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EDUCATION



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AGENDA

Wednesday, April 19, 2023
9 a m -- 1021 O Street Room 2100

MEASURES HEARD IN FILE ORDER

- | | | | |
|------|--------|------------|---|
| 1. | SB 274 | Skinner | Suspensions and expulsions: willful defiance. |
| 2. | SB 292 | Grove | Education expenses: Education Savings Account Act of 2024. |
| 3. | SB 293 | Grove | Pupil assessments: California Assessment of Student Performance and Progress: statewide results. |
| 4. | SCA 5 | Grove | Educational expenses. education savings accounts. |
| 5. | SB 509 | Portantino | School employee and pupil training. youth mental and behavioral health: mental health education. |
| 6. | SB 765 | Portantino | Teachers. retired teachers: teacher preparation. student financial aid |
| 7. | SB 661 | Bradford | Student Athlete Bill of Rights. |
| 8 | SB 711 | Caballero | Community colleges: blockchain degree programs and technology: working group. |
| 9. | SB 433 | Cortese | Classified school and community college employees: disciplinary hearings: impartial third-party hearing officers |
| 10. | SB 645 | Ochoa Bogh | School finance: administrative employees to teacher ratio. |
| 11. | SB 494 | Newman | School district governing boards. meetings: school district superintendents and assistant superintendents. termination. |
| *12. | SB 549 | Newman | Teacher credentialing: out-of-state teachers: assessment of other states and territories. |

*Item on consent

SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

| | | | |
|--------------------|-----------------|----------------------|----------------|
| Bill No: | SB 274 | Hearing Date: | April 19, 2023 |
| Author: | Skinner | | |
| Version: | April 10, 2023 | | |
| Urgency: | No | Fiscal: | No |
| Consultant: | Kordell Hampton | | |

Subject: Suspensions and expulsions: willful defiance.

SUMMARY

This bill extends the prohibition against the suspension and expulsion of students in grades K-8, to K-12, for disrupting school activities or willfully defying the valid authority of school personnel to all grades, indefinitely, but would retain a teacher's existing authorization to suspend any student from class for willful defiance and prohibit the suspension or expulsion of a student based solely on the fact that they are truant, tardy, or otherwise absent from school activities.

BACKGROUND

Existing Law

Education Code (EDC)

- 1) Prohibits a pupil enrolled in kindergarten or any of grades 1 to 5, inclusive, from being suspended and expelled for disrupting school activities or otherwise willfully defying the authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties. (EDC § 48900(k)(3))
- 2) Prohibits until July 1, 2025, a pupil enrolled in kindergarten or any of grades 6 to 8, inclusive, from being suspended for disrupting school activities or otherwise willfully defying the authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties. (EDC § 48900(k)(4))
- 3) Prohibits a pupil from being suspended or recommended for expulsion unless the superintendent of the school district or the principal of the school determines that the pupil has committed certain acts, including, *among other acts*, all of the following:
 - a) Caused, attempted to cause, or threatened to cause physical injury to another person.
 - b) Willfully used force or violence upon the person of another, except in self defense.

- c) Possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object, except as specified.
 - d) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, a controlled substance, an alcoholic beverage, or an intoxicant of any kind.
 - e) Committed or attempted to commit robbery or extortion.
 - f) Caused or attempted to cause damage to school property or private property.
 - g) Stole or attempted to steal school property or private property.
 - h) Committed an obscene act or engaged in habitual profanity or vulgarity.
 - i) Committed or attempted to commit a sexual assault or committed sexual battery.
 - j) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.
 - k) Engaged in, or attempted to engage in, hazing.
 - l) Engaged in an act of bullying. (EDC § 48900)
- 4) Authorizes a pupil enrolled in any of grades 4 to 12, inclusive, to be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has intentionally engaged in harassment, threats, or intimidation, directed against school district personnel or pupils, that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of either school personnel or pupils by creating an intimidating or hostile educational environment. (EDC § 48900.4)
- 5) Authorizes school district superintendents and school principals to use discretion to provide alternatives to suspension or expulsion that are age appropriate and designed to address and correct the pupil's specific misbehavior, as specified. (EDC § 48900(v))
- 6) States that suspension, including supervised suspension, shall be imposed only when other means of correction fail to bring about proper conduct, but authorizes a pupil, including a pupil with exceptional needs, to be suspended upon a first offense for certain acts (*not* including disrupting school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties) or the pupil's presence causes a danger to persons. (EDC § 48900.5)
- 7) Specifies that other means of correction include, but are not limited to:

- a) A conference between school personnel, the pupil's parent or guardian, and the pupil.
 - b) Referrals to the school counselor, psychologist, social worker, child welfare attendance personnel, or other school support service personnel for case management and counseling.
 - c) Study teams, guidance teams, resource panel teams, or other intervention-related teams that assess the behavior, and develop and implement individualized plans to address the behavior in partnership with the pupil and his or her parents.
 - d) Referral for a comprehensive psychosocial or psychoeducational assessment, including for purposes of creating an individualized education program, or a 504 plan.
 - e) Enrollment in a program for teaching prosocial behavior or anger management.
 - f) Participation in a restorative justice program.
 - g) A positive behavior support approach with tiered interventions that occur during the schoolday on campus.
 - h) After-school programs that address specific behavioral issues or expose pupils to positive activities and behaviors, including, but not limited to, those operated in collaboration with local parent and community groups.
 - i) Community service, as specified. (EDC §48900.5)
- 8) States that schools should consider implementing at least one of the following if the number of pupils suspended during the prior school year exceeded 30 percent of the school's enrollment:
- a) A supervised suspension program.
 - b) A progressive discipline approach during the schoolday on campus (as an alternative to off-campus suspension), using any of the following activities:
 - i) Conferences between the school staff, parents and pupils.
 - ii) Referral to the school counselor, psychologist, child welfare attendance personnel, or other school support service staff.
 - iii) Detention.
 - iv) Study teams, guidance teams, resource panel teams, or other assessment-related teams. (EDC § 48911.2)
- 9) Authorizes teachers to suspend pupils from class for the day and the following day. If the pupil is to remain on campus during that suspension, the pupil must be under

appropriate supervision. Teachers must ask the parent to attend a parent-teacher conference regarding the suspension. Pupils are prohibited from returning to the class from which he or she was suspended, during the period of the suspension, without the concurrence of the teacher and principal. (EDC § 48910)

ANALYSIS

This bill extends the prohibition against the suspension and expulsion of students in grades K-8, to K-12, for disrupting school activities or willfully defying the valid authority of school personnel to all grades, indefinitely, but would retain a teacher's existing authorization to suspend any student from class for willful defiance and prohibit the suspension or expulsion of a student based solely on the fact that they are truant, tardy, or otherwise absent from school activities.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author "SB 274 is based on a simple premise: Students belong in school. Suspending youth for low-level behavior issues leads to significant harm, including learning loss and a higher likelihood that affected students will drop out of school completely. The punishment for missing school should not be to miss more school. Students, especially those with behavioral issues, need to be in school where teachers and counselors can help them succeed. SB 274 puts the needs of students first. Instead of kicking them out of school, we owe it to students to figure out what's causing them to act out and help them fix it."
- 2) ***Zero Tolerance Policies Disproportionate Effects.*** In 1994, Congress passed the Gun-Free Schools Act (GFSA), which required states to expel students who brought firearms to campus for at least one year. While zero tolerance policies were initially intended to ensure a safe and healthy school environment (e.g., selling drugs or engaging in gang-related fights on school grounds), policies were expanded to include minor offenses that would otherwise be seen as normal behavior. These policies inadvertently created the "School to Prison Pipeline," where youth expelled or suspended for minor offenses are funneled out of public schools and into the juvenile and criminal legal systems. The school-to-prison pipeline causes a disproportionate number of students of color to drop out of school and enter the criminal justice system, which can have life-changing adverse effects.

Although California's suspension rate has decreased recently, students of color are still disproportionately suspended compared to their peers. The California Department of Education (CDE) data shows that while total suspensions dropped from 363,406 in the 2017-18 school year (SY) to 233,753 in 2019-20 SY, black students received 15.6% of all suspensions for defiance-only in the 2017-18 SY and 18.7% in the 2019-20 SY. In recent years there have been other statutory provisions designed to limit the use of suspensions and promote alternatives to suspension. These provisions aim to address the root causes of the student's behavior and to improve academic outcomes:

- a) *Minimize Suspension for Attendance Issues:* It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a pupil who is truant, tardy, or otherwise absent from school activities.
- b) *Instead of Suspension, Support:* A superintendent of the school district or principal is encouraged to provide alternatives to suspension or expulsion, using a research-based framework with strategies that improve behavioral and academic outcomes, that are age-appropriate and designed to address and correct the pupil's misbehavior.

The state has also established a Multi-Tiered System of Supports (MTSS), which includes restorative justice practices, trauma-informed practices, social and emotional learning, and schoolwide positive behavior interventions and support, that may be used to help students gain critical social and emotional skills, receive support to help transform trauma-related responses, understand the impact of their actions, and develop meaningful methods for repairing harm to the school community.

- c) *Suspension as a Last Resort:* Suspension shall be imposed only when other means of correction fail to bring about proper conduct, and then continues to provide an extensive list of suggested positive, non-exclusionary alternative practices. Other means of correction may include additional academic supports, to ensure, for example, that instruction is academically appropriate, culturally relevant, and engaging for students at different academic levels and with diverse backgrounds.

3) ***Restorative Justice and Other Approaches to Suspension and Expulsion?***

Several school districts, including some of the largest, have adopted board policies prohibiting willful defiance as the basis for suspension or expulsion and are committing resources to effectively implement alternative correction models, including restorative justice, positive behavior interventions and support, and other evidence-based approaches. For example, Oakland Unified School District has banned the suspension or expulsion of students based solely upon willful defiance. Oakland Unified offers restorative justice programs in their schools. Furthermore, the Legislature has made significant investments to encourage local educational agencies (LEAs) to establish alternatives to suspension and expulsion.

- \$100 million in competitive grants to LEAs to increase the number of teachers available to serve California state preschool and transitional kindergarten pupils and to provide teachers with training in inclusive practices, culturally responsive instruction, supporting dual language learners, enhancing social-emotional learning, implementing trauma-informed and restorative practices, and mitigating implicit biases to eliminate exclusionary discipline;
- \$50 million to the Orange County Office of Education for support of MTSS efforts, including grants to LEAs to provide ongoing training and support in the use of trauma screening tools and mental health service referrals, and school climate surveys.

- \$6 million for training LEAs on interpreting data from their local school climate surveys of pupils, families, and educators to inform continuous improvement efforts and better assess community needs stemming from the COVID-19 pandemic and distance learning; and for the CDE to develop an optional trauma-informed practice module to be used with school climate surveys.

Moreover, Governor Newsom signed AB 2598 (Weber) Chapter 914, Statutes of 2022 which required the CDE to develop and post on its website by June 1, 2024, evidence-based best practices for restorative justice practices for LEAs to implement to improve campus culture and climate.

- 4) **Discretion.** This bill would prohibit school personnel from recommending suspension or expulsion from school for willfully defying school personnel and for being truant, tardy, or otherwise absent from school activities. This does not limit the ability of a teacher to suspend a student from class.

The committee may wish to consider whether this bill is a reasonable compromise between prohibiting suspension and expulsion from school and allowing teachers to continue to suspend students from class for disrupting school activities or otherwise willfully defying the authority of school officials.

- 5) **Local Control Accountability Plan (LCAP) State Priority: Pupil Engagement.** One of the eight state priorities required to be addressed in the LCAP is pupil engagement, measured by suspension and expulsion rates. In their LCAPs, school districts, county offices of education, and charter schools have to explain their actions to achieve their goals for each state priority, including goals for reducing suspension rates. Given that LCAPs were first implemented for the 2014-15 school year, the overall reduction in suspensions and disruption/willful defiance could also be linked to the priority of pupil engagement.

- 6) **Related legislation.**

SB 419 (Skinner), Chapter 279, Statutes of 2019, commencing July 1, 2020, extends the permanent prohibition against suspending a pupil enrolled in kindergarten or any of grades 1 to 3 for disrupting school activities or otherwise willfully defied the valid authority of school staff to include grades 4 and 5 permanently; and to include grades 6 to 8, inclusive, until July 1, 2025; and applies these prohibitions to charter schools

SB 607 (Skinner, 2017) would have required commencing July 1, 2019, permanently prohibits the suspension any pupil in kindergarten or grades 1 to 5, inclusive, and the expulsion of any pupil in kindergarten or in any of grades 1 to 12, inclusive, who disrupted school activities or otherwise willfully defied valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties; prohibits, until July 1, 2023, the suspension of any pupil or grades 6 to 8, inclusive, for that same act; and makes these provisions applicable to charter schools. *This bill was vetoed by Governor Brown:*

Teachers and principals are on the front lines educating our children and

are in the best position to make decisions about order and discipline in the classroom. That's why I vetoed a similar bill in 2012. In addition, I just approved \$15 million in the 2018 Budget Act to help local schools improve their disciplinary practices. Let's give educators a chance to invest that money wisely before issuing any further directives from the state.

AB 420 (Dickerson), Chapter 660, Statutes of 2014, eliminated the option to suspend or recommend for expulsion a pupil who disrupted school activities or otherwise willfully defied the authority of school officials and instead authorizes schools to suspend a pupil in grades 6-12 who has substantially disrupted school activities or substantially prevented instruction from occurring.

SB 1111 (Lara), Chapter 837, Statutes of 2014, requires parental consent for referrals to a county community school by a school attendance review board (SARB), school district, or probation department, except for situations where a student is expelled or pursuant to a court order. This bill also establishes the right of a student to reenroll in his/her former school or another school upon completion of the term of involuntary transfer to a county community school.

AB 1729 (Ammiano), Chapter 425, Statutes of 2012, recasts provisions relative to the suspension of a pupil upon a first offense, and authorizes the use and documentation of other means of correction.

AB 2242 (Dickinson, 2012) would have prohibited pupils who are found to have disrupted school activities or otherwise willfully defied the authority of school officials from being subject to extended suspension, or recommended for expulsion. AB 2242 was vetoed by Governor Brown:

I cannot support limiting the authority of local school leaders, especially at a time when budget cuts have greatly increased class sizes and reduced the number of school personnel. It is important that teachers and school officials retain broad discretion to manage and set the tone in the classroom.

The principle of subsidiarity calls for greater, not less, deference to our elected school boards which are directly accountable to the citizenry.

AB 1909 (Ammiano), Chapter 849, Statutes of 2012, requires schools to notify a foster youth's attorney and representative of the county child welfare agency of pending expulsion or other disciplinary proceedings.

SUPPORT

State Superintendent of Public Instruction Tony Thurmond (Co-Sponsor)
Alliance for Boys and Men of Color (Co-Sponsor)
Dolores Huerta Foundation (Co-Sponsor)
Alliance for Children's Rights
American Civil Liberties Union California Action
Asian Solidarity Collective

California Alliance for Youth and Community Justice
California County Superintendents
California Native Vote Project
California Public Defenders Association
California Youth Empowerment Network
Californians for Justice
Center on Juvenile and Criminal Justice
Children Now
The Children's Partnership
Communities United for Restorative Youth Justice
Community Asset Development Re-defining Education
Disability Rights California
Fresh Lifelines for Youth
Genders & Sexualities Alliance Network
Generation Up
Go Public Schools
John Burton Advocates for Youth
Law Foundation of Silicon Valley
Legal Aid Foundation of Los Angeles
Los Angeles County Office of Education
Los Angeles Unified School District
Mental Health America of California
Mid-City Community Advocacy Network
Pacific Juvenile Defender Center
Public Advocates INC.
Public Counsel
Santa Cruz Barrios Unidos
Seneca Family of Agencies
Sigma Beta Xi, INC. Youth and Family Services
Teach Plus
The Arc and United Cerebral Palsy California Collaboration
The Children's Partnership
The Education Trust - West
Young Women's Freedom Center
Youth Alliance
Youth United for Community Action
Youth Will
2 Individuals

OPPOSITION

5 Individuals

-- END --

SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair
2023 - 2024 Regular

| | | | |
|--------------------|----------------|----------------------|----------------|
| Bill No: | SB 292 | Hearing Date: | April 19, 2023 |
| Author: | Grove | | |
| Version: | March 30, 2023 | | |
| Urgency: | No | Fiscal: | Yes |
| Consultant: | Ian Johnson | | |

Subject: Education expenses: Education Savings Account Act of 2024.

NOTE: This bill has been referred to the Committees on Education and Governance and Finance. A "do pass" motion should include referral to the Committee on Governance and Finance.

SUMMARY

This bill would establish the Education Savings Account (ESA) Act of 2024 only if a Senate Constitutional Amendment (SCA 5, Grove) is approved as part of the November 2024 election.

BACKGROUND

Subdivision (b) of Section 8 of Article XVI of the California Constitution requires the state to spend a minimum amount of funding on school districts and community colleges every fiscal year, based on specific calculations built on a percentage of General Fund revenues or prior-year education appropriations, enrollment, and economic growth.

