performance Fact Sheet, if applicable.

- 5) Requires that the labor market outcome data reported for each program and institution, at a minimum, provide data relating to graduates at two-years and at five-years after their graduation.
- 6) Permits the bureau to access and use any relevant quarterly wage data necessary for the gainful employment labor market outcome reporting data match requirement and specifies that this data would be provided to the extent permitted by federal law and regulations.
- 7) States that it is the intent of the Legislature to review the process by which institutions are required to collect and report employment data and reduce duplicative efforts.
- 8) Makes various technical changes.

## STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “thousands of Californians have enrolled in career training programs they believed would lead to a job that justified the student loans they were taking on, only to discover too late that they had dug themselves in a deep hole with no return on investment. In 2014, after a five-year rulemaking process, the US Department of Education proposed the “Gainful Employment,” rule to enforce the federal Higher Education Act’s requirement that all career training programs receiving Title IV federal student aid “prepare students for gainful employment in a recognized occupation.” The rule was intended to address concerns about educational programs that provide career training to students, but instead are leaving them with high levels of student loan debt in relation to their earnings after graduation, or are leading them to default. Many of these programs are offered by proprietary, for-profit colleges-and these programs are the main route through which proprietary schools can access federal financial aid dollars.

...The US Department of Education under Secretary DeVos has proposed to rescind the gainful employment rule completely. This would be costly not only for students, but also for taxpayers, Evidence shows the gainful employment rule has had the intended effect of improving the value of programs available to students- many colleges have improved program outcomes and affordability and those programs that could not be improved were closed. According to the New America Foundation, by August 2018, almost two-thirds of failing programs from the first cohort of gainful employment data were no longer enrolling students. In addition, the Congressional Budget Office projected that repealing the gainful employment rule would increase federal spending by \$1.3 billion over 10 years.

...While California’s community college and state university systems and strong financial aid programs have made quality, affordable college options available to millions, there are many still struggling in the state. The low-income, minority,

and veteran students overwhelmingly targeted by this sector are precisely the ones who stand to lose the most from this extreme agenda- and make up a significant portion of California's students overall. California has a responsibility to step in and ensure our students are well protected and are being served responsibly by institutions operating in our state."

2) ***Employment and student debt information currently reported by schools.***

Current law requires an institution regulated by the bureau to provide a prospective student with a School Performance Fact Sheet containing, among other things, the number of graduates employed in the field, job placement rates, salary and wage information of employed graduates and federal student debt information including the percent of students who defaulted on federal student loans. Each calculation is based on a formula outlined in statute. The School Performance Fact Sheet provides students with a reasonable perspective on the performance of the institution or program for graduating students, graduating its students with manageable debt load and offering training that leads to quality employment. It assists prospective students in making informed decisions when selecting a program at a private postsecondary institution.

In addition to disclosing the above information to students, this bill requires schools report to the bureau the same student debt information disclosed on the School Performance Fact Sheet as well as personal identifying information of its graduates sufficient to match the information with EDD wage data. With this information, it further calls on the bureau to make available on its website statistics regarding the earning levels of graduates and student debt information at two and five-years after graduation. Although, earning levels and job placement rates are already reported in the School Performance Fact Sheet and posted online, presumably this bill adds an additional layer for which employment data may be verified and ensure a certain caliber of accuracy. Staff understands information disclosed on the fact sheet in part is collected through self-reported data.

Additionally, acquiring labor market outcome data in the manner being proposed is consistent with the process used for the state's public higher education systems. The public's use the data match agreement to assess the impact of education on student employment and earnings, as well as to analyze performance of their respective programs.

3) ***Student loan debt average for California graduates.*** According to The Institute for College Access and Success (TICAS) and its Project on Student Debt, 65 percent of seniors who graduated from public and nonprofit colleges in 2017 had student loan debt, with an average nationally of \$28,650 per borrower. TICAS reports that the share of graduates with debt rose steadily from 1996 to 2012. Between 2012 and 2016 the growth stopped. The report notes, that this overall trend for bachelor's degree recipients masks significant variation in debt burden for different types of students. TICAS also reports that average debt in California is \$21,852 at public and private nonprofit colleges and that about 50 percent of students graduate with debt, ranking California 46th and 40<sup>th</sup> nationally, respectively. California falls below the national average in student loan debt and is classified as low-debt state.

In the private for-profit sector, however, the numbers show a different narrative. Specifically, TICAS reports that over half of all California student loan defaulters in 2017 had borrowed to attend a for-profit college. The report further notes that compared to public and nonprofit colleges in California, for-profit colleges have lower graduation rates, higher rates of default among borrowers. Nationally, of the top 35 schools in the country where students hold the most student loan debt, over half were for-profit schools in 2014. The state and federal government have attempted to implement policies that guard against high debt burdens for college graduates.

