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California State Senate

EDUCATION



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AGENDA

Wednesday, April 24, 2024
9 a.m. -- 1021 O Street, Room 2100

MEASURES HEARD IN FILE ORDER

1. SB 895 Roth Community colleges: Baccalaureate Degree in Nursing Pilot Program.
2. SB 1115 Limón Professional learning: mathematics and literacy.
3. SB 1195 Limón Assessments: advanced placement examinations: fall testing date.
4. SB 1203 Grove Education expenses: Education Flex Account Act of 2024.
- *5. SB 1252 Stern California Mosquito Surveillance and Research Program.
6. SB 1471 Stern Pupil instruction: quiet reflection.
- *7. SB 1288 Becker Public schools: artificial intelligence working group.
8. SB 1388 Archuleta Education finance: community colleges: general fund balance.
9. SB 1477 Ashby School accountability: independent study, educational enrichment activities, oversight, and audit requirements.
10. SB 1235 Gonzalez Public postsecondary education: Artificial Intelligence and Deepfake Working Group.

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| 11. | SB 1368 | Ochoa Bogh | School curriculum: sexual health education and human immunodeficiency virus (HIV) prevention education: health framework: pregnancy centers. |
| 12. | SB 1410 | Ochoa Bogh | Pupil instruction: curriculum frameworks: mathematics: algebra. |
| *13. | SB 1329 | Education | Elementary and secondary education: omnibus. |
| *14. | SB 1449 | Newman | California Private Postsecondary Education Act of 2009: complaint processing contracts. |

FOR VOTE ONLY

- | | | | |
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| 15. | SB 1435 | Ochoa Bogh | Books and other school materials: obscene matter. |
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***Measures on Consent**

SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No:	SB 895	Hearing Date:	April 24, 2024
Author:	Roth		
Version:	April 1, 2024		
Urgency:	No	Fiscal:	Yes
Consultant:	Olgalilia Ramirez		

Subject: Community colleges: Baccalaureate Degree in Nursing Pilot Program.

SUMMARY

This bill requires the California Community College (CCC) Chancellor's Office to establish, until January 1, 2031, a Community College Baccalaureate Degree in Nursing Pilot Program for purposes of authorizing 15 community college districts with nationally accredited nursing programs selected by the CCC Chancellor's office to offer a Bachelor of Science in nursing degree. The bill further requires the Legislative Analyst's Office to conduct and submit to the legislature an evaluation of the pilot program, as specified.

BACKGROUND

Existing law:

- 1) Differentiates the missions and functions of public and independent institutions of higher education. Under these provisions:
 - a) The primary mission of the California State University (CSU) is to offer undergraduate and graduate instruction through the master's degree in the liberal arts and sciences and professional education including teacher education. The CSU is authorized to establish two-year programs only when mutually agreed upon by the Trustees and the CCC Board of Governors. The CSU is also authorized to jointly award the doctoral degree with the University of California (UC) and with one or more independent institutions of higher education.
 - b) The UC is authorized to provide undergraduate and graduate instruction and has exclusive jurisdiction in public higher education over graduate instruction in the professions of law, medicine, dentistry and veterinary medicine. The UC is also the primary state-supported academic agency for research.
 - c) The independent institutions of higher education are required to provide undergraduate and graduate instruction and research in accordance with their respective missions.
 - d) The mission and function of the CCC is the offering of academic and vocational instruction at the lower division level, and the CCC are authorized to grant the Associate in Arts and the Associate in Science degrees. The community colleges are also required to offer learning supports to close

learning gaps, English as a Second Language instruction, and adult noncredit instruction, and support services which help students succeed at the postsecondary level. (Education Code § 66010.4)

- 2) Authorizes the CCC Board of Governors, in consultation with the CSU and the UC, to establish baccalaureate degree programs that do not duplicate a baccalaureate degree program offered by the CSU or UC. Allows for the approval of 30 community college baccalaureate degree programs per academic year. Current law further requires the CCC Chancellor to consult with and seek feedback from the CSU Chancellor, the UC President and the President of the Association of Independent California Colleges and Universities on proposed baccalaureate degree programs, as specified, and establishes a mechanism for the assessment, consultation, and approval of programs where duplication is identified, as specified. (EC § 78040 et seq.)