In 2013, the Local Control Funding Formula (LCFF) was enacted. The LCFF establishes per-pupil funding targets, with adjustments for different student grade levels, and includes supplemental funding for local educational agencies (LEA) serving students who are low-income, English learners, or foster youth. The LCFF replaced almost all sources of state funding for LEAs, including most categorical programs, with general purpose funding including few spending restrictions.

ANALYSIS

This bill:

- 1) Establishes the ESA Act of 2024 and establishes the ESA Trust as a fund within the State Treasury to be administered by the ESA Trust Board.
- 2) Specifies that during the first four school years following the operative date of the act, certain school-aged children are eligible to establish an ESA, based on their parent's or guardian's income. After the first four years, every school-aged child would become ESA-eligible.

- 3) Specifies that every child enrolled in an eligible school shall be entitled to a credit to the child's account for tuition, elementary and secondary eligible education expenses, and undergraduate or graduate eligible education expenses.
- 4) Requires the Department of Finance to annually determine the ESA deposit amount for the upcoming school year and specifies the procedure for calculating the ESA deposit.
- 5) Requires the Superintendent of Public Instruction to establish a procedure for the parents and legal guardians of eligible students to apply to establish an ESA and submit an executed participation agreement.
- 6) Authorizes ESA fund disbursements to eligible schools, including a campus of the California Community Colleges, the California State University, and the University of California, a full-time private school, a private college or university, a public college or university, or a vocational educational or training institution, as specified.
- 7) Imposes a \$60,000 cap, adjusted each year for inflation, on the ESA balance for students upon graduating high school or obtaining a high school equivalency certification, available for tuition, undergraduate or graduate eligible education expenses, or expenses associated with vocational education.
- 8) Requires the Legislature to recalculate minimum education funding guarantee (Proposition 98 Guarantee) by including school-aged children not enrolled in a public school in those minimum funding guarantee calculations based on their average daily attendance, as provided.
- 9) Requires the costs of providing ESA deposit amounts to be apportioned between the General Fund and school districts in the same ratio of General Fund and local property tax revenue that would have been used to educate students in their school district.
- 10) Excludes, for taxable years beginning on or after January 1, 2025, from gross income any amounts received as distribution from an ESA.
- 11) Becomes operative on January 1, 2025 only if SCA 5 (Grove, 2023) is approved by the voters at the statewide general election on November 5, 2024.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, "California's government-run schools are failing too many students. Any company that failed 84% of its customers would be run out of business, but in California the legislature rewards failing schools with even more funding. The government focuses more on funding institutions than students, and most parents have no other options. SB 292, The Education Savings Account Act of 2024, will introduce more choice into California's school system, giving parents and students more educational options. This bill will empower students to enroll in schools better suited for their educational needs. SB 292 puts children first."

- 2) ***Is this a voucher program?*** Voucher programs generally allow public funds to be used for private school tuition. ESAs are a type of voucher program, but they are structured differently in that, in addition to private school tuition, ESA funds can be used to purchase other educational services, such as tutoring, textbooks, or online course fees. Under this bill, the state would “rebase” the amount funding currently apportioned to local educational agencies as required by the Proposition 98 Guarantee to include private school students and award vouchers to parents who could then use the funding to cover tuition and other services at an eligible public or private school. The policy changes and state and local mechanisms required to implement this bill and its companion constitutional amendment are very complex and would profoundly change how public (and private) education is currently funded. Given that no one knows how many parents and schools would apply for vouchers or move their children from public to private schools, it is difficult to assess the impact of this bill with any meaningful precision.
- 3) ***Voucher programs in other states.*** The first publicly-funded voucher program in the country was started in Milwaukee in 1990—the Milwaukee Parental Choice Program. Currently, there are 25 voucher programs in 14 states, including the District of Columbia. The number of voucher programs has grown steadily since 2010, as has the scope of existing programs.

Almost all states have eligibility requirements for their voucher programs, with the most common being students with a documented disability or meeting household income requirements. Other eligibility requirements include attending a low-performing school or district, living in certain geographic regions, or some combination therein. There are two states, Arizona and Nevada, which have ESA programs that do not include eligibility requirements. Arizona expanded their already existing ESA program to be universal in 2017, which will phase in over a few years and be capped at 30,000 student participants. Nevada created its universal program in 2013, but the program is on hold following a 2015 court decision declaring the funding mechanism unconstitutional and program funding has not been restored.

Since the passage of Proposition 98, the voters of California have had two opportunities to vote for tax-funded school vouchers—Proposition 174 in 1993 and Proposition 38 in 2000. Both propositions received about 30 percent voter support.

- 4) ***Many existing school choice options for California parents.*** There are two main groups of parents in California already exercising alternative school choice—those that send their children to private school and those that access public school options such as charter schools, magnet schools, or cross-town transfer programs. While the author states that this measure would give parents the option of moving their children from their assigned school to any other accredited school that best meets their needs, state law already provides the following public school options:

- a) *Charter Schools.* There are over 1,000 public charter schools in the state that provide instruction in any combination of grades kindergarten through grade 12. Parents, teachers, or community members may initiate charter petitions, which include the specific goals and operating procedures for the charter school. While most charter schools offer traditional, classroom-based instruction, about 20 percent offer some form of independent study, such as distance learning or home study.
- b) *Magnet Schools.* Magnet schools are designed by local authorities to attract parents, guardians, and students who are free to choose the school in which they enroll. These programs and schools are established by district governing boards that can make a wide range of choices depending on their local needs and resources. Magnet schools and programs include those that provide unique instruction in the arts, in various sciences, and in career education. Others reflect a district strategy to achieve racial and ethnic balance. When one or more magnets are established at a particular school, students from across the district may select a magnet with available space.
- c) *District of Choice (DOC) Program.* This program allows a student to transfer to any district that has deemed itself a DOC and agreed to accept a specified number of transfers. DOC may not use a selective admissions process. Transfer students generally do not need the consent of their home districts.
- d) *Interdistrict Permits.* These allow a student to transfer from one district to another district provided both districts consent to the transfer and the student meets any locally determined conditions. Districts receiving these transfer students may require students to meet certain attendance and/or academic standards.
- e) *Parental employment transfers.* These allow a student to transfer into a district if at least one parent is employed within the boundaries of that district and that district has chosen to accept parental employment transfers. Transfer students generally do not need the consent of their home districts.
- f) *The Open Enrollment Act.* This option, for low-performing schools, allows a student attending a school with low performance on state tests to transfer to another school inside or outside the district that has a higher level of performance and space available. Transfer students generally do not need the consent of their home districts.

Beyond the public school options, about 7.5 percent of California students are enrolled in private schools, a proportion that has gradually dropped over the past two decades from about 10 percent. Interestingly, these are the families that would immediately benefit from this bill because, even though they have already chosen to send their kids to private school, they would be eligible for the same voucher as all other parents.

- 5) ***How would low-income families be affected?*** Based on existing research, low-income families may likely participate in a voucher program, especially given recent polls that show growing parental support for school choice in disadvantaged communities. However, among these families, it is the better-educated parents, who express strong commitments to education, that most often take advantage of voucher programs. While this bill includes a four-year phase in based on income, would it be the most disadvantaged children in the state—those from low-income families with minimally educated parents—that would be left behind in struggling public schools with even fewer resources upon full implementation? How does the creation of an unregulated voucher program square with the principles of the LCFF, which targets additional resources to the communities with the highest proportions of English-learning, low-income, and foster youth students?
- 6) ***Available research on the impact of voucher programs on student achievement is mixed at best.*** Research on existing voucher programs is relatively limited because prior to 2010, there were a very small number of programs in the country. Additionally, it is difficult to measure the effects of voucher programs on student performance because there are oftentimes other factors, such as class size, school safety issues, or peer effects, that affect academic progress. Finally, the research tends to lack any analysis on the quality of the private schools that students choose to attend. Contrary to popular belief, while many private schools may produce better student outcomes than public schools, the reverse can also be true.

Despite these challenges, existing research on voucher programs shows mixed results. Generally, students attending private school through a voucher program tend to have similar academic outcomes to their peers in traditional public schools, with some studies finding that voucher students performed worse academically than their peers in traditional public schools. However, other research suggests that student performance in voucher programs may improve over time. Specifically, a multi-year study of Milwaukee's voucher program, the oldest in the country, found that private school-attending students in lower grades tended to have lower academic performance in reading and science than their peers in public schools, while students in upper grades had better academic outcomes in reading and science than their peers. In addition, some students participating in the voucher program were one to two years behind academically when first enrolling in a private school, and study results suggest that attending private school through the voucher program helped these students catch up to their grade level.

Based on the limited research, it appears that children with parents who eagerly pursue vouchers and move their children to private schools can potentially perform better than children who remain in struggling public schools. Would these achievement results continue under a program that is applied statewide? Is this a likely way to raise achievement for students who would remain in urban and suburban public schools?

- 7) ***Voucher programs face legal challenges.*** Several state or local voucher programs across the country have faced legal challenges, often centered on the

separation of church and state debate. Specifically, whether sending public funds to sectarian private schools contradicts the Establishment Clause of the U.S. Constitution's First Amendment and a series of approximately 36 state constitutional amendments prohibiting the states from providing public funds to religious schools—collectively known as the Blaine Amendments. The outcomes of these challenges have been a mix of upholding the programs and finding them unconstitutional.

- 8) ***Other policy considerations.*** When considering the creation of a state-funded ESA system, many more factors must be considered beyond what is described above. The funding impact of this bill is difficult to assess—the Proposition 98 Guarantee would be “rebased” to include private school student average daily attendance (ADA) but public funding would then be diverted away from traditional public schools to parents that currently enroll their children in private schools. It is unclear whether including private school student attendance in the calculation of the Proposition 98 Guarantee would cover the costs of funding these students’ ESAs. If not, the result would be less per-pupil state aid available to public school districts and charter schools.

Other policy considerations include, but are not limited to, the way in which the rights of students with disabilities would continue to be protected, whether low-income parents would receive a voucher amount that could cover private school tuition (the cost of which would likely rise as a result of this bill), whether private schools should be required to administer state testing for student outcome comparison purposes, what level of accountability private schools would be subjected to by state taxpayers, and whether parents would face admissions discrimination within an unregulated voucher system.

- 9) ***This bill would create costs between \$4 and \$6 billion, paid by cuts to public education or other areas in the state budget.*** This bill is substantially similar to a recent proposed constitutional and statutory initiative related to funding for students attending private schools (A.G. File No. 21-0011, Amendment #1). In its analysis of that initiative, the Legislative Analyst’s Office states the following:

“This measure would affect the state budget and the budgets of public schools. The magnitude of these effects largely depends on (1) the number of participating students, and (2) how public and private schools respond to the measure.

The 471,000 students who already attend private schools likely would be the first students to register for this program. In addition, some of the 84,000 students currently attending homeschool probably would switch to participating private schools. Since these students currently receive no state funding, their participation represents an additional cost to the state. Participation probably would be less than 100 percent, however, on the lower end, if 308,000 students participated (representing 60 percent of current private school students and 30 percent of homeschool students switching to private schools), the annual state cost at full implementation would be about \$4 billion. On the high end, if 462,000 students participated (representing 90 percent of current private school

students and 45 percent of homeschool students switching), the annual state cost would be about \$6 billion. The state generally would pay for these costs through reductions to funding for public schools (as the measure allows) and/or reductions to other state programs supported by the state General Fund.”

- 10) ***Arguments in support of vouchers.*** Proponents argue that these programs empower parents by providing them with choices about where and how to educate their children, and provide students, particularly at-risk or underserved students, with better education options. They also argue that free-market competition among public and private schools improves overall school quality through competition. Interestingly, some note that arguments in favor of school vouchers shifted over the years, with less discussion about the effects of vouchers on student achievement and more discussion about both the value of choice as a right in itself and the beneficial competitive effect of voucher programs on public schools.
- 11) ***Arguments in opposition of vouchers.*** Opponents argue that voucher programs divert public dollars to private schools, but without the same accountability or special education requirements as public schools. They express concerns that voucher programs divert motivated parents and students from underfunded public schools, leaving behind a larger number of disadvantaged students with fewer resources. Opponents also point out that it may be difficult for lower-income families to benefit from voucher programs, as the amount of money available through a voucher may not always cover the full costs of private school. Some raise concerns about public dollars funding religiously-affiliated private schools as a potential violation of the constitutional separation of church and state, as well as the potential for religious discrimination. Finally, some argue that these programs may potentially benefit only a small number of children without providing the comprehensive reforms needed to strengthen the entire public education system.
- 12) ***Related Legislation***

SCA 5 (Grove, 2023) proposes to amend Article IX of the State Constitution to: (1) allow the state to disburse funds and other public benefits to educational institutions irrespective of their religious affiliation, and (2) include the ADA of all children who are otherwise eligible to enroll in public kindergarten schools, elementary schools, and secondary schools but have chosen to fund their kindergarten, elementary, or secondary education with an ESA.

SUPPORT

California Policy Center (sponsor)
 Association of Christian Schools International
 California Catholic Conference
 Californians for Equal Rights Foundation
 Natomas USD for Freedom
 Our Duty
 Protection of the Educational Rights for Kids

Silicon Valley Association of Republican Women
Stand Up Sacramento County

OPPOSITION

California School Boards Association
California School Employees Association
California Teachers Association

-- END --

SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair
2023 - 2024 Regular

| | | | |
|--------------------|------------------|----------------------|----------------|
| Bill No: | SB 293 | Hearing Date: | April 19, 2023 |
| Author: | Grove | | |
| Version: | February 2, 2023 | | |
| Urgency: | No | Fiscal: | Yes |
| Consultant: | Kordell Hampton | | |

Subject: Pupil assessments: California Assessment of Student Performance and Progress: statewide results.

SUMMARY

This bill would require the California Department of Education (CDE) to make statewide summative California Assessment of Student Performance and Progress (CAASPP) results publicly available by October 1 each year and would require the State Board of Education (SBE) to align its calendar for delivering results to the CDE to be consistent with that deadline.

BACKGROUND

Existing Law

Education Code (EDC)

- 1) Requires, commencing with the 2013–14 school year, the CAASPP to be composed of all of the following:
 - a) A consortium summative assessment in English language arts and mathematics for grades 3 to 8, inclusive, and grade 11 that measures content standards adopted by the SBE.
 - b) Science grade level assessments in grades 5, 8, and 10 that measure content standards, as specified.
 - c) The California Alternate Performance Assessment in grades 2 to 11, inclusive, in English language arts and mathematics and science in grades 5, 8, and 10, which measures content standards adopted, as specified.
 - d) The Early Assessment Program.
 - e) Authorizes local educational agency (LEA) to administer a primary language assessment aligned to the English language arts standards adopted, as specified, to pupils who are identified as limited English proficient and enrolled in any of grades 2 to 11, inclusive. (EDC § C 60640)
- 2) Requires the SBE to adopt regulations that outline a calendar for delivery and receipt by CDE of summative assessment results for the pupil, school, grade,

district, county, and state levels. The calendar shall include delivery dates to the CDE and to LEA. The calendar for delivery shall provide for the timely return of assessment results, and consider the amount of paper-and-pencil administered assessments and number of items requiring hand scoring. The calendar shall also ensure that individual assessment results are reported to LEAs within eight weeks of receipt by the contractor for scoring. (EDC § 60641 (b))

ANALYSIS

This bill would require the CDE to make statewide summative CAASPP results publicly available by October 1 each year and would require the SBE to align its calendar for delivering results to the CDE to be consistent with that deadline.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “Delaying the release of student test scores makes it more difficult for teachers, academics, researchers, policymakers to make decisions or investments to improve student performance. SB 293 will create more transparency and help us understand where students are struggling so we can get them the help they need.”
- 2) ***California Assessment of Student Performance and Progress.*** The CAASPP was established on January 1, 2014. The CAASPP System replaced the Standardized Testing and Reporting (STAR) Program, which became inoperative on July 1, 2013. The CAASPP System encompasses the following assessments and student participation requirements. Information about the content and format of each test is also provided:

Smarter Balanced Summative Assessments for English Language Arts/Literacy (ELA) and Mathematics in Grades Three through Eight and Grade Eleven. Students at the designated grade levels are required to participate with the following exceptions:

- Students who participate in the alternate assessments.
- ELA only—English learners who are in their first 12 months of attending a school in the United States.

California Alternate Assessments (CAAs) for ELA and Mathematics in Grades Three Through Eight and Grade Eleven. Students with the most significant cognitive disabilities who are unable to take the Smarter Balanced Summative Assessments even with accessibility supports and whose individualized education program (IEP) indicates assessment with an alternate test.

California Science Test (CAST) in Grades Five, Eight, and Once In High School. The CAST is required for all students in grades five and eight and once in high school (i.e., grade ten, eleven, or twelve) unless their IEP indicates assessment with an alternate test. The CAST includes stand-alone or discrete items and performance task (PT).

CAA or Science in Grades Five, Eight, and Once in High School. The CAA for Science is required for students with the most significant cognitive disabilities who are unable to take the CAST even with accessibility supports and whose IEP indicates assessment with an alternate test. The CAA for Science is administered to students in grades five and eight and once in high school (i.e., grade ten, eleven, or twelve).

California Spanish Assessment (CSA) for Spanish Language Arts in Grades Three Through Eight and High School (optional). The CSA is an optional language test in Spanish for students who are seeking a measure to recognize their Spanish-specific reading, writing mechanics, and listening skills, regardless of their current enrollment in Spanish instruction.