- 4) ***Federal gainful employment regulations.*** To qualify for federal student aid, federal law requires that most for-profit programs and certificate programs at private nonprofit and public institutions (including community colleges) prepare students for "gainful employment in a recognized occupation." These regulations distinguish programs that provide affordable training that lead to well-paying jobs from programs that leave students with poor earnings prospects and high amounts of debt. The regulations require institutions to provide key information on program costs, whether students graduate, how much they earn, and how much debt they may accumulate. These required standard disclosures are intended to help students compare colleges when searching for and selecting a program. Staff notes, for purposes of qualifying for financial aid California established a standard (i.e. a cohort default rate threshold) independent of the federal gainful employment rule.

Education Secretary Betsy DeVos issued the final repeal of an Obama-era regulation known as the gainful employment rule on June 28, 2019. In rescinding the rule, the department is eliminating the loss of federal aid for schools that promise to furnish students with specific career skills but fail to prepare them for the job market. The repeal will take effect in July 2020. In January 2019, the department published a review of gainful employment data intended for enforcement purposes and considered reliable. According to a review of the data by TICAS, more than 350,000 graduates carried nearly \$7.5 billion in debt and attended career education programs that failed to meet minimum standards. Almost 98 percent of these programs were for-profit programs.

To a smaller extent, this bill seeks to monitor outcomes and close a gap in information relating to student employment after graduation.

- 5) ***Private for-profit sector.*** According to the Legislative Analyst's Office (LAO), California's higher education system (public and private) serves 3.7 million students (2016-17 academic year). Private for-profit colleges represent 9 percent of that enrollment among approximately 180 campuses. In comparison, California community colleges have the largest share of students at 59 percent with 114 campuses and the private nonprofit sector serving 10 percent of students spread amongst 700 campuses. The majority of degrees produced by private for-profit colleges are certificates and associate degrees, 61 percent of students are over the age of 25 and 57 percent are from historically underrepresented communities. Notably, the sector serves a significant portion of Californians.

- 6) ***Double referral.*** This bill was previously heard by the Senate Business, Professions and Economic Development Committee which has jurisdiction over bills relating to business and professional practices and periodically conducts sunset review of various boards and licensing agencies, including the Bureau.
- 7) ***Related legislation.***  
AB 1341 (Berman, 2019) prohibits the bureau from verifying an exemption from bureau oversight for a nonprofit that operated as a for-profit institution unless the Attorney General makes certain determinations. AB 1341 is also on the committee's agenda today.

AB 1344 (Bauer-Kahan, 2019) expands existing requirements that out-of-state private postsecondary educational institutions register with, and report information to, the bureau to include additional information regarding adverse actions and to authorize the bureau upon review to revoke an out-of-state school's ability to enroll students in California, as specified. AB 1344 is also on the committee's agenda today.

AB 1340 (Chiu, 2019) requires certain private postsecondary schools to report to the bureau information about their graduates and match that information with wage data from the EDD. It also requires the bureau to make available on its website information regarding the earnings levels of graduates and student debt information. AB 1340 is also on the committee's agenda today.

AB 1345 (McCarty, 2019) revises existing restrictions on private postsecondary school enrollment recruitment compensation to prohibit institutions from paying a person by means of a commission, bonus, quota, or other similar method contingent upon student recruitment, enrollment, admissions, attendance, financial aid, or sales of educational materials. AB 1345 is also on the committee's agenda today.

AB 1346 (Medina, 2019) expands the definition of "economic loss," as it pertains to the Student Tuition Recovery Fund (STRF), to include all amounts paid by a student to the institution, any amounts paid in connection with attending the institution, and all principal, interest, and charges of any kind for any loan incurred by the student to pay these amounts. AB 1346 is also on the committee's agenda today.

AB 1342 (Bauer-Kahan, 2019) requires a nonprofit corporation that operates or controls a private postsecondary educational institution to obtain the Attorney General's (AG) consent before entering into certain agreements or transactions, including an agreement or transaction to sell or convey its assets to, or to transfer control, responsibility, or governance of a material amount of its assets to, a for-profit corporation or mutual benefit corporation. AB 1342 was approved by this committee and is pending in Senate Appropriations Committee.

## **SUPPORT**

California Community Colleges Chancellor's Office  
California Conference of the American Association of University Professors

California Faculty Association  
California Low Income Consumer Coalition  
Children's Advocacy Institute Center for Public Interest Law  
Community Youth Center of San Francisco  
Consumer Federation of California  
Consumer Reports Advocacy  
Housing and Economic Rights Advocates  
Larkin Street youth Services  
National Student Legal Defense Network  
NextGen California  
Public Advocates  
Public Counsel  
Public Law Center  
SEIU California  
Student Debt Crisis  
The Century Foundation  
The Institute for College Access and Success  
Veterans Education Success  
Veterans Legal Clinic  
Youth Leadership Institute

**OPPOSITION**

American Career College  
California Association of Private Postsecondary Schools  
California Northstate University  
Professional Beauty Federation of California  
San Joaquin Valley College  
UEI College  
West Coast University  
Zovio

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