- 3) **California School Dashboard (Dashboard) and System of Support.** The Dashboard is an online tool that shows how LEAs and individual schools are performing on state and local indicators that are included in California's school accountability system. The Dashboard was created to give parents and the public a complete picture of what is happening in our schools and districts and to identify districts and schools that need extra support. The Dashboard is a component of the Local Control Funding Formula (LCFF) law passed in 2013 that significantly changed how California provides funding to public schools and holds LEA accountable for student performance.

The Dashboard includes a concise set of state indicators. State indicators are based on student data that are annually collected across the state and apply to all districts, schools, and student groups. The state indicators are:

- a) Academic Performance Indicators (reported separately for English language arts/literacy and mathematics assessments);
- b) English Learner Progress;
- c) Chronic Absenteeism;
- d) Graduation Rate;
- e) Suspension Rate; and
- f) College/Career Readiness.

The California Dashboard returned in 2022, after reporting requirements were waived for the 2021-22 school year due to COVID-19. The Dashboard, which also contains the CAASPP data, was released December 15, 2022. Dashboard data is typically released between November and January. This bill would require the CDE to release such information in an earlier time framework than when it is normally released. Although the release of data at an earlier time may benefit LEAs, county offices of education, and Charter schools to help set academic performance goals, it is also important to verify that the information contained within the Dashboard is accurate. During the months of November to January, CDE is not only preparing the release of the Dashboard, but also ensuring the credibility of the data.

While the SBE unofficially think, they can meet the deadline proposed by this bill, that may not always be the case. The committee may wish to consider the benefits to schools for having this data (student test scores and state indicators) earlier while ensuring the data released is accurate.

- 4) **Committee Amendment.** *Committee staff recommends, and the author has agreed, the following amendment:*

a) Move the deadline date for CDE to post CAASPP data to October 15.

- 5) **Related legislation.**

SB 172 (Liu) Chapter 572, Statutes of 2015, suspended the administration of the high school exit examination, and the requirement that students pass this exam as a condition of graduation from high school, during the 2015-16 through 2017-18 school years, and requires LEAs to grant a diploma to any student who completed grade 12 in the 2003-04 or subsequent school year and met all applicable graduation requirements other than passage of the exit exam.

AB 484 (Bonilla) Chapter 489, Statutes of 2013 for the 2013-14 and 2014-15 school years, upon approval of the SBE, (1) authorizes the Superintendent of Public Instruction (SPI) to not assign an Academic Performance Index (API) score to a school or school district due to a determination by the SPI that a transition to new standards-based assessments would compromise comparability of results across schools or school districts; (2) extends the duration of the provisions of the Leroy Greene California Assessment of Academic Achievement Act (Leroy Green Act) by six years so that they become inoperative on July 1, 2020, and be repealed on January 1, 2021; (3) deletes the provisions establishing the Standardized Testing and Reporting (STAR) Program, and instead establishes the Measurement of Academic Performance and Progress (MAPP), commencing with the 2013-14 school year, as specified; and (4) authorizes, commencing with the 2014-15 school year and for the Early Assessment Program (EAP), the replacement of the California Standards Test (CST) and the augmented CSTs in English language arts and mathematics with the grade 11 consortium computer-adaptive assessments in English language arts and mathematics, as provided.

AB 1792 (Salas, 2019) would remove the requirement that the CAASPP testing for a consortium summative assessment in English language arts and mathematics be administered in grade 11 and would require the SPI to specify one year during grades 9 to 12, inclusive, in which this testing will be administered. The bill would also make conforming changes. This bill did not receive a hearing in Assembly Education Committee.

SB 267 (Pavley) Chapter 479, Statutes of 2014 extended the implementation date on the use of alternative means for an eligible pupil with a disability to demonstrate academic achievement rather than passing the high school exit exam, thereby extending the exemption from the requirement to pass the exit exam.

SUPPORT

Association of California School Administrators
California Chamber of Commerce
California Charter Schools Association
California Parents Union
Californians for Equal Rights Foundation
Natomas USD for Freedom
Stand Up Sacramento County
Taft Union High School District
Tehachapi Unified School District
2 Individuals

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No: SCA 5
Author: Grove
Version: March 8, 2023
Urgency:
Consultant: Ian Johnson

Hearing Date: April 19, 2023

Fiscal: Yes

Subject: Educational expenses: education savings accounts.

NOTE: This measure has been referred to the Committees on Education and Elections. A "do pass" motion should include referral to the Committee on Elections.

SUMMARY

This bill proposes to amend Article IX and Article XVI of the State Constitution to: (1) allow the state to disburse funds and other public benefits to educational institutions irrespective of their religious affiliation, and (2) include the average daily attendance (ADA) of all children who are otherwise eligible to enroll in public kindergarten schools, elementary schools, and secondary schools but have chosen to fund their kindergarten, elementary, or secondary education with an Education Savings Account (ESA) at a private school.

BACKGROUND

The California Constitution establishes the Proposition 98 Guarantee, a minimum funding requirement for schools and community colleges, with three main tests for calculating the guarantee based on inputs such as General Fund revenue, per capita personal income, and ADA.

Section 8 of Article IX and Section 5 of Article XVI of the California Constitution both bar state support for religious schools. Put simply, these sections state that no public money shall ever be appropriated for the support of any sectarian or denominational school, or any school not under the exclusive control of officers of the public schools.

Section 8 of Article XIII B and Section 8 of Article XVI of the California Constitution specify ADA to mean the average daily attendance of school districts in kindergarten and grades one to 12, inclusive, and the community colleges.

ANALYSIS

This bill:

- 1) Authorizes the state, and every agency or political subdivision of the state, to disburse funds pursuant to an agreement between the state and a parent or legal guardian of an eligible child for tuition and education-related expenses, as provided by statute, and provide tax or other public benefits to private schools, private colleges, private universities, or private vocational educational or training

institutions, irrespective of religious affiliation, to further the promotion of intellectual, scientific, moral, and agricultural improvement.

- 2) Defines ADA to include all children enrolled in public kindergarten schools, elementary schools, and secondary schools and all children who are eligible to enroll in public kindergarten schools, elementary schools, and secondary schools but have chosen to fund their kindergarten, elementary, or secondary education with an ESA, for purposes of measuring changes in enrollment as they relate to computing the Proposition 98 Guarantee.
- 3) Authorizes the Legislature, by statute, to require the allocation of ad valorem property tax revenue in the manner described in the ESA Act of 2024.
- 4) Specifies that its provisions are severable and require the Attorney General to defend against any action challenging the validity of the measure.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “California’s government-run schools are failing too many students. Any company that failed 84% of its customers would be run out of business, but in California the legislature rewards failing schools with even more funding. The government focuses more on funding institutions than students, and most parents have no other options. SCA 5, The Education Savings Account Act of 2024, will introduce more choice into California’s school system, giving parents and students more educational options. This bill will empower students to enroll in schools better suited for their educational needs. SCA 5 puts children first.
- 2) ***Companion legislation would create state voucher program and place restrictions on nonresident enrollment in public higher education.*** This constitutional amendment is a companion measure to SB 292 (Grove, 2023), which would establish the ESA Act of 2024 and require the Legislature to recalculate the Proposition 98 Guarantee, as specified. SB 292 would only become operative if this measure is approved as part of the November 2024 election. Under SB 292, the Proposition 98 Guarantee would be “rebased” to include private school student ADA but public funding would then be diverted away from traditional public schools to parents that currently enroll their children in private schools. The policy changes and state and local mechanisms required to implement this measure and SB 292 are very complex and would profoundly change how public (and private) education is currently funded. Given that no one knows how many parents and schools would apply for vouchers or move their children from public to private schools, it is difficult to assess the impact of this measure and SB 292 with any meaningful precision.
- 3) ***State funding for religious schools.*** In California, roughly 7.5 percent of students, totaling about 500,000, attend private schools. Of those students, many attend a private school that is affiliated with a church or religion. In most states, private school tuition is paid by parents, without significant government support or subsidy. Private schools tend to be costly, not generally tax-deductible, and heavily reliant on donations to support their capital needs. Some

private school students may receive certain services from a public school, including services for a student with a disability or check-ins for a student that is home-schooled. The line between private and public schooling becomes more blurred when considering school voucher programs, which SB 292 would establish. In these programs, parents receive state-funded vouchers for use toward payment of tuition costs at a private school. Because many private schools have a religious affiliation, considerations about the separation of church and state arise. Like most states, California's constitution prohibits the use of public money for religious schools.

- 4) ***The Proposition 98 Guarantee.*** Each year, the state calculates a "minimum guarantee" for school and community college funding based upon a set of formulas established by Proposition 98 (1988). The California Constitution sets forth three main tests for calculating the Proposition 98 minimum guarantee. Each test takes into account certain inputs, including General Fund revenue, per capita personal income, and public school ADA. Test 1 links school funding to a minimum share of General Fund revenue, whereas Test 2 and Test 3 build upon the amount of funding provided the previous year. The Constitution sets forth rules for comparing the tests, with one of the tests becoming operative and used for calculating the minimum guarantee that year. Although the state can provide more funding than required, it usually funds at or near the guarantee. With a two-thirds vote of each house of the Legislature, the state can suspend the guarantee and provide less funding than the formulas require that year. The guarantee consists of state General Fund and local property tax revenue.
- 5) ***This bill would create costs between \$4 and \$6 billion, paid by cuts to public education or other areas in the state budget.*** This bill is substantially similar to a recent proposed constitutional and statutory initiative related to funding for students attending private schools (A.G. File No. 21-0011, Amendment #1). In its analysis of that initiative, the Legislative Analyst's Office states the following:

"This measure would affect the state budget and the budgets of public schools. The magnitude of these effects largely depends on (1) the number of participating students, and (2) how public and private schools respond to the measure.

The 471,000 students who already attend private schools likely would be the first students to register for this program. In addition, some of the 84,000 students currently attending homeschool probably would switch to participating private schools. Since these students currently receive no state funding, their participation represents an additional cost to the state. Participation probably would be less than 100 percent, however, on the lower end, if 308,000 students participated (representing 60 percent of current private school students and 30 percent of homeschool students switching to private schools), the annual state cost at full implementation would be about \$4 billion. On the high end, if 462,000 students participated (representing 90 percent of current private school students and 45 percent of homeschool students switching), the annual state cost would be about \$6 billion. The state generally would pay for these costs

through reductions to funding for public schools (as the measure allows) and/or reductions to other state programs supported by the state General Fund.”

6) ***Related Legislation***

SB 292 (Grove, 2023) would establish the ESA Act of 2024 only if this Senate Constitutional Amendment is approved as part of the November 2024 election.

SUPPORT

California Policy Center (sponsor)
Association of Christian Schools International
California Catholic Conference
California School Choice Foundation
Californians for Equal Rights Foundation
Natomas USD for Freedom
Protection of the Educational Rights for Kids
Silicon Valley Association of Republican Women
Stand Up Sacramento County

OPPOSITION

California School Boards Association
California School Employees Association
California Teachers Association

-- END --

SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

| | | | |
|--------------------|-----------------|----------------------|----------------|
| Bill No: | SB 509 | Hearing Date: | April 19, 2023 |
| Author: | Portantino | | |
| Version: | April 11, 2023 | | |
| Urgency: | No | Fiscal: | Yes |
| Consultant: | Kordell Hampton | | |

Subject: School employee and pupil training: youth mental and behavioral health: mental health education.

SUMMARY

This bill requires 1) 75 percent of a local educational agency's (LEA's) classified and certificated employees to receive youth behavioral health training on or before January 1, 2027, as specified; 2) requires each LEA, county office of education (COE), state special school, and charter school teach evidence-based, age-appropriate mental health education from instructors trained in the appropriate courses, as specified; and 3) include, as a part of an LEA and COE's, comprehensive school safety plan (CSSP), the total percentage of school employees that annually have received the youth behavioral training.

BACKGROUND

Existing Law

Education Code (EDC)

- 1) Defines "Youth behavioral health disorders" to mean a pupil mental health and substance use disorders. (EDC § 49428.15 (a)(4))
- 2) Defines "Youth behavioral health training" to mean training addressing the signs and symptoms of a pupil mental health or substance use disorder. (EDC § 49428.15(a)(5))
- 3) Requires the California Department of Education (CDE), by January 1, 2023, to recommend best practices and identify evidence-based and evidence-informed training programs for schools to address youth behavioral health, including, but not necessarily limited to, staff and pupil training, and requires the CDE, in identifying one or more evidence-based or evidence-informed youth behavioral health training programs for use by LEAs to ensure that each training program meets all of the following requirements:
 - a) Provides instruction on recognizing the signs and symptoms of youth behavioral health, including common psychiatric conditions and substance use disorders such as opioid and alcohol abuse.

- b) Provides instruction on how school staff can best provide referrals to youth behavioral health services, or other support to individuals in the early stages of developing a behavioral disorder.
 - c) Provides instruction on how to maintain pupil privacy and confidentiality in a manner consistent with federal and state privacy laws.
 - d) Provides instruction on the safe deescalation of crisis situations involving individuals with a youth behavioral health disorder.
 - e) Is capable of assessing trainee knowledge before and after training is provided in order to measure training outcomes.
 - f) Is administered by a nationally recognized training authority in youth behavioral health disorders.
 - g) Includes in-person and virtual training with certified instructors who can recommend resources available in the community for individuals with a youth behavioral health disorder. For this purpose "certified instructors" means individuals who obtain or have obtained a certification to provide the selected training. (EDC § 49428.15 (c))
- 4) Requires the governing board of a school district to give diligent care to the health and physical development of pupils, and authorizes the district to employ properly certified persons for the work. (EDC § 49400)
- 5) Requires the governing board of any LEA(LEA) that serves pupils in grades seven to twelve, inclusive, to adopt a policy on pupil suicide prevention, intervention, and postvention. The policy shall specifically address the needs of high-risk groups, including suicide awareness and prevention training for teachers, and ensure that a school employee acts within the authorization and scope of the employee's credential or license. (EC § 315)

ANALYSIS

This bill requires 1) 75 percent of a local LEAs classified and certificated employees to receive youth behavioral health training on or before January 1, 2027, as specified; 2) requires each LEA, COE, state special school, and charter school teach evidence-based, age-appropriate mental health education from instructors trained in the appropriate courses, as specified; and 3) include, as a part of an LEA and COE's, CSSP, the total percentage of school employees that annually have received the youth behavioral training. Specifically, this bill:

Identification of Youth Behavioral Health Training by the CDE by January 1, 2023

- 1) Strikes the specification to include psychiatric conditions and substance abuse disorders such as opioid and alcohol abuse as part the youth behavioral health trainings identified by the CDE.

Youth Behavioral Health Training For Classified and Certificated Employees

- 2) Requires an LEA, on or before January 1, 2027, to certify to the CDE that 75 percent of its classified employees and certificated employees, who have direct contact with pupils at each school, received youth behavioral health training, identified by the CDE, subject to all of the following conditions:
 - a) The youth behavioral health training is provided to classified and certificated employees during regularly scheduled work hours.
 - b) If a classified or certificated employee receives the youth behavioral health training in a manner other than through an in-service training program provided by the LEA, the employee may present a certificate of successful completion of the training to the LEA for purposes of satisfying the requirements of this bill.
 - c) The youth behavioral health training shall not be a condition of employment or hiring for classified or certificated employees.
- 3) Requires an LEA to exclude a licensed mental health professional who holds a pupil personnel service credential from the youth behavioral health training identified by the CDE.
- 4) Specifies that an LEA may meet the requirement to train 75 percent of its certificated and credentialed staff school employees, who have direct contact with pupils at each school, by having a school employee of the LEA who holds a pupil personnel service credential provide the youth behavioral health training to the school employees of the LEA if the training program is identified by the CDE.

Mental Health Instruction To Pupils

- 5) Requires each LEA, COE, state special school, and charter school to ensure that all pupils in grades 1 to 12 receive evidence-based, age-appropriate mental health education from instructors trained in the appropriate courses at least once in elementary school, at least once in junior high school or middle school, as applicable, and at least once in high school.

Comprehensive School Safety Plan

- 6) Requires LEAs to include in its school safety plan the number of school employees and the total percentage of school employees that annually have received the youth behavioral training.

Findings and Declarations

- 1) Adds findings and declarations related to the need for mental health intervention in California schools.

STAFF COMMENTS

- 1) **Need for the bill.** According to the author "Under SB 14 (Portantino, Chapter 672, Statutes of 2021), the completion of a state-identified training program to address

youth behavioral health is not required. This bill, SB 509, builds upon the law by requiring a LEA, as defined, to certify to the department that 75 percent of both classified and certificated employees having direct contact with pupils received the youth behavioral health training identified. This bill ensures that designated staff is trained to recognize and respond to signs of mental health challenges and substance use, strengthening opportunities to intervene and guide youth to appropriate resources and services.”

- 2) **CDE Youth Behavioral Health Programs.** Pursuant to SB 14 (Portantino) Chapter 672, Statutes of 2021, the CDE was required to recommend, by January 1, 2023, best practices and identify evidence-based and evidence-informed training programs for schools to address youth behavioral health, including, but not necessarily limited to, staff and pupil training.

The provision of this bill remove the specification to include psychiatric conditions and substance abuse disorders such as opioid and alcohol abuse. While “youth behavioral health disorders” is defined as “pupil mental health and substance use disorders” (EDC 49428.15), statute also specifies that common psychiatric conditions and substance use disorders such as opioid and alcohol abuse should also be included. By removing this specification the CDE, in identifying one or more evidence-based or evidence-informed youth behavioral health training programs for use by LEAs to train school staff or pupils, and could miss a critical piece to ensuring vital information to provide to LEAs.

The committee may wish to consider if removing this specification, as mentioned above, would eliminate essential information to LEAs, school personnel, and students in recognizing the signs and symptoms of psychiatric conditions and substance use disorders such as opioid and alcohol abuse be eliminated. (See Staff Comment #6)

On the CDE's website, the department has identified the Youth Mental Health First Aid (YMHFA) a research-based curriculum created upon the medical first aid model. It is designed to provide parents, family members, caregivers, teachers, school staff, neighbors, and other caring adults with skills to help a school-age child or youth who may be experiencing emotional distress, the onset of a mental illness, addiction challenge or who may be in crisis. YMHFA participants learn to recognize signs and symptoms of children and youth in emotional distress, initiate and offer help, and connect the youth to professional care through a five-step action plan.

YMHFA also clarifies “that its training is **not** intended for staff with a mental health background such as school psychologists, social workers, clinicians, etc., due to its basic nature. The ideal audience includes teachers, administrators, nurses, counselors, and any other credentialed staff, classified staff (school secretaries, registrars, yard supervisors, campus monitors, bus drivers, lunch staff, janitors, aides, after school staff, etc.), parents, youth employers, and other community partners that have contact with students.”

This bill permits a school employee of the LEA who holds a pupil personnel service credential provide the youth behavioral health training to the school employees of

the LEA, if the training program is identified by the CDE. However, it is unclear if that employee needs to have already taken the training before providing the training to others.

The author may wish to consider clarifying that a school employee who provides the youth behavioral health training to other school employees must complete any training requirements necessary, as established by the training program identified, before providing training to other school employees. (See Staff Comment #6)

In addition to allowing school employees to train other school employees, this bill also requires, on or before January 1, 2027, to certify to the CDE that 75 percent of its classified employees and certificated employees, who have direct contact with pupils at each school, received youth behavioral health training, identified by the CDE. However, this bill does not specify the frequency in which an LEA must certify with the CDE. The author may wish to consider how frequently LEAs should certify with the CDE to ensure that 75 percent of an LEA's certificated and classified employees have received the youth behavioral health training, identified by the CDE.

- 3) ***What is a Pupil Personal Service (PPS) Credential?*** PPS credential holders may work with individual students, groups of students, or families to provide the services authorized by their credential to address the needs of all students by providing a comprehensive PPS program. PPS credential covers services for individuals who serve as counselors, school psychologists, school social workers, and school child welfare and attendance regulators. Holders of these credentials perform, including, but not limited to, the following duties:

School Counseling: Develop, plan, implement, and evaluate a school counseling and guidance program that includes academic, career, personal, and social development; advocate for the high academic achievement and social development of all students; provide schoolwide prevention and intervention strategies and counseling services; and provide consultation, training, and staff development to teachers and parents regarding students' needs.

School Social Work: Assess home, school, personal, and community factors that may affect a student's learning; identify and provide intervention strategies for children and their families, including counseling, case management, and crisis intervention; consult with teachers, administrators, and other school staff regarding social and emotional needs of students; and coordinate family, school, and community resources on behalf of students.

School Psychology: Provide services that enhance academic performance; design strategies and programs to address problems of adjustment; consult with other educators and parents on issues of social development and behavioral and academic difficulties; conduct psycho-educational assessment for purposes of identifying special needs; provide psychological counseling for individuals, groups, and families; and coordinate intervention strategies for management of individuals and schoolwide crises.

Child Welfare and Attendance: Access appropriate services from both public and private providers, including law enforcement and social services; provide staff development to school personnel regarding state and federal laws pertaining to due process and child welfare and attendance laws, address school policies and procedures that inhibit academic success, implement strategies to improve student attendance; participate in schoolwide reform efforts; and promote understanding and appreciation of those factors that affect the attendance of culturally-diverse student populations.

This bill requires an LEA to exclude mental health professional who hold a pupil personnel service credential from the youth behavioral health training. This seems consist with the program identified by the CDE. While the training is not intended for staff with a" mental health background such as school psychologists, social workers, clinicians," the program may still contain important information.

The author may wish to consider providing LEAs the flexibility to decide if mental health professionals holding a PPS credential should be excluded from training identified by the CDE completely. (See Staff Comment #6)

- 4) **Comprehensive School Safety Plan.** The law requires that each school update and adopt its CSSP by March 1 annually. LEAs, COEs, and charter schools serving pupils in grades kindergarten through twelve are required to develop and maintain a CSSP designed to address campus risks, prepare for emergencies, and create a safe, secure learning environment for students and school personnel. The law requires designated stakeholders to annually engage in a systematic planning process to develop strategies and policies to prevent and respond to potential incidents involving emergencies, natural and other disasters, hate crimes, violence, active assailants/intruders, bullying and cyberbullying, discrimination, and harassment, child abuse and neglect, discipline, suspension and expulsion, and other safety aspects.

The author may wish to consider if the requirement to include the number of school employees and the total percentage of school employees that annually have received the youth behavioral training in their CSSP is an appropriate location to make such information known.

- 5) **Joint Curriculum Policy.** The committee on March 15, 2023, adopted the joint Assembly and Senate curriculum policy of 2023-24 that discourages the introduction of policy bills that propose to require, or require consideration of, modifications to state curriculum frameworks, to require that specified content be taught, or to require the development of new model curricula. As specified, this bill requires each LEA, COE, state special school, and charter school to ensure that all pupils in grades 1 to 12, receive evidence-based, age-appropriate mental health education from instructors trained in the appropriate courses at least once in elementary school, at least once in junior high school or middle school, as applicable, and at least once in high school.

This portion of SB 509 (Portantino, 2023) violates the committee's policy on curriculum, as it requires specific content to be taught to pupils.

6) **Committee Amendments.** *Committee staff recommends, and the author has agreed to, the following amendments which address questions raised in comments # 2, 3, and 4:*

- a) Restores the specification that the youth behavioral health trainings identified by CDE to include psychiatric conditions and substance abuse disorders such as opioid and alcohol abuse;
- b) Strike the requirement for an LEA and COE to include, as part of their CSSP, the number of school employees and the total percentage of school employees that annually have received the youth behavioral training;
- c) Align the requirement for an LEA to certify to the CDE that 75 percent of its classified and certificated employees have having direct contact with pupils at each school have received the youth behavioral health training with the beginning of the school year;
- d) Permit, rather than require, an LEA to exclude a licensed mental health professional who holds a pupil personnel service credential from the youth behavioral health training; and
- e) Specify that school employees who provide the youth behavioral health training to other school employees must complete any training requirements necessary, as established by the training program identified by the CDE, to provide training to other school employees.

7) **Related Legislation.**

SB 387 (Portantino, 2021) requires a LEA, on or before January 1, 2025, to certify to the CDE that 75 percent of its classified and certificated employees who have direct contact with pupils at each school have received specified youth behavioral health training. *This bill was never heard in Assembly Education Committee.*

SB 224 (Portantino), Chapter 675, Statutes of 2021, requires LEAs and charter schools that offer courses in health education to students in middle school or high school to include in those courses instruction in mental health that meets specified requirements, and requires the CDE, by January 1, 2024, to develop a plan to increase mental health instruction in California public schools.

SB 14 (Portantino) Chapter 672, Statutes of 2021, requires a student's absence related to pupil mental or behavioral health to count as an excused absence for school attendance reporting and, subject to appropriation, requires the CDE, by January 1, 2023, to recommend best practices and identify evidence-based and evidence-informed training programs for schools to address youth behavioral health, including staff and student training.

SB 428 (Pan, 2019) requires the CDE to identify an evidence-based training program for LEAs to use to train classified and certificated school employees having direct contact with pupils in youth mental and behavioral health. This bill was vetoed by Governor Newsom with the following message:

Providing support for students facing mental health is of critical importance. Multiple public agencies beyond CDE hold a responsibility for addressing the mental health crisis impacting young people today. That is why I worked with the Legislature to appropriate \$50 million in this year's budget to create the Mental Health Student Services Act. Mental health partnerships among county mental health or behavioral health departments, school districts, charter schools and county offices of education are best positioned to address the diverse mental health needs of young people.

SUPPORT

American Foundation for Suicide Prevention
California Access Coalition
California Alliance of Caregivers
California Alliance of Child and Family Services
California Coalition for Mental Health
California State Association of Psychiatrists
California Youth Empowerment Network
Children Now
Children's Institute
Community Solutions for Children, Families and Individuals
Democratic Club of Claremont
Depression and Bipolar Support Alliance California
East Bay Children's Law Offices
Hillsides
Mental Health America of California
Monarch School
National Association of Social Workers, California Chapter
National Council for Mental Wellbeing
NextGen California
Pallet Shelter
PathPoint
Steinberg Institute
Sycamores
Tessie Cleveland Community Services Corporation
The California Association of Local Behavioral Health Boards and Commissions
The Kennedy Forum
18 individuals

OPPOSITION

California Teachers Association

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair
2023 - 2024 Regular

Bill No: SB 765
Author: Portantino
Version: April 11, 2023
Urgency: No
Consultant: Ian Johnson

Hearing Date: April 19, 2023

Fiscal: Yes

Subject: Teachers: retired teachers: teacher preparation: student financial aid.

NOTE: This bill has been referred to the Committees on Education and Labor, Public Employment, and Retirement. A "do pass" motion should include referral to the Committee on Labor, Public Employment, and Retirement.

SUMMARY

This bill would: (1) exempt a retiree teacher returning to work to fulfill a critical need in a teaching position from postretirement compensation limits, (2) increase the maximum award amount for the Teacher Residency Grant Program to \$40,000 per teacher candidate, and (3) annually exempt 1,000 Cal Grant awardees from demonstrating financial need if they agree to enroll in a teacher preparation program after earning their baccalaureate degree.

BACKGROUND

Existing law:

- 1) Prohibits a retired person from being employed for a period of 180 days following the date of retirement, unless the employer certifies the nature of the employment and that the appointment is necessary to fill a critically needed position before 180 days have passed and the appointment has been approved by the governing body of the employer in a public meeting.
(Government Code Section 7522.56)
- 2) Limits the per-school year cash compensation to a retired member for performance of retired member activities, excluding specified reimbursements to one-half of the median final compensation of all members who retired for service during the fiscal year ending in the previous calendar year.
(Education Code (EC) Section 24214)
- 3) Requires a superintendent, a county superintendent of schools, or a chief executive officer of a community college to submit all documentation required by the State Teachers' Retirement System (STRS) to substantiate the eligibility of a retired member for applying the cash compensation summarized in #2 above.
(EC Section 24214.5)
- 4) For the 2021-22 fiscal year, appropriates \$350 million General Fund to the Commission on Teacher Credentialing (CTC) for the Teacher Residency Grant

Program to support teacher residency programs that recruit and support the preparation of teachers. The funding is available for encumbrance until June 30, 2026 and grant allocations can be for up to \$25,000 per teacher candidate, matched by the grant recipient at a rate of 80 percent of the grant amount received. (EC Section 44415.5)

- 5) Establishes the Cal Grant program, administered by the California Student Aid Commission (CSAC), to provide grants to financially needy students to attend a college or university. The Cal Grant programs include both the entitlement and the competitive Cal Grant awards. Supplemental award programs have been created for students with one or more dependent children and former and current foster youth to assist with non-tuition costs. The program consists of the Cal Grant A, Cal Grant B, and Cal Grant C programs, and eligibility is based upon financial need, grade point average (GPA), California residency and other criteria. Maximum award amounts for California State University (CSU) and University of California (UC) are established in the annual Budget Act and have traditionally covered all systemwide tuition and fees.
(EC Section 69430 – 69433 and EC Section 69465, 69470 and 6945.5)

ANALYSIS

This bill:

- 1) Exempts the compensation earned by a member who retired from STRS from the postretirement compensation limitation if the member returns to perform retired member activities for an employer, excluding a community college district.
- 2) Requires an employer to submit all documentation required by STRS to substantiate the eligibility of the retired member for the exemption.
- 3) Prohibits a retired member from performing retired member activities until after the documentation has been received by STRS. The documentation shall include certification, under penalty of perjury, of the following:
 - a) The member is returning to fulfill a critical need in a teaching position.
 - b) The teaching position was first advertised for appointment to current active or inactive members of the program with the necessary qualifications to perform the requirements of the teaching position, and no qualified current active or inactive member was available to be appointed.
 - c) The appointing authority made a good faith effort to hire a retired member who reinstated to active membership for the teaching position at the same salary that was offered as first advertised.
 - d) The appointing authority, having tried and failed to hire a current active or inactive member or a reinstated retired member, hired a retired member, and the salary offered to the retired member does not exceed the salary that was offered as first advertised.

- e) The compensation paid for the teaching position is not less than the minimum, nor more than the maximum, paid by the employer to other employees performing comparable duties.
 - f) The teaching position vacancy occurred due to circumstances beyond the control of the employer. The termination of employment of the retired member with the employer is not the basis for the need to acquire the services of the retired member.
 - g) The member did not receive additional service credit or financial inducement to retire.
- 4) Specifies that the exemption shall commence on the date the retired member is appointed or assigned to the teaching position and shall end on June 30 of that fiscal year.
 - 5) Defines “teaching position” to mean a position requiring certification qualifications authorized by the CTC or a position requiring administrative or supervisory credentials.
 - 6) Specifies that the exemption shall remain in effect only until June 30, 2026.
 - 7) Increases the maximum award amount for the Teacher Residency Grant Program to \$40,000 per teacher candidate.
 - 8) Beginning with the 2024-25 award year, exempts 1,000 Cal Grant applicants from demonstrating financial need if both of the following are met:
 - a) The applicant meets the applicable GPA requirement.
 - b) The applicant files a statement of intent with the CSAC stating that the applicant agrees to enroll in a teacher preparation program that is approved by the CTC upon completion of the applicant's baccalaureate degree.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “California is facing a devastating teacher short-age, exacerbated by the COVID-19 pandemic and the Great Resignation. The California Commission on Teacher Credentialing (CTC) reports over 10,000 teacher vacancies across California during the 2021–22 school year. CalSTRS reports that teacher retirements increased by 26 percent in 2020. There are not enough individuals entering the teaching profession to counteract the number of teachers leaving the workforce.

“Additionally, teacher demand is increasing. According to the Learning Policy Institute, in order to ensure a successful Transitional Kindergarten (TK) rollout, between 11,900 and 15,600 additional lead teachers, and between 16,000 and 19,700 assistant transitional kindergarten teachers are needed by 2025–26.

“This legislation will help bolster the California teacher pipeline.”

- 2) ***Already weak teaching pipeline further damaged by COVID-19 education disruptions.*** A March 2021 report by the Learning Policy Institute (LPI) raised concerns about the effects of the COVID-19 pandemic on the teacher shortage in California:
 - a) Teacher shortages remain a critical problem. Most districts have found teachers to be in short supply, especially for math, science, special education, and bilingual education. Shortages are especially concerning as a return to in-person instruction will require even more teachers to accommodate physical distancing requirements. Most districts are filling hiring needs with teachers on substandard credentials and permits, reflecting a statewide trend of increasing reliance on underprepared teachers.
 - b) Teacher pipeline problems are exacerbated by teacher testing policies and inadequate financial aid for completing preparation. Many districts attributed shortages to having a limited pool of fully credentialed applicants, with more than half reporting that testing requirements and lack of financial support for teacher education pose barriers to entry into teaching.
 - c) Teacher workload and burnout are major concerns. The transition to online and hybrid learning models has had a steep learning curve and poses ongoing challenges that have been a primary contributor to some teachers' decisions to retire earlier than previously planned. With district leaders estimating that teacher workloads have at least doubled, many were concerned that the stressors of managing the challenges of the pandemic on top of the challenges of an increased workload could lead to teacher burnout and increased turnover rates.
 - d) Growing retirements and resignations further reduce supply. In some districts, retirements and resignations are contributing to shortages, while in others, these retirements and resignations offset the need for anticipated layoffs due to expected budget cuts this school year. District leaders anticipate higher retirement rates next year, which could exacerbate teacher shortages.
- 3) ***Teacher survey data.*** In a September 2022 survey of TK-12 teachers in California conducted by Hart Research Associates, aspiring and former teachers shared their suggested policy changes to develop a strategy for teacher retention and recruitment. This survey provided several insights on teacher preparation programs, teacher workload, and the financial costs of teacher preparation programs. Aspiring teachers recommended compensating student teachers to help alleviate financial stress at an important time in the teacher preparation process. Specifically the report noted:
 - a) Aspiring teachers of color were more likely to feel less motivated to teach than their white counterparts, and through those discussions, a clear

disparity emerged. The reasons they feel less motivated include heightened financial stress, low or no pay for time spent student-teaching, discouraging feedback, and the required teacher candidate assessments, which some express are racially biased. The testing and evaluation process required to enter the profession was cited as a significant reason for why future teachers of colors became less motivated.

- b) The cost of tuition and assessments is a major financial burden and source of stress for these aspiring teachers in California. Many report that they specifically chose the institution they attended based on tuition costs and the availability of scholarships, grants, and financial aid. Several indicated that, had they not had financial support from a spouse or partner or received some form of financial assistance or a scholarship, they likely would not have pursued a career in teaching.
 - c) Compensating student teachers was suggested by a significant number of the aspiring teachers and is viewed as a very important policy change that will help alleviate financial stress at an important time in the teacher preparation process.
- 4) ***Recently expired executive orders sought to address education staffing shortages via substitute and retired teachers.*** On January 11, 2022, Governor Gavin Newsom released Executive Order N-3-22 to provide temporary administrative and staffing flexibilities to assist schools in maintaining operations with qualified staff and keep students in learning environments with strong COVID-19 safety measures.

The following were authorized to local education agencies (LEAs) that made a written finding, signed by the LEA's superintendent or designee and retained for public access upon request, that temporary staffing flexibility would support maintaining in-person instruction through March 31, 2022:

- a) Allow LEAs to issue 30-day emergency substitute credentials without regard to whether the recipient has a pending credential or permit application, provided candidates have an undergraduate degree from a regionally accredited college or university and pass a criminal background check.
- b) Lengthen the duration for which substitute teachers can be assigned to a single general education assignment from the current maximum of 60 days to the new limit of 120 days.
- c) Permit student teachers to serve as teachers without the requirement that the student teacher be under the direct supervision of a certificated teacher in a classroom for purposes of calculating a school district's average daily attendance for apportionment for each day, or portion of a day.
- d) Continue existing financial incentives for retiree teachers. These incentives include suspension of certain post-retirement compensation

limitations and suspension of the required 180-day service break — a suspension that applies to classified employees as well.

This bill includes substantially similar financial incentives for retiree teachers related to post-retirement compensation limits and the 180-day service break requirement through June 30, 2026.

- 5) ***Teacher Residency Grant Program overview and initial evaluation.*** The 2021-22 State Budget appropriates \$350 million over a five-year period for Teacher Residency Programs including Capacity, Expansion, and Implementation. Per the authorizing legislation, Teacher Residency Program grants are available to LEAs to create or expand residency programs that partner with one or more CTC-approved teacher preparation programs offered by a higher education institution. While in the program, a prospective teacher teaches at least one-half time alongside a teacher of record, who is designated as the experienced mentor teacher, for at least one full school year while engaging in initial preparation coursework.

In spring of 2021, WestEd collected data through the formative evaluation of the grant program in order to help understand the extent to which grantee programs were building toward financial sustainability within the context of their one-time funding sources. This evaluation found that grantee programs have made progress towards key outcomes in the following ways:

- a) Residencies are supporting the development of a more diverse teaching workforce.
- b) Residents intend to stay and teach in their residency LEAs.
- c) Residents, mentor teachers, and partnership team members value their residency programs.
- d) Residents and mentor teachers highlight the importance of residencies' rich yearlong clinical experience.

The evaluation also noted that the upfront resources to design and launch residency partnerships and provide early cohorts of residents with adequate financial support can be substantial. The following challenges were identified:

- a) The majority of residents report experiencing financial hardships during their residency year, and residents of color are disproportionately impacted.
- b) Most residency programs are offering district-based employment opportunities to residents (such as having them serve as substitute teachers, paraprofessionals, or tutors), but fewer than half of residents are participating in these opportunities.
- c) Most programs are not yet broadening their funding sources and strategies to enable financial sustainability beyond the grant program.

- d) Many programs could strengthen their partnerships with partner LEAs and build their internal capacity to support sustainability.

This bill would increase the maximum award amount for the Teacher Residency Grant Program to \$40,000 per teacher candidate.

- 6) ***Cal Grant Program overview.*** The Cal Grant program, the state's largest financial aid program, is intended to help students with financial need cover college costs. The program offers multiple types of Cal Grant awards. The amount of aid students receive depends on their award type and the segment of higher education they attend. Cal Grant A covers full systemwide tuition and fees at public universities and a fixed amount of tuition at private universities. Cal Grant B provides the same amount of tuition coverage as Cal Grant A in most cases, while also providing an "access award" for nontuition expenses such as food and housing.

To qualify for Cal Grants, students must meet certain income and asset criteria. These criteria vary by family size and are adjusted annually for inflation. For example, in the 2022-23 award year, a dependent student from a family of four must have an annual household income of under \$116,800 to qualify for Cal Grant A or C, and under \$61,400 to qualify for Cal Grant B. In most cases, students must also meet a GPA requirement. The specific GPA requirement varies by award type. Most award types require a minimum high school GPA of 2.0 or 3.0 or a minimum community college GPA of 2.0 or 2.4.

- 7) ***Recently adopted Cal Grant Program reforms to the award structure and eligibility criteria.*** The 2022 Budget Act included the Cal Grant Reform Act (Act) subject to state General Fund availability over the multi-year forecasts beginning in fiscal year 2024-25. The Act would be triggered in 2024-25 if the state determines in Spring 2024 that sufficient General Fund is available to support these actions over a multiyear period. If "triggered on" the budget agreement will provide \$364.8 million General Fund in 2024-25, \$348.8 million in 2025-26 and ongoing for this reform. The Act will restructure the Cal Grant program. Specifically, it would replace the existing award structure with a Cal Grant 2 award that provides nontuition coverage to California Community College (CCC) students and a Cal Grant 4 award that provides tuition coverage at all other segments.

The eligibility requirements of the new program would differ in several ways from those of the current program. First, whereas the current Cal Grant program has its own income and asset ceilings, the new program would have the same income ceilings as the federal Pell Grant program. Because of the change, the new income ceilings generally would be lower than the current ones. Second, whereas the current program provides only a limited number of awards to older students attending the universities, the new program would have no age or time-out-of-high-school restrictions at any segment. Third, whereas the current program requires students to have a minimum GPA, the new program will not have a GPA requirement for CCC students. These program changes are projected to lead to a net increase of 150,000 award offers in 2024-25, at an

estimated additional net cost of \$365 million. The Act also expresses legislative intent that UC and CSU use institutional aid to cover non-tuition costs for its students.

This bill includes yet another eligibility change to the Cal Grant Program—exempting 1,000 Cal Grant applicants from demonstrating financial need if the applicant files a statement of intent with the CSAC stating that the applicant agrees to enroll in an approved teacher preparation program after completing their baccalaureate degree. Staff notes that only requiring a statement of intent to enroll in a teacher preparation program gives little assurances that the teacher pipeline will increase. If it is the desire of the Committee to pass this measure, ***staff recommends amending the bill*** to specify that a Cal Grant recipient (pursuant to the bill's provisions) who does not enroll in a teacher preparation program within one academic year of earning their baccalaureate degree shall agree to repay the state the total Cal Grant funds received.

SUPPORT

State Superintendent of Public Instruction Tony Thurmond (sponsor)
Association of California School Administrators
California Association of School Business Officials
California Association of Suburban School Districts
California Charter Schools Association
California School Boards Association
Central Valley Education Coalition
Los Angeles Unified School District
Orange County Department of Education
Riverside County Office of Education
San Diego Unified School District

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

| | | | |
|--------------------|-------------------|----------------------|----------------|
| Bill No: | SB 661 | Hearing Date: | April 19, 2023 |
| Author: | Bradford | | |
| Version: | February 16, 2023 | | |
| Urgency: | No | Fiscal: | Yes |
| Consultant: | Kordell Hampton | | |

Subject: Student Athlete Bill of Rights.

SUMMARY

This bill expands the rights that student athletes who attend an institution of higher education (IHE), that generates more than ten million dollars, on average, in annual income derived from media rights for intercollegiate athletics, to student athletes at all IHEs and removes the requirement on IHE to rely exclusively on revenue derived from media to defray any costs accrued from affording these benefits to student athletes.

BACKGROUND

Federal law

Code of Federal Regulation (CFR)

- 1) Any coeducational IHE that participates in Title IV, the federal student aid program, and has an intercollegiate athletics program, must comply with the Equity In Athletics Disclosure Act (EADA) by preparing an annual report, officially called The Report on Athletic Program Participation Rates and Financial Support Data. (34 CFR § 668.47)

State law

Education Code (EDC)

- 2) Requires an athletic program that does not renew an athletic scholarship of a student athlete who suffers an incapacitating injury or illness resulting from his or her participation in the athletic program, and the IHE's medical staff determines that he or she is medically ineligible to participate in intercollegiate athletics, to provide an equivalent scholarship that, combined with the total duration of any previous athletic scholarship or scholarships received by the student athlete, will be provided for a total of up to five academic years or until the student athlete completes his or her undergraduate degree, whichever period is shorter.
 - a) Clarifies that if a student athlete takes a temporary leave of absence from an IHE, the duration of that leave of absence shall not count against the five-year limit on eligibility for an equivalent scholarship.

- b) Requires an athletic program to provide an equivalent scholarship to a student athlete who was on an athletic scholarship and is in good standing, but has exhausted his or her athletic eligibility, for up to one year or until the student athlete completes his or her primary undergraduate degree, whichever is shorter, except that an athletic program with a graduation success rate that is above 60 percent, disaggregated by team, shall not be subject to the requirements of this paragraph.
- c) States a student athlete whose athletic scholarship is not renewed for cause by an athletic program shall receive no benefits under this part, but may appeal this decision within the IHE attended by the student or within the athletic conference or association of which that institution of higher education is a member, as appropriate. (EDC § 67452 (a))
- 3) Requires each athletic program to conduct a financial and life skills workshop for all of its first-year and third-year student athletes at the beginning of the academic year. (EDC § 67452 (b))
- 4) Requires an IHE to grant a student athlete the same rights as other students with regard to any and all matters related to possible adverse or disciplinary actions, including, but not necessarily limited to, actions involving athletically related financial aid. (EDC § 67452 (c))
- 5) Requires an athletic program to respond within seven business days with an answer to a student athlete's written request to transfer to another IHE. (EDC § 67452 (d))
- 6) Specifies that an IHE that receives less than ten million dollars, on average, in media rights are exempt in providing benefits to their student athletes as specified in #1-4. (EDC § 67452 (e))
- 7) Requires an IHE that receives more than ten million dollars, on average, from intercollegiate media rights to exclusively use that revenue to provide benefits to their student athletes described in #1-4. (EDC 67452 (f))

ANALYSIS

This bill expands the rights that student athletes who attend an IHE, that generates more than ten million dollars, on average, in annual income derived from media right for intercollegiate athletics, to student athletes at all IHEs and removes the requirement on IHEs to rely exclusively on revenue derived from media to defray any costs accrued from affording these benefits to student athletes. Specifically, this bill:

- 1) Strikes the exemption for IHEs that make less than ten million dollars, on average, in annual income derived from media right for intercollegiate athletics, to provide benefits to their student athletes, thereby require those IHEs to provide benefits to their student athletes.
- 2) Removes the requirement that IHEs that make more than ten million dollars, on average, in annual income derived from media right for intercollegiate athletics, to

use that revenue to defray any cost in providing benefits to their student athletes, thereby expanding the source of funds used by an IHE to defray the cost of these benefits.

- 3) Makes technical changes.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “SB 661 will remove the existing exemption for universities who receive on average less than \$10,000,000 in annual income derived from media rights, ensuring that all universities provide scholarship protections and finance/life skills workshops to their student athletes. After SB 206 was enacted into law authorizing name, image, and likeness promotion opportunities, many athletes across all sports have utilized this change in law to partner with companies on social media, provide coaching lessons and camps, and pursue other business endeavors. Given the massive increase in students utilizing these new opportunities, there is an increased need for student athletes to have financial literacy education, but existing law only imposes this requirement to a few universities. Additionally, no student athlete, regardless of which university they attend or sport they play should fear losing their scholarship as a result of an injury. It is crucial that all student athletes in California have these basic protections.”
- 2) ***Name, Image, and Likelihood (NIL).*** In *Alston v. National Collegiate Athletic Association (NCAA)*, the athletes challenged the NCAA compensation limits as reducing competition among colleges and universities as to what those schools would otherwise provide the athletes. Given this restriction on competition, the NCAA relied on its longstanding position that the uniqueness of its product – the status of student athletes as amateurs – required antitrust deference and pointed for support to the 1984 decision in *NCAA v. Board of Regents*. Specifically, the NCAA’s procompetitive justification for the status quo (whereby the NCAA limits athlete compensation tied to academics and athletics and mostly prohibits athlete monetization of NIL rights) was that the survival of the *product* of college athletics depends on such restrictions by the NCAA. It reasoned that intercollegiate athletics differentiates itself from professional sports chiefly through the amateur status of its athletes, therefore diminishing the purity of amateurism through unrestrained athlete payment—even for academic expenses—would render intercollegiate athletics obsolete.

The *Alston* decision rejected this argument, holding that the *Board of Regents* decision was inapplicable to questions of athlete compensation and that the decision’s oft-cited commentary that the NCAA enjoys “ample latitude” under federal antitrust law was mere dicta that could not insulate the NCAA from antitrust scrutiny. Specifically, the Court found the NCAA had failed to show any economic analysis as to how or why the consumer market for college sports might be irrevocably destroyed by teenage athletes receiving unrestrained educational benefits. The Court noted, in contrast, that the *Alston* plaintiffs were able to show the very opposite—namely that the popularity of college sports had *increased* in the years following increased allowances in educational benefits allocation.

Justice Gorsuch found that by limiting education-related compensation that college athletes are permitted to receive from their schools, the NCAA is acting in violation of Section 1 of the Sherman Act, which prohibits any “contract, combination, or conspiracy in restraint of trade or commerce.” The Court reached this conclusion by affirming the lower court’s application of the “rule of reason” – a judicial doctrine of antitrust law.

- 3) ***The Equity In Athletics Disclosure Act.*** The EADA was designed to make prospective students and prospective student-athletes aware of an IHE’s commitment to providing equitable athletic opportunities for its men and women students. The EADA requires the disclosure of information about varsity teams and the financial resources and personnel that the school dedicates to those teams. The EADA Report must be published by October 15 each year and must be made available upon request to students, prospective students, and the public. The EADA Report includes:

Participation counts: The October 15th report requires the number of student athletes who participated on more than 1 varsity team, and the number of varsity teams each student athlete participated on, which are not collected in the web-based data collection. This is in addition to the total number of participants as of the day of the first scheduled contest for each team, and an unduplicated count of participants which are reported in the web-based data collection.

Expenses: The October 15th report requires separate expenses for Football, Men’s Basketball, Women’s Basketball, All Men’s teams except Football and Basketball, All Women’s teams except Basketball, and all sports combined. Expenses for All Men’s teams except Football and Basketball and All Women’s teams except Basketball are not collected in the web-based data collection.

Expenses are expenses attributable to intercollegiate athletic activities. This includes appearance guarantees and options, athletically related student aid, contract services, equipment, fundraising activities, operating expenses, promotional activities, recruiting expenses, salaries and benefits, supplies, travel, and any other expenses attributable to intercollegiate athletic activities.

Revenues: The October 15th report requires separate revenues for Football, Men’s Basketball, Women’s Basketball, All Men’s teams except Football and Basketball, All Women’s teams except Basketball, and all sports combined. Revenues for All Men’s teams except Football and Basketball and All Women’s teams except Basketball are not collected web-based data collection

Revenues are revenues attributable to intercollegiate athletic activities. This includes revenues from appearance guarantees and options, an athletic conference, tournament or bowl games, concessions, contributions from alumni and others, institutional support, program advertising and sales, radio and television, royalties, signage and other sponsorships, sports camps, state or other government support, student activity fees, ticket and luxury box sales, and any other revenues attributable to intercollegiate athletic activities.

While the EADA provides a snapshot of an IHE's expenses, revenue, and participant count in college athletic sports, this information is not disaggregated into individual line items. From this data, it is unclear if media rights are captured in the EADA report.

- 4) **Current Benefits Awarded to Students.** As specified in current statute, intercollegiate student athletes who attend IHE who receive more than ten million dollars, on average, in media rights must provide the following to its students athletes:
- a) An equivalent scholarship that totals to five academic years or until the student athlete completes their undergraduate degree, whichever is shorter, if an athletic program does not renew a student athletes scholarship due to an incapacitating injury or illness, and the IHE's medical staff determines that the medical injury or illness sustained by the student athlete is medically ineligible to participate in intercollegiate athletics, resulting from the student athlete's participation in the athletic program;
 - b) Financial and life skills workshop for all of its first-year and third-year student athletes at the beginning of the academic year;
 - c) Parity among student athletes to any and all matters related to possible adverse or disciplinary actions, including, but not necessarily limited to, actions involving athletically related financial aid; and
 - d) Timely response (within 7 business days) from an athletic program to a student athlete's written request to transfer to another IHE.

This bill would ensure that all student athletes at an IHE would receive these benefits (described above), regardless of how much income an IHE makes from media rights for intercollegiate athletics and expands an IHE's ability to pay for these benefits beyond revenue made solely from media rights for intercollegiate athletics. While some IHE already afford these benefits to their student athletes, providing a financial and life skills workshop, parity in student athlete discipline, and a timely response should not pose significant challenges to IHEs that would fall under this bill.

While this bill removes the specification that an IHE that makes more than ten million dollars, on average, in annual income derived from media right, for intercollegiate athletics must use that revenue to defray cost in providing these benefits to student athletes, expanding an IHE ability to pay for these cost through any fund or revenue source, providing a equivalent scholarship that totals to five academic years or until the student athlete completes their undergraduate degree may impose costs depending on the amount of a student athlete's scholarship or time to complete their undergraduate degree, whichever period is shorter.

- 5) **Committee Amendment.** Committee staff recommends, and the author has agreed to accept, the following amendment:

- a) Restores the phrase "Institution of Higher Education" to be consistent with existing statute.

6) ***Related Legislation.***

SB 1525 (Padilla) Chapter 625, Statutes of 2012, enacts the Student Athlete Bill of Rights that requires intercollegiate athletic programs at universities, as defined, to provide scholarships to injured student athletes, continue to pay specified medical expenses for a student athlete who was injured, and conduct financial and life skills workshops for student athletes, and clarifies the process for student athletes seeking a transfer.

AB 252 (Holden, 2023) would establish the College Athlete Protection Act for purposes of providing various rights, benefits, and protections to college athletes. *This bill is currently in Assembly Higher Education.*

SB 1401 (Bradford, 2022) would have required postsecondary institutions to establish degree completion funds for their student athletes that take into account the revenues generated by the sport in question and the amount of athletic scholarship aid provided to athletes participating in that sport. *This bill was held in Senate Appropriations.*

SB 206 (Skinner and Bradford) Chapter 383, Statutes of 2019, allows, commencing on January 1, 2023, college student athletes to earn compensation for the use of their own NIL (athletic endorsements). This bill allows student athletes to obtain professional legal representation, such as that provided by a sports agent, in relation to their college athletics. This bill provides protections for student athletes that elect to engage in the compensation and representation activities described therein.

SB 26 (Skinner) Chapter 159, Statutes of 2021, expands the existing authority for a collegiate student athlete to receive compensation to also include compensation earned from the use of the student's athletic reputation, and moves up the implementation date of existing statutes relative to compensation earned from the use of a student athlete's NIL.

SUPPORT

California Teachers Association

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

| | | | |
|--------------------|-------------------|----------------------|----------------|
| Bill No: | SB 711 | Hearing Date: | April 19, 2023 |
| Author: | Caballero | | |
| Version: | March 20, 2023 | | |
| Urgency: | No | Fiscal: | Yes |
| Consultant: | Olgalilia Ramirez | | |

Subject: Community colleges: blockchain degree programs and technology: working group.

SUMMARY

This bill requires the California Community College (CCC) Chancellor's office in collaboration with the California Department of Education (CDE), to convene a working group, as specified, until July 1, 2026, to identify elements of creating a blockchain associate of arts (AA) degree program and guidelines for offering those programs at community colleges, as well as, ensure that course materials developed by the working group can be incorporated into career technical education (CTE) programs offered by local educational agencies (LEA).

BACKGROUND

Existing law:

- 1) Establishes the CCC, a postsecondary education system consisting of community college districts (CCDs) and the Board of Governors (BOG) of the CCC. (Education Code (EC) § 70900)
- 2) Requires the CCC BOG to provide leadership and direction in the continuing development of the CCC as an integral and effective element in the structure of public higher education in the state. (EC § 70901)
- 3) Requires the work of the BOG to at all times be directed to maintaining and continuing, to the maximum degree permissible, local authority and control in the administration of the CCC. (EC § 70901)
- 4) Requires that the BOG provide general supervision over CCDs, and perform various functions, including establishing minimum standards to govern student academic standards relating to graduation requirements and standards for credit and noncredit classes, standards governing procedures established by CCDs to ensure faculty, staff and student the right to participate and express opinions and the right of academic senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards (EC § 70901).
- 5) Establishes a process for the development and adoption of model curriculum standards for a k-12 career technical education course of study that includes

consultation with industry representatives, educators and parents, review and recommendations by the Superintendent of Public Instruction to the State Board of Education (EC § 51226).

ANALYSIS

This bill:

- 1) Requires the CCC Chancellor's Office, in collaboration with CDE, to convene a working group, until July 1, 2026, consisting of representatives for the chancellor's office, the Governor, CDE, LEAs, student-led blockchain clubs, blockchain industry, and blockchain consumer protection groups that specialize in education.
- 2) Allows the Governor, the Superintendent of Public Instruction, and the CCC Chancellor to confirm or reject representatives selected by any educational entity
- 3) Requires for the composition and selection of the working group all of the following:
 - a) Have no more than two representatives selected from each entity.
 - b) Have equal representation between educational entities, industry fields, and consumer protection groups.
 - c) Have a designated representative selected by the Governor to represent the Governor.
 - d) Allow the Governor, the Superintendent of Public Instruction, and the chancellor to confirm or reject representatives selected by any educational entity, choose more representatives for the working group, and choose representatives to represent industry fields and consumer protection groups if none are selected to represent these groups.
- 4) Requires that the working group do all of the following:
 - a) Identify key elements of creating a blockchain AA degree program and related guidelines for offering the program at CCCs.
 - b) Ensure that the blockchain AA degree program and related guidelines meet all aspects of the blockchain industry's growth and development and all applicable use cases.
 - c) Ensure that course materials developed for the blockchain AA degree program and related guidelines can be incorporated into CTE programs offered by LEAs, align with the state's plans for CTE, and incorporate skill badging, student-centered flexibility, and customizability.
 - d) Develop training manuals, guidelines, and other materials necessary to duplicate the blockchain AA degree program at CCCs statewide.

- e) Explore the feasibility of incorporating blockchain technology into curricula currently offered in CCCs AA degree programs and CTE programs offered by LEAs in the fields of social sciences, arts, humanities, and science, technology, engineering, and mathematics.
 - f) Analyze the benefits, challenges, and viability of storing degree information on blockchain technology.
 - g) Ensure that the final frameworks and recommendations developed by the working group include a requirement for a course covering blockchain ethics and risk management to ensure compliance with applicable state and federal regulations and emphasize consumer protections.
- 5) Allows the working group to explore the feasibility of creating a blockchain baccalaureate degree program at CCCs.
- 6) Requires that the working group meet at least once per month and may consult with other individuals, groups, and organizations for additional insight and expertise on issues under consideration by the working group.
- 7) Requires, by July 1, 2026, that the working group submit to the Legislature, the Chancellor's office, and CDE a report that outlines, at minimum, recommendations and guidance for creating a blockchain AA degree program at CCCs, and the feasibility of incorporating blockchain technology into curricula currently offered in CCC associate degree programs and CTE programs offered by LEAs in the fields of social sciences, arts, humanities, and science, technology, engineering, and mathematics, as determined by the working group.
- 8) States all of the following legislative findings and declarations:
- a) Blockchain technology, synonymous with distributed ledger technology, is a significant innovation with the potential to revolutionize nearly every economic sector in the state.
 - b) The state is poised to capitalize on blockchain innovation and continue serving as a leader in embracing new technologies while creating a stable environment in which the blockchain sector can flourish.
 - c) To properly support the nascent blockchain sector, the state should support efforts to create a reliable source of skilled workers.
 - d) Jobs in the blockchain sector are high-skill, high-wage, and embrace remote work, giving Californians access to good, flexible jobs of the future while meeting the goals of Executive Order No. N-9-22.
 - e) There are only a few limited courses relating to the blockchain sector currently offered at CCCs.

STAFF COMMENTS

- 1) **Need for the bill.** According to the author, "Blockchain technology can significantly help historically disadvantaged communities by connecting them with high-paying jobs. Average entry-level jobs in the blockchain sector, which pay on average \$117,000, are hard to access because of the skillset required and are out of reach for most low-income communities of color. By providing economic opportunities in historically disadvantaged communities, we can diversify the local economies, expand the tax base, improve constituent services, and help communities of color advance within the tech sector.

SB 711 would promote cutting-edge, high quality, and highly sought after courses and curriculum. Specifically, this bill would: (1) Create a workgroup through the California Community College Chancellor's Office to create the framework for Blockchain Associate Degrees. (2) Create a framework that could then be applied to Career Technical Education Programs at K-12 schools".

- 2) **Blockchain.** Blockchain is a new type of digital technology that has a wide range of practical applications across different industries and government. Blockchains are commonly described as holding encrypted chunks of digital asset data and chaining them together to create a single source of authenticity that is chronological. According to the description of the University of California Irvine's blockchain certificate program, what distinguishes blockchain technology is that it is an online open ledger for anyone and everyone to see. It further describes this ledger as having a serious level of encryption, through some sophisticated mathematics that makes it difficult to have its content altered. The technology is used in products such as financial agreements and cryptocurrencies such as Bitcoin, but it has reportedly many other applications. Each segment of California's public higher education system offer blockchain courses, many through extended learning opportunities and as either a component of a related certificate program (e.g. software development or cybersecurity) or as a series of courses in a standalone certificate program. These short-term certificate programs seem to be the educational standard for higher education institutions.
- 3) **Related Executive Order.** In 2022, the Governor issued an executive order to address the state's responsible innovation and regulation of blockchain technology and crypto assets. It identified several priorities that are consistent with President Biden's Executive Order issued on March 9. As it pertains to education, the order directed the Governor's Council for Postsecondary Education to identify opportunities to create a research and workforce environment to support blockchain technology innovation, including crypto assets. Council members are also encouraged to: 1) collaborate and identify opportunities to build workforce pathways that ensure an equitable and robust pipeline of talent to the industry; and 2) generate basic and applied research to continue to lead on future generations of blockchain technology. It is unclear whether this work has been initiated by the Governor's Postsecondary Education Council. This bill is far more prescriptive than the goals for higher education outlined in the Governor's Executive Order.

- 4) **Is this the appropriate solution?** It appears that the intent of the bill is to ensure education and training is aligned to blockchain industry needs. This bill attempts to accomplish this goal by statutorily tasking a new working group with the development of a specific type of degree at CCCs. However, the formation of a working group to facilitate the review and initiate steps toward the implementation of a new degree program may undermine the role of colleges and that of the faculty in academic planning, curricular development and consideration of local student demand for certain programs. CCC faculty are the primary decision-makers in curricular matters and they can include blockchain elements into courses or create certificate or degree programs to meet educational needs of students that are consistent with industry demands. *Shouldn't the faculty play a role in determining what their educational standards should be? Rather than create a new working group, could the Chancellor's Office leverage its existing workforce programs structure and network to convene the necessary stakeholders in the blockchain sector, or similar industries, to identify workforce needs?*

Staff recommends the bill be amended to delete the contents of the bill and be replaced with all of the following:

The office of the Chancellor of the California Community Colleges, in consultation with the Academic Senate, shall produce a report by July 1 2026 that addresses the following:

- *A review of existing California Community College programs and courses that are aligned with the blockchain industry.*
- *An analysis of the blockchain industry and demand, including employer needs, student demand and institutional capacity.*
- *Ways to align blockchain workforce needs of employers with the education and training provided by California Community Colleges.*
- *Recommendations on activities related to pipeline development between career technical education programs offered by local educational agencies and Community Colleges.*
- *Recommendations on potential strategies to promote blockchain related careers where a workforce shortage exists.*

The Chancellor's Office shall leverage its existing workforce programs structure and network to convene the necessary stakeholders in the blockchain sector, or similar industries, to identify workforce needs within regional economies.

The report shall include the contributions of faculty, workforce development, K-12 and other relevant stakeholders.

The Office of the Chancellor of the California Community Colleges shall provide a copy of the report to the Legislature by July 1, 2026.

- 5) **K-12 CTE programs.** Similarly, this bill requires that the working group ensure course materials developed for blockchain AA degrees and guidelines can be

incorporated into CTE programs offer by LEAs. The legislature has vested the Superintendent of Public Instruction and the State Board of Education with the authority to develop and adopt state CTE standards that incorporate the integration of career technical and academic education. The processes involve K-12 and higher education practitioners, industry representatives and workforce development agencies who have in-depth understanding of curriculum and instruction, including constraints on instructional time and resources. Although, the original CTE Model Curriculum Standards were adopted by the State Board of Education in 2005 and updated in 2013, local school districts may update curriculum and instructional materials as needed to meet student and industry demands. *Is it appropriate to statutorily ensure specific curriculum is integrated into K-12 CTE programs rather than be considered through the existing course material development processes?*

6) **Related and prior legislation.**

AB 2658 (Calderon) Chaptered 875, Statutes of 2018, required the Secretary of the Government Operations Agency to appoint a blockchain working group that would report to the Legislature on the potential uses, risks, and benefits of the use of blockchain technology.

SUPPORT

Digital Currency Traders Alliance (sponsor)
Blockchain Advocacy Coalition
Gavilan Joint Community College District

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No: SB 433

Hearing Date: April 19, 2023

Author: Cortese

Version: March 21, 2023

Urgency: No

Fiscal: Yes

Consultant: Ian Johnson

Subject: Classified school and community college employees: disciplinary hearings: impartial third-party hearing officers.

SUMMARY

This bill would require an impartial third-party hearing officer to determine, on appeal, if a classified school or community college (CCC) employee should be subject to disciplinary action.

BACKGROUND

Existing law:

- 1) Requires that each person employed by a county superintendent of schools in a position not requiring certification qualifications and whose salary is paid from the county school service fund to be employed in accordance with rules and regulations governing disciplinary proceedings that apply to classified employees of a K-12 or CCC districts. (Education Code (EC) § 1311)
- 2) Authorizes K-12 and CCC district classified employees to elect a merit (i.e., civil service) system for their district whereby the district's board establishes a personnel commission and personnel director to administer personnel rules established in statute. (EC §§ 45220 et seq. and §§ 88050 et seq.)
- 3) Establishes rules and regulations governing all K-12 and CCC classified personnel including those in non-merit districts (i.e., where a district has not established a merit system and the governing board retains direct decision authority over classified personnel issues). Key provisions related to the disciplinary process for classified employees do the following:
 - a) Require K-12 and CCC district boards to prescribe written rules and regulations governing classified personnel management that must be printed and made available to classified service employees whom the district designates as permanent after serving a probationary period not to exceed the longer of six months or 130 days of paid service, or one-year for peace officer employees, as specified.
 - b) Provide that a K-12 or CCC district may discipline their permanent classified employees only for cause as prescribed by board rule or

regulation *but also provides that the board's determination of sufficiency of the cause for disciplinary action is conclusive.*

- c) Require a district board to adopt rules of procedure for disciplinary proceedings that provide for the employees' due process rights, as specified; places the evidentiary burden of proof on the board; and voids any contrary rule or regulation.
 - d) Prohibit a district from imposing disciplinary action for any cause that arose prior to the employee attaining permanent status, or for any cause that arose more than two years before the district filed the notice of cause, unless the employee concealed or failed to disclose the cause when the employee reasonably should have disclosed the facts to the district.
 - e) Clarify that a board continues to have authority to delegate disciplinary determinations to an impartial third party hearing officer, as specified, pursuant to a bargaining agreement but must retain its authority to review the hearing officer's determination pursuant to Civil Procedure Code § 1286.2.
 - f) Require a board to delegate cases involving disciplinary action against an employee for allegations of egregious conduct involving a minor, to an administrative law judge, as specified, and make the judge's ruling binding on all parties.
 - g) Prohibit the board, if the employee timely requests a hearing, from suspending the employee without pay or with reduced pay or from dismissing the employee before the board renders its decision at a hearing on the charges. (EC § 45113 and § 88013)
 - i) However, the board may do so if an impartial third-party hearing officer finds at a preliminary (Skelly) hearing that the district demonstrated by a preponderance of the evidence that the employee engaged in criminal or risky misconduct, as specified.
 - ii) If the board uses an impartial third-party hearing officer, as specified, to conduct the hearing on the charges, the board may suspend the employee's pay, before the determination on the charges, 30 days after the employee requested the hearing.
 - h) Provide that provisions involving classified employee discipline only apply to districts that have not incorporated the merit system (i.e., have not adopted a personnel commission, as specified).
(EC §§ 45113 et seq. and §§ 88013 et seq.)
- 4) Requires a notice of disciplinary action to contain a statement in ordinary and concise language of the specific acts and omissions upon which the disciplinary action is based; a statement of the cause of the action to be taken; and, if there is a claim that an employee has violated a rule or regulation of the employer, the notice shall set forth the rule or regulation. The provision also describes when a

notice is insufficient and the consequences when a notice violates the provision's requirements. (EC § 45116 and § 88016)

- 5) Establishes the Education Employer-Employee Relations Act (EERA), which provides a statutory framework under California law governing employer-employee relations within the public schools (K-12) and CCC system and authorizing collective bargaining between school employers and their school employees, as specified. (Government Code (GC) 3540 et seq.)
- 6) Establishes the Public Employment Relations Board (PERB), a quasi-judicial administrative agency charged with resolving disputes and enforcing the statutory duties and rights of public agency employers and employee organizations, but provides the City and County of Los Angeles a local alternative to PERB oversight. (GC §3541 et seq.)

ANALYSIS

This bill:

- 1) Clarifies that the changes it makes to K-12 and CCC district classified employees regarding disciplinary proceedings also apply to the classified employees employed by county superintendents of schools.
- 2) Removes a K-12 and CCC board's authority to prescribe by rule or regulation cause for which the board can discipline a classified employee.
- 3) Requires, instead, that an impartial third-party hearing officer paid by the district and jointly selected by the district and the employee union shall determine cause for which a district may discipline a classified employee.
- 4) Retains the requirement that the board must make the determination of cause for discipline for any peace officer.
- 5) Subjects the impartial third-party hearing officer's determination, upon a duly served and filed petition, to judicial review pursuant to the standards of subdivision (a) of Section 1286.2 of the Code of Civil Procedure, which generally provide that the court shall vacate an arbitration award procured by corruption, fraud, undue means, misconduct that substantially prejudiced the rights of the party, or other specified conduct of the arbitrator.
- 6) Applies the requirement that an impartial third-party hearing officer, rather than the governing board, determine cause for discipline for classified employees of any joint-powers agency or regional occupational center or program, as specified.
- 7) Eliminates references to the board's ability to delegate its power to determine whether sufficient cause exists for disciplinary action against classified employees to an impartial third-party hearing officer pursuant to an MOU with the union and makes other conforming changes.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author's office, "Classified employees are the lifeblood of a school — these employees drive our school buses, prepare and serve meals to children, and carry out essential office functions. They deserve the same due process rights as teachers. SB 433 promotes a more fair and equitable discipline system. Establishing impartial, third-party officers to arbitrate over disciplinary actions will protect the rights and liberties of classified school staff."
- 2) ***Merit vs non-merit districts.*** The merit system is a series of rules and procedures contained in statute governing classified school personnel. The merit system statutes are similar to those establishing the parameters for state and federal civil service. The merit system's fundamental purpose is to ensure that employees are selected and promoted based on merit and without favoritism or prejudice.

The core principles of the merit system are as follows:

- a) Hiring and promoting employees by competitive examination.
- b) Providing fair compensation.
- c) Retaining employees on the basis of performance.
- d) Assuring equal and fair personnel practices to applicants and employees without regard to political affiliation, race, color, national origin, sex, age, disability, religious creed, and with proper regard for privacy and constitutional rights as citizens.

The requirements of this bill only apply to school and CCC districts not currently incorporating the merit system.

- 3) ***Discipline and due process for classified school employees.*** Permanent classified school employees have a property interest in their jobs, which requires their school or CCC district to comply with due process elements before imposing discipline. The due process rights of classified employees include the following three components:
 - a) ***Notice of charges.*** Classified employees have the right to be notified in writing of the charges against them. The document must set forth the "cause" for which the action is taken, and "...in ordinary and concise language, the specific acts or omissions upon which the disciplinary action is based..." In non-merit districts, classified employees cannot be subject to acts that occurred while the employee was on probation or that are over two years old.
 - b) ***Right to respond orally and in writing.*** In a merit system school district, the governing board and its management agents impose discipline and must afford employees what is commonly referred to as a "Skelly" conference.

Here the employee has the right to respond orally and in writing to the charges. The district's "Skelly" hearing officer is supposed to be an "objective official" from the district. An employee has the right then to appeal any imposed discipline to the personnel commission (or its hearing officer), whose findings are binding upon the employee and the district.

In non-merit districts, the governing board's management agents propose the disciplinary action, providing the employee with written charges and five (5) days to request a hearing. The Governing Board may hear the case or the parties may delegate the hearing to a hearing officer or arbitrator but "... the governing board's determination of the sufficiency of cause for disciplinary action shall be conclusive," unless there is binding arbitration in your contract.

- c) *Right to representation.* Classified employees have a right to be represented at all investigative meetings that could reasonably lead to discipline and any meeting to challenge the discipline.
- 4) ***Arguments in support.*** The California School Employees Association writes, "Discipline appeal hearings for classified school employees are normally decided by school district or community college governing boards. These boards are typically the same body that voted on the initial disciplinary decision. It is unfair for the same board that took the initial vote to discipline an employee to also be the appellate body.

"SB 433 would require an impartial third-party hearing officer to determine on appeal if a permanent classified employee in a non-merit district should be subject to disciplinary action. The arbitrator would be selected from the State Mediation and Conciliation Service jointly by the district and labor union. The district would be responsible for paying for the arbitrator.

"This bill would provide parity because classified employees should not be denied fair appeal rights granted to teachers and most other public employees. SB 433 would still allow unions and districts to negotiate alternative appeal hearings in their collective bargaining agreements."

- 5) ***Arguments in opposition.*** The California School Boards Association writes, "Fundamentally, this measure removes all authority of a duly elected school board to render personnel decisions over the classified staff of the district. This is contrary to the spirit of local control and removes yet another layer of local school board governance authority and delegates that authority to an unelected entity.

"Currently, school districts negotiate how disciplinary appeals are handled and funded. In most cases the school district and the employee organization agrees to share the costs of the appeal. However, this measure proposes that the district shoulder the entirety of the cost, which can be in the thousands to tens of thousands of dollars per case. Additionally, it also mandates that the third-party hearing officer be selected jointly by the school district and employee representative. This will further add to the delay in resolving sensitive personnel

matters as it could render many otherwise legitimate hearing officers being excluded because the district and employee's representatives are unable to agree on a hearing officer. This would be further exacerbated in small school districts in rural areas where there may only be one or two hearing officers available."

SUPPORT

California School Employees Association (sponsor)
American Federation of State, County, and Municipal Employees
California Federation of Teachers
California Labor Federation
California School Employees Association
California State Council of Service Employees International Union

OPPOSITION

Association of California Community College Administrators
California School Boards Association

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No: SB 645

Hearing Date: April 19, 2023

Author: Ochoa Bogh

Version: March 22, 2023

Urgency: No

Fiscal: Yes

Consultant: Ian Johnson

Subject: School finance: administrative employees to teacher ratio.

SUMMARY

This bill allows small school districts to exempt a specified number of administrative employees from the existing administrative employee-to-teacher ratio calculation.

BACKGROUND

Existing law:

- 1) Defines, for the purpose of calculating the maximum ratios of administrative employees to teachers in school districts, the following:
 - a) "Administrative employee" means an employee of a school district, employed in a position requiring certification qualifications, who does not come within the definition of a "pupil services employee" or a "teacher".
 - b) "Classified employee" means an employee of a school district, employed in a position not requiring certification qualifications.
 - c) "Pupil services employee" means an employee of a school district, employed in a position requiring a standard designated services credential, health and development credential, or a librarian credential, who performs direct services to pupils. "Pupil services employee" includes, but is not limited to, in-school librarians, school nurses, assistant in-school librarians, audiovisual personnel, counselors, psychologists, psychometrists, guidance and welfare personnel, attendance personnel, school social workers, and all other certificated personnel performing pupil-personnel, health, or librarian services.
 - d) "Teacher" means an employee of a school district, employed in a position requiring certification qualifications, whose duties require the employee to provide direct instruction to pupils in the schools of that district for the full time for which they are employed. "Teacher" includes, but is not limited to, teachers of special classes, teachers of exceptional children, teachers of pupils with physical disabilities, teachers of minors with intellectual disabilities, substitute teachers, instructional television teachers, specialist mathematics teachers, specialist reading teachers, home and hospital teachers, and learning disability group teachers. Requires instructional

preparation time to be counted as part of the teacher full-time equivalent, including, but not limited to, mentor teacher or department chairperson time.

- e) Specifies that the Los Angeles Unified School District (LAUSD) may also include in the definition of a “teacher” any of the following when calculating the ratio of administrative employees to teachers in the 2022-23 to 2024-25 fiscal years, inclusive:
 - i) Teachers who spend the majority of their time with pupils as intervention specialists.
 - ii) Teachers who spend a majority of their time on a school campus providing training, coaching, or professional development to other teachers.
- 2) Establishes maximum ratios of administrative employees to each 100 teachers in the various types of school districts, as follows:
 - a) In elementary school districts—9:100;
 - b) In unified school districts—8:100; and
 - c) In high school districts—7:100.
- 3) Requires the Superintendent of Public Instruction (SPI) to determine, for each current fiscal year, for each school district in the state, to two decimal points, the following:
 - a) The total number of administrative employees, except those serving in positions that are supported by categorical grants from any source and are in programs that require specific teacher/administrator ratios, or that are supported by federal funds;
 - b) The total number of teachers except those serving in positions that are supported by federal funds or by categorical grants from any source and are in programs that require specific teacher/administrator ratios;
 - c) The total maximum number of administrative employees that should be employed by the district based upon the application of the appropriate ratio to the number of teachers; and
 - d) The number of administrative employees in excess of the number allowable without penalty as determined by subtracting the number of administrative employees from the number of teachers.
- 4) Requires, for purposes of determining the allowable ratio of administrative employees to teachers for the LAUSD and the San Diego City School District, the number of employees and the full-time equivalent of all of the fractional time of

employees serving the district in positions mandated as the result of the district's court-ordered integration plan is excluded from the ratio calculation.

- 5) Requires the SPI to determine the reduction in state support resulting from excess administrative employees as follows:
 - a) Compute the ratio which total state support to the district general fund bears to the total general fund income of the district;
 - b) Multiply the ratio by the average salary of administrative employees; and
 - c) Multiply the product by the number of administrative employees converted to the nearest whole number in excess of the maximum number, as specified.
- 6) Requires the amount of the second principal apportionment made to the district for the current fiscal year pursuant to Section 41335 to be reduced by the product so produced.
- 7) Exempts a school district with an average daily attendance (ADA) of more than 400,000 as of the 2016–17 second principal apportionment from any reduction in state support, as specified, for the 2019–20 fiscal year to the 2021–22 fiscal year, inclusive. Requires a school district subject to this exemption to submit the following to the SPI, the Department of Finance, and the budget committees of both houses of the Legislature:
 - a) By September 1, 2019, a report containing the administrator-to-teacher ratio for the 2011–12 fiscal year to the 2019–20 fiscal year, inclusive, a description of the reasons for not meeting the ratio requirement for each fiscal year in which the ratio was not met, including the estimated impact on pupils, and a plan setting out goals for meeting the ratio by the 2023–24 fiscal year; and
 - b) By each September 1 from 2020 to 2022, inclusive, a report detailing the administrator-to-teacher ratio for the prior fiscal year and the progress towards meeting the goals set out in the report.
- 8) Requires the LAUSD to submit the following to the Superintendent, the Department of Finance, and the budget committees of both houses of the Legislature:
 - a) By September 1, 2023, a report containing the ratio of administrative employees to teachers for the 2011–12 fiscal year to the 2022–23 fiscal year, inclusive, a description of the reasons for not meeting the ratio requirement for each fiscal year in which the ratio was not met, including the estimated impact on pupils and the number of teachers and administrators above the required ratio, and a plan setting out goals for meeting the ratio by the 2025–26 fiscal year.

- b) By each September 1 from 2024 to 2025, inclusive, a report detailing the ratio of administrative employees to teachers, including the number of teachers and administrators above the required ratio, for the prior fiscal year and the progress towards meeting the goals set out in the report above.

ANALYSIS

This bill specifies that school districts with ADA of 2,500 or fewer shall exclude administrative employees for purposes of the administrative employee-to-teacher ratio calculation as follows:

- 1) For a school district that has ADA of 100 or more, but fewer than 250—exclude the Superintendent and one additional administrative employee.
- 2) For a school district that has ADA of 250 or more, but fewer than 750—exclude the Superintendent and two additional administrative employee.
- 3) For a school district that has ADA of 750 or more, but fewer than 1,500—exclude the Superintendent and three additional administrative employee.
- 4) For a school district that has ADA of 1,500 or more, but fewer than 2,500—exclude the Superintendent and four additional administrative employee.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “As California’s education system continues to evolve, it is important that all of our state’s school districts receive the support they need in order to serve our students and provide them with a quality education. SB 645 ensures that school districts in our least populated and rural parts of the state have the appropriate level of administrative staff to better meet the needs of their students and their communities.”
- 2) ***What is the administrator-to-teacher ratio requirement?*** School districts are required to have maximum ratios of administrative employees to each 100 teachers in the various types of school districts, as follows: in elementary school districts—9:100; in unified school districts—8:100; and in high school districts—7:100. Each year the California Department of Education (CDE) determines the ratio for each school district and for those that are over the ratio a fiscal penalty is imposed by reducing their principal apportionment.
- 3) ***LAUSD’s ongoing exemptions from this requirement.*** The education omnibus budget trailer bill of 2019 (SB 75 (Committee on Budget and Fiscal Review) Chapter 51, Statutes of 2019) authorized an exemption of the administrator-to-teacher fiscal penalty for the LAUSD for the 2019-20 fiscal year, to the 2021-22 fiscal year. Further, LAUSD is required to annually report to the SPI, the Department of Finance, and the budget committees of both houses of the Legislature on the administrator-to-teacher ratio calculation for each year a school district receives an exemption from the fiscal penalty, including historical

information for past years and the school district's plan to meet the ratio requirements over time.

More recently, AB 2038, Chapter 908, Statutes of 2022 (Gipson) allows LAUSD, for purposes of calculating the administrative employee-to-teacher ratio in the 2022-23 to 2024-25 school years, inclusive, to include in the definition of "teacher" intervention specialists and teacher coaches, as specified.

- 4) ***School districts request a waiver from the administrator-to-teacher ratio, with the majority of requests approved.*** The State Board of Education (SBE) considers requests from local educational authorities (LEAs) to waive statutory and regulatory requirements. Statute requires the SBE to approve any and all requests for waivers except in those cases where the board specifically finds any of the following:
- a) The educational needs of the pupils are not adequately addressed.
 - b) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request.
 - c) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees.
 - d) Pupil or school personnel protections are jeopardized.
 - e) Guarantees of parental involvement are jeopardized.
 - f) The request would substantially increase state costs.
 - g) The exclusive representative of employees, if any, was not a participant in the development of the waiver.

According to the CDE, nine requests for waivers from the administrator-to-teacher ratio have been received for consideration by the SBE since 2016, with the majority being submitted between 2016 and 2018. Of the nine waiver requests: seven have been approved, one was denied, and one will be heard in July.

Staff notes that all of these wavier requests were from "small" school districts, those with ADA of 2,500 or fewer. The one waiver request denial was submitted by Oroville Union High School District in 2018. The CDE staff agenda item for the request included a recommendation to deny because, "CDE finds no compelling reason that the situation in the Oroville Union HSD is unique and would warrant different treatment than other high school districts." It should be noted that Oroville Union submitted another waiver request in November, 2022, which was approved in March, 2023.

- 5) ***Arguments in support.*** The California School Boards Association writes, “As district requirements and state mandates continue to grow—from increased mental health needs of students, required compliance with necessary public health protocols due to the pandemic and significant programmatic requirements, including drafting and adopting a district Local Control Accountability Plan (LCAP), implementing the Expanded Learning Opportunities Program (ELOP) and the California Universal Meals Program—many small school district superintendents face burn out. This then burdens those districts with the additional challenge of finding successor superintendents who have the necessary qualifications and are willing to live in rural areas and take on a disproportionate workload compared to their peers with insufficient support.

“Equally as important is the equity issue around the impact to students, especially our most vulnerable and historically marginalized students. If there is inadequacy of staffing or continuity in leadership positions, how will homeless, foster, English Learners, and students with disabilities receive the services they need and afforded under the law? The greatest resource is the human resource, but this cap arbitrarily limits the ability of our small school districts to hire the right number of leaders they need to serve their students.

“By revising the ratio based upon school size, SB 645 would help small districts better meet the needs of their students, teachers, staff and the greater school community.”

- 6) ***Arguments in opposition.*** The California Teachers Association writes, “More administrators at a school diverts funds away from necessary resources (teachers, curriculum, libraries, etc.). More administrators can lead to increased bureaucracy in schools, which can create more inefficiencies and lead to higher costs. Additional administrators can distract from the primary focus of education, which should be on students. Having more administrators can take away resources, attention and focus from students and teachers. Also, additional administrators can create more top-down decision-making, which can stifle creativity and innovation in schools. This can lead to a less effective and engaging learning environment. More administrators can lead to an unnecessary increase in paperwork and reporting requirements, which can take away from time that could be used for teaching and learning. Finally, additional administrators can create a culture of distrust between school staff and administration, which can lead to a lack of collaboration and communication.”

SUPPORT

California School Boards Association (sponsor)
 Association of California School Administrators
 California Federation of Teachers
 Central Valley Education Coalition
 Kern County Office of Education
 Marin County Office of Education
 Riverside County Office of Education
 Santa Clara County Boards Association
 Small School Districts' Association

OPPOSITION

California Teachers Association

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair
2023 - 2024 Regular

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|--------------------|----------------|----------------------|----------------|
| Bill No: | SB 494 | Hearing Date: | April 19, 2023 |
| Author: | Newman | | |
| Version: | March 20, 2023 | | |
| Urgency: | No | Fiscal: | No |
| Consultant: | Lynn Lorber | | |

Subject: School district governing boards: meetings: school district superintendents and assistant superintendents: termination.

SUMMARY

This bill prohibits 1) the governing board of a school district from taking action to terminate a superintendent or assistant superintendent of the school district, or both, without cause, at a special or emergency meeting of the governing board; and 2) the governing board of a school district from terminating a superintendent or assistant superintendent of the school district, or both, without cause, within 30 days after the first convening of the governing board after a general election.

BACKGROUND

Regular meetings

- 1) Requires, under the Ralph M. Brown Act, all meetings of the legislative body of a local agency to be open and public, and requires that all persons be permitted to attend any meeting of the legislative body of a local agency. Existing law defines "local agency" as a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission or agency thereof, or other local public agency. (Government Code § 54953)
- 2) Requires each legislative body of a local agency, except for advisory committees or standing committees, to provide, by ordinance, resolution, bylaws, or by whatever other rule is required for the conduct of business by that body, the time and place for holding regular meetings. Meetings of advisory committees or standing committees, for which an agenda is posted at least 72 hours in advance of the meeting pursuant to subdivision (a) of Section 54954.2, shall be considered for purposes of this chapter as regular meetings of the legislative body. (Government Code § 54954)
- 3) Requires, at least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, to post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public and on the local agency's Internet Web site, if the local

agency has one. (Government Code § 54954.2)

- 4) Defines "local agency" as a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission or agency thereof, or other local public agency. (Government Code § 54951)
- 5) Requires the first meeting of any newly elected or appointed school district governing board, and any annual meeting required by law to be held by such board for purposes of its organization, to be deemed a regular meeting of the board for purposes of any requirement of law that periodic meetings shall be held by such board, and the regular business of the board may be transacted at such a meeting. (Education Code (EC) § 35149)

Special meetings

- 6) Authorizes a special meeting of the governing board of a school district to be called at any time by the presiding officer of the board, or by a majority of the members thereof, by delivering personally or by mail written notice to each member of the board, and to each local newspaper of general circulation, radio, or television station requesting notice in writing. The notice shall be delivered personally or by mail at least 24 hours before the time of the meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at those meetings by the governing board. (EC § 35144)
- 7) Authorizes a special meeting to be called at any time by the presiding officer of the legislative body of a local agency, or by a majority of the members of the legislative body, by delivering written notice to each member of the legislative body and to each local newspaper of general circulation and radio or television station requesting notice in writing and posting a notice on the local agency's Internet Web site, if the local agency has one. The notice shall be delivered personally or by any other means and shall be received at least 24 hours before the time of the meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted or discussed. No other business shall be considered at these meetings by the legislative body. The call and notice shall be posted at least 24 hours prior to the special meeting in a location that is freely accessible to members of the public. (Government Code § 54956)
- 8) Prohibits a legislative body from calling a special meeting regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits, of a local agency executive, as defined. However, this does not apply to a local agency calling a special meeting to discuss the local agency's budget. (Government Code § 54956)

Emergency meetings

- 9) Authorizes a legislative body to hold an emergency meeting without complying with either the 24-hour notice requirement or the 24-hour posting requirement, or both of the notice and posting requirements, in the case of an emergency situation involving

matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities. (Government Code § 54956.5)

District superintendent or assistant superintendent

- 10) Provides that any district superintendent of schools, or deputy, associate, or assistant superintendent of schools, may be elected for a term of no more than four years. The governing board of any school district, with the consent of the employee concerned, may at any time terminate, effective on the next succeeding first day of July, the term of employment of, and any contract of employment with, the superintendent of schools, or any associate, deputy, or assistant superintendent of schools of the district, and reelect or reemploy the employee, on those terms and conditions as may be mutually agreed upon by the board and the employee, for a new term to commence on the effective date of the termination of the existing term of employment. (EC § 35031)
- 11) Requires written notice at least 45 days in advance, in the event the governing board of a school district determines the superintendent of schools of the district, or deputy, associate, or assistant superintendent of schools, or employee in the senior management of the classified service is not to be reelected or reemployed as such upon the expiration of his or her term. In the event the governing board of a district fails to reelect or reemploy the superintendent of schools of the district, or deputy, associate, or assistant superintendent of schools, or employee in the senior management of the classified service as such and the written notice herein provided for has not been given, he or she shall be deemed reelected for a term of the same length as the one completed, and under the same terms and conditions and with the same compensation. (EC § 35031)
- 12) Prohibits a permanent employee from being dismissed except for one or more of the following causes:
 - a) Immoral conduct, including, but not limited to, egregious misconduct, as defined.
 - b) Unprofessional conduct.
 - c) Commission, aiding, or advocating the commission of acts of criminal syndicalism.
 - d) Dishonesty.
 - e) Unsatisfactory performance.
 - f) Evident unfitness for service.
 - g) Physical or mental condition unfitting him or her to instruct or associate with children.
 - h) Persistent violation of or refusal to obey the school laws of the state or reasonable regulations prescribed for the government of the public schools by

the state board or by the governing board of the school district employing him or her.

- i) Conviction of a felony or of any crime involving moral turpitude.
 - j) Advocating or teaching communism with the intent to indoctrinate or to inculcate in the mind of any student a preference for communism.
 - k) Alcoholism or other drug abuse that makes the employee unfit to instruct or associate with children. (EC § 44932)
- 13) Requires all contracts of employment between an employee and a local agency employer to include a provision that provides that regardless of the term of the contract, if the contract is terminated, the maximum cash settlement that an employee may receive shall be an amount equal to the monthly salary of the employee multiplied by the number of months left on the unexpired term of the contract, with the following exceptions:
- a) If the unexpired term of the contract is greater than 18 months, the maximum cash settlement shall be an amount equal to the monthly salary of the employee multiplied by 18.
 - b) In the case of a district superintendent of schools, for contracts of employment executed on or after January 1, 2016, the maximum cash settlement shall be an amount equal to the monthly salary of the employee multiplied by 12. (Government Code § 53260)

ANALYSIS

This bill:

- 1) Prohibits the governing board of a school district from taking action to terminate a superintendent or assistant superintendent of the school district, or both, without cause, at a special or emergency meeting of the governing board.
- 2) Prohibits the governing board of a school district from terminating a superintendent or assistant superintendent of the school district, or both, without cause, within 30 days after the first convening of the governing board after a general election.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, "The implications of the current lack of required advance notice for such deliberations were brought into sharp focus earlier this year, when the newly installed governing board of the Orange Unified School District called a special meeting of the board, over the winter holiday break, with just 24-hour notice. At that meeting, the governing board proceeded to terminate the school district superintendent, explicitly without cause, appointing her interim replacement at the same meeting. That interim superintendent resigned a mere five weeks later, leaving the school district without a leader.

"It's fairly self-evident that newly elected school board members generally need some time to become fully conversant in the often complex inner workings of school district governance, as well as the various and sometimes unique issues facing the district. In recognition of those facts, it seems reasonable that school district governing boards should have a 'cooling off,' or ramping up, period before making decisions as momentous as changing district leadership with cause by ensuring an appropriate interval for noticing and a resulting open and comprehensive discussion that fully includes all prospectively affected stakeholders as well as the public at large."

- 2) ***Types of school board meetings and required public notice.*** School district governing boards may convene regular meetings with 72 hour public notice, special meetings with 24 hour public notice, and emergency meetings with less than 24 hour public notice. Current law provides that emergency meetings are for cases of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities. However, current law does not prescribe what types of situations may be acted upon during regular or special meetings; school district governing boards may take any action with as little as 24 hour public notice.

This bill limits the authority of a school district governing board to terminate a superintendent or assistant superintendent of the school district, or both, *without cause* to occur only at regular meetings, which require 72 hour notice. This bill does not restrict the ability to terminate a superintendent or assistant superintendent *with cause* at any time, including a special or emergency meeting with 24 hour or less public notice.

This bill essentially requires more time before board meetings where important decisions are made about school district leadership to enable greater participation and input by school and district employees, parents, students, and the community at large.

- 3) ***Termination without cause vs with cause.*** The Education Code prohibits a permanent employee from being dismissed except for cause, and includes a list of causes for which a permanent employee may be terminated (unsatisfactory performance, immoral or unprofessional conduct, etc.). This bill does not affect any terminations for cause; the bill only affects termination of a superintendent or assistant superintendent *without cause*.
- 4) ***Cooling off period.*** This bill prohibits the governing board of a school district from terminating a superintendent or assistant superintendent of the school district, or both, without cause, within 30 days after the first convening of the governing board after a general election. This provision is similar to a local ordinance in the City of Orange that prohibits the City Manager from being terminated within 90 days after any municipal election for the selection or recall of one or more of the members of the City Council.

SUPPORT

Association of California School Administrators (sponsor)

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No: SB 549

Hearing Date: April 19, 2023

Author: Newman

Version: March 20, 2023

Urgency: No

Fiscal: Yes

Consultant: Ian Johnson

Subject: Teacher credentialing: out-of-state teachers: assessment of other states and territories.

SUMMARY

This bill requires the Commission on Teacher Credentialing (CTC) to assess the credential standards of other states and territories to expedite the teaching credential application process for out-of-state prepared teachers.

BACKGROUND

Existing law:

- 1) Requires the CTC to issue a preliminary teaching credential to out-of-state prepared teachers who meet the following requirements:
 - a) Possession of a baccalaureate degree from a regionally accredited institution of higher education.
 - b) Completion of a teacher preparation program at a regionally accredited institution of higher education or a state-approved teacher preparation program offered by a local educational agency (LEA).
 - c) Meeting the subject matter knowledge requirements for the credential. If the subject area listed on the out-of-state credential does not correspond to a California subject area, the CTC may require the applicant to meet California subject matter requirements before issuing a clear credential.
 - d) Has earned a valid corresponding elementary, secondary, or special education teaching credential based upon the out-of-state teacher preparation program. For the education specialist credential, the CTC shall determine the area of concentration based on the special education program completed out of state, or shall allow the candidate to demonstrate the area of concentration based on two years of experience in California, while the candidate holds the preliminary credential.
 - e) Successful completion of a criminal background check.
- 2) Requires the CTC to issue a clear teaching credential to an applicant who satisfies the requirements above, provides verification of two or more years of

teaching experience, including two satisfactory performance evaluations, and documents that the applicant has met the state requirements for teaching English learners.

ANALYSIS

This bill:

- 1) Requires the CTC, in an effort to expedite the teaching credential application process for teachers prepared in other states or territories outside of California, to assess the credential standards of other states and territories to do both of the following:
 - a) Identify states and territories and credentials that require a bachelor's degree from a regionally accredited four-year institution of higher education.
 - b) Identify states and territories with teacher induction program standards that are comparable to the teacher induction program standards in California.
- 2) Requires the CTC to do the following upon completing the assessment:
 - a) Recognize the states and territories and credentials identified as an option for applicants to satisfy the bachelor's degree requirement for out-of-state prepared teachers.
 - b) Recognize the teacher induction programs identified as an option for applicants to satisfy the teaching experience requirement for out-of-state prepared teachers.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, "The persistent teacher shortage in the United States and California has been further compounded by the COVID-19 pandemic. Nearly two-thirds of California schools have encountered difficulties filling vacant teaching positions, and the state's eight largest school districts have reported an average vacancy rate of 10% for the 2022-23 academic year. Additionally, research conducted during the 2020-21 school year found that 17% of K-12 classes were being taught by teachers who lacked the proper credentials to teach that subject.

Given the seriousness of California's teacher shortage, the state should look for ways to expedite the process of credentialing teachers without compromising workforce standards. One solution is to allow qualified teachers, who have obtained education and credentials from other states that comply with California's standards, a quicker path to obtaining their preliminary teaching credentials. Although California has made significant investments in improving educator recruitment and retention rates statewide in the previous four years, ongoing

delays and backlogs in the credentialing process pose a burden on teacher training and exacerbate the state's teacher shortage.

- 2) ***Credentialing process for out-of-state prepared teachers.*** California has a two-tier credential structure. A preliminary credential is the first document issued after an individual meets basic credential requirements. The preliminary credential is issued for a maximum of five years. A clear credential is issued when all credential requirements have been completed. If the requirements for the clear credential are not completed before the expiration of the preliminary, the holder is deemed ineligible to teach in California's public schools.

Further, current law requires that every teacher who provides instructional services to an English-learner be authorized to provide specialized instruction for those learners. This instruction would either (1) help the learners understand instruction that is taught only in English, (2) help the learners develop their ability to listen, speak, read, and write in English, (3) be provided in the learners' primary language as English is acquired, or (4) be taught in a language other than English for those learners in a dual immersion program.

For out-of-state prepared teachers, a preliminary credential is given to individuals that possess a baccalaureate degree, completed a teacher preparation program, meet subject matter knowledge requirements, and pass a criminal background check. For these teachers to clear their credential, current law requires satisfaction of the requirements above, verification of two or more years of teaching experience, including two satisfactory performance evaluations, and documents that the applicant has met the state requirements for teaching English learners.

- 3) ***How would this bill ease the application process for out-of-state prepared teachers?*** According to the CTC, this bill addresses the following "pinch points" within their certification process that cause delays and potentially avoidable work for out-of-state prepared teachers seeking a California preliminary or clear teaching credential. :

- a) ***CTC verification of a candidate's four-year degree.*** Existing law specifies that out-of-state prepared teachers must, among other things, possess a baccalaureate degree from a regionally accredited institution of higher education to earn a preliminary teaching credential. Currently the CTC requires applicants to send their official college transcripts verifying a four-year degree (and any additional higher degrees). The transcripts must be the original college issued documents. The process of requesting and submitting college transcripts, particularly from colleges in other states, can be arduous. By pre-identifying states and territories and credentials that have the same four-year degree requirement as California, the CTC will be able to skip this verification step for credentialed applicants from the identified states and territories.
- b) ***CTC verification of two or more years of teaching experience.*** Existing law specifies that out-of-state prepared teachers must, among other things, provide verification of two or more years of teaching experience to earn a

clear teaching credential. Currently, the CTC requires applicants to submit an original letter from the out-of-state employer and two years of satisfactory performance evaluations. By pre-identifying states and territories with teacher induction program standards that are comparable to California's, the CTC can streamline the teaching experience verification process and only require a letter from the teacher's prior employer.

- 4) ***Learning Policy Institute (LPI) report.*** The LPI's 2016 report, "Addressing California's Emerging Teacher Shortage: An Analysis of Sources and Solutions" included the following summary: "After many years of teacher layoffs in California, school districts around the state are hiring again. With the influx of new K-12 funding, districts are looking to lower student-teacher ratios and reinstate classes and programs that were reduced or eliminated during the Great Recession. However, mounting evidence indicates that teacher supply has not kept pace with the increased demand." The report included the following findings:
- a) Enrollment in educator preparation programs has dropped by more than 70 percent over the last decade.
 - b) In 2014-15, provisional and short-term permits nearly tripled from the number issued two years earlier, growing from about 850 to more than 2,400.
 - c) The number of teachers hired on substandard permits and credentials nearly doubled in the last two years, to more than 7,700 comprising a third of all the new credentials issued in 2014-15.
 - d) Estimated teacher hires for the 2015-16 school year increased by 25 percent from the previous year while enrollment in the University of California and the California State University teacher education programs increased by only about 3.8 percent.

The LPI report offered several policy recommendations for consideration, including the creation of more innovative pipelines into teaching.

- 5) ***Legislative Analyst Office (LAO) assessment.*** As part of the Proposition 98 Education Analysis for the 2016-17 Governor's Budget released in February 2016, the LAO included a section on teacher workforce trends in which it examined evidence for teacher shortages in specific areas, identified and assessed past policy responses to these shortages, and raised issues for the Legislature to consider going forward in terms of new policy responses. In the report, the LAO indicated that the statewide teacher market will help alleviate existing shortages over time and that the shortages may decrease without direct state action. However, the LAO noted there are perennial staffing difficulties in specific areas, such as special education, math, and science, for which they encouraged the Legislature to address with narrowly tailored policies rather than with broad statewide policies.

6) ***Already weak teaching pipeline further damaged by COVID-19 education disruptions.*** A March 2021 report by the LPI raised concerns about the effects of the COVID-19 pandemic on the teacher shortage in California:

- a) Teacher shortages remain a critical problem. Most districts have found teachers to be in short supply, especially for math, science, special education, and bilingual education. Shortages are especially concerning as a return to in-person instruction will require even more teachers to accommodate physical distancing requirements. Most districts are filling hiring needs with teachers on substandard credentials and permits, reflecting a statewide trend of increasing reliance on underprepared teachers.
- b) Teacher pipeline problems are exacerbated by teacher testing policies and inadequate financial aid for completing preparation. Many districts attributed shortages to having a limited pool of fully credentialed applicants, with more than half reporting that testing requirements and lack of financial support for teacher education pose barriers to entry into teaching.
- c) Teacher workload and burnout are major concerns. The transition to online and hybrid learning models has had a steep learning curve and poses ongoing challenges that have been a primary contributor to some teachers' decisions to retire earlier than previously planned. With district leaders estimating that teacher workloads have at least doubled, many were concerned that the stressors of managing the challenges of the pandemic on top of the challenges of an increased workload could lead to teacher burnout and increased turnover rates.
- d) Growing retirements and resignations further reduce supply. In some districts, retirements and resignations are contributing to shortages, while in others, these retirements and resignations offset the need for anticipated layoffs due to expected budget cuts this school year. District leaders anticipate higher retirement rates next year, which could exacerbate teacher shortages.

SUPPORT

Create CA

OPPOSITION

None received

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