ANALYSIS

This bill:

- 1) Requires the CCC Chancellor's Office to develop a Baccalaureate Degree in Nursing Pilot Program that authorizes select community colleges to offer a Bachelor of Science in Nursing Degree.
- 2) Provides that the pilot program be limited to 15 community college districts statewide.
- 3) Requires that the Chancellor identify eligible community college districts that apply based on the following criteria:
 - a) There is equitable access between the northern, central, and southern parts of the state to the pilot program.
 - b) Priority is given to community college districts in underserved nursing areas.
 - c) The community college district has a nationally accredited nursing program.
- 4) Limits the total number of associate degree in nursing and bachelor of science in nursing students at a community college district to the community college district's associate degree in nursing class size approved by the board of registered nursing, and further limits the total number of participants in a pilot program to 25 percent of that class size or 35 students, whichever is greater.
- 5) Requires that the LAO conduct an evaluation of the pilot program to determine the effectiveness of the program and the need to continue or expand the program.
- 6) Requires that the evaluation be submitted to the legislature as specified.

- 7) States that the existing CCC baccalaureate degree authorization does not apply to programs created under this bill's provision.
- 8) Sunsets the bill's provision on January 1, 2031.
- 9) States various findings and declarations relative to the bill's provisions.

STAFF COMMENTS

- 1) **Need for the bill.** According to the author, "For decades, California has suffered from a shortage of registered nurses, and this problem has been exacerbated in recent years due to the pandemic and it's expected to worsen due to an increase in RN retirements. While the nursing shortage is a national problem, it is particularly acute here in our state,—ranking 40th out of 50 states. A key factor contributing to this crisis is that California's nursing school capacity has not been able to keep up with demand. In 2018, more than 85% of hospitals in California reported that the demand for RN's was greater than the available supply – a situation that has not improved. But there is a path forward to help solve this problem and that path cuts right through our California Community Colleges. Our SB 895 creates a pilot program allowing community colleges to offer a bachelor's degree in nursing, which is increasingly the industry standard, and a requirement for employment in our hospitals."

The author further asserts that the goal of the bill is to utilize existing associate degree in nursing program capacity to produce more Bachelor of Science in Nursing degrees. The reason why producing more Bachelor of Science in Nursing degrees is important is because the industry standard in healthcare is changing. Specifically in hospitals and in direct care settings, a Bachelor of Science in nursing degree is increasingly becoming a requirement for employment. The author argues that CSUs and UCs face challenges in building out additional capacity to produce more nurses with a Bachelor of Science in Nursing, as such it is critical to use the existing community college nursing program structure to assist with meeting these workforce standards.

- 2) **Pushes CCCs from their original mission.** The state has four segments of higher education: three public and one private. Each plays a vital and unique role for the state. Their mission statements are outlined in the Master Plan for Higher Education and by state statute. The CCCs are to have an open admission policy and bear the most extensive responsibility for lower-division undergraduate instruction. Its primary areas of mission include instruction leading to associate degrees and university transfer, vocational instruction, and remedial education. Despite the differentiation of mission, the Legislature has authorized the CSU and CCCs to go beyond their original mission to offer doctoral degree and baccalaureate degree programs, respectively, so long as programs do not duplicate those offered by the other segments with primary jurisdiction. *Further expansion of CCC baccalaureate degrees as proposed in this bill would signal the legislature's willingness to allow CCCs to deviate further from their institutional mission, duplicate programs offered by the other segments with*

primary jurisdiction, and bypass the existing CCC baccalaureate approval process.

- 3) **Is this the appropriate solution?** If it is the desire of the legislature to expand Bachelor of Science in Nursing (BSN) degree programs, arguably more effective and efficient alternatives do not require a departure from the CCC's mission to expand and streamline BSN pathways. In its recommendation for alternatives to the original baccalaureate degree pilot program, the LAO's analysis notes that some CCCs have agreements with baccalaureate degree-granting institutions. Improving alignment between CCC and the universities could increase the number of CCC students who ultimately obtain a bachelor's degree and reduce the amount of time students take to obtain their degree. For example, the Tri-County Nursing Pathway is a partnership between Riverside City College and two CSU campuses (Fullerton and San Bernardino) that allows associate degree nursing students to concurrently obtain their bachelor's degrees. Students can enroll in CSU courses while still completing their associate degree requirements, allowing them to obtain their bachelor's degree with only six additional months of coursework. The LAO report further asserts that such partnerships could not only be more cost-effective but also benefit more students (*including place-bound students*), thereby having a more widespread impact. The committee may wish to consider all of the following:

- *Could this bill undermine any incentives for similar collaborations across the public higher education segments to address regional workforce needs like nursing?*
- *Can the process for developing collaborative efforts to address workforce needs be modified to facilitate greater proliferation of these programs?*
- *Should a community college be required to demonstrate that existing avenues for partnership with other institutions are not possible or viable before seeking authorization to offer an independent baccalaureate degree?*
- *Should additional support be provided to the other segments with primary jurisdiction for granting baccalaureate degrees to increase the number of degree slots available in high-demand areas?*

- 4) **State investment in CCC associate degree in nursing programs.** Of California's three public higher education segments, only the community colleges offer associate degrees in nursing. According to the CCC Chancellor's Office 2020-2022 legislative report on Community Colleges Nursing Educational Programs, associate degrees in nursing programs account for 55.4% of programs in the state. Numerous legislative efforts and investments have been made to expand community college associate degree in nursing enrollments and improve retention to facilitate the expansion of associate degree in nursing programs. The Budget Act of 2015 provided additional nursing program support to expand community college nursing enrollments and improve student retention in associate degree nursing programs. Since 2009-10, the Legislature has

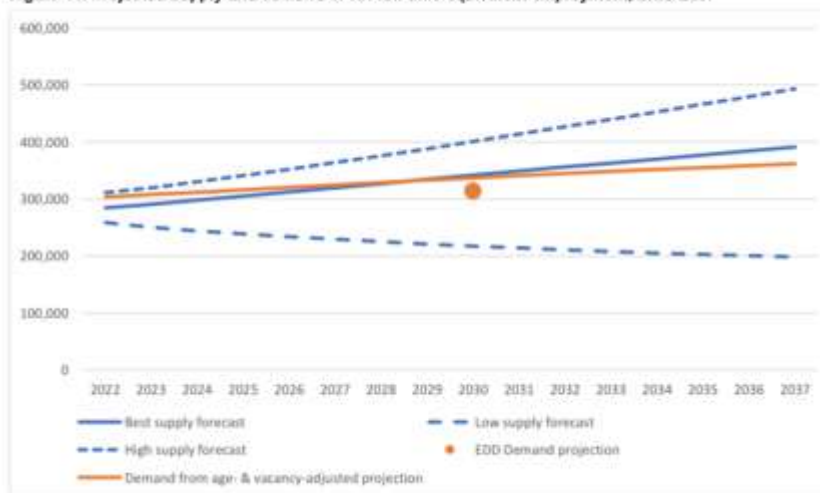
provided ongoing funding (\$13.4 million) through grants to CCC associate degree in nursing programs in recognition of the relatively high cost of educating nurses. The Department of Health Care Access and Information, which administers a state program to help, among other things, increase support for nursing education programs, awarded a total of \$17 million to 34 nursing programs in 2023, including 17 community college associate degree in nursing programs. These investments demonstrate the state's willingness to invest in associate degrees and demonstrate a recognition of their value to the state.

- 5) **Tuition costs.** Current law allows CCCs to raise tuition for the other CCC baccalaureate degree programs to the same amount as a CSU. This bill, however, makes it clear that those provisions are not applicable to the proposed pilot program but is silent on tuition costs. Tuition fees for CCC courses are currently \$46 per credit. Without statutory authorization, it is uncertain if CCC districts can charge higher rates for the more advanced degree. If this measure moves forward, the author may wish to clarify the parameters related to program funding and tuition costs.
- 6) **Not all community college nursing programs are nationally accredited.** According to the community college chancellor's office, of the 77 associate degree for nursing programs, 28 are nationally accredited 27 by the Accreditation Commission for Education on Nursing (ACEN) and one by the Commission for Nursing Education Accreditation. Nine are candidates for national accreditation by ACEN. All programs have Board of Registered Nursing (BRN) approval. BRN approval ensures compliance with statutory and regulatory requirements whereas accreditation provides a baseline measure of program quality and supports transferability of credits for students seeking an advanced degree. This bill restricts participation in the pilot program to nationally accredited community college nursing programs.
- 7) **Nursing programs in California.** Graduates of associate and bachelor nursing degree programs may sit for nurse licensure exams and become licensed registered nurses. The state's BRN approves all of California's pre-licensure nursing programs offered by public and private colleges and makes decisions about the number of students that new and existing nursing programs are allowed to enroll. The number of nursing programs in the state totals 152, with 101 public, 91 associate degrees in nursing, 48 bachelor of science in nursing, and 13 Entry Level Master's (ELM) programs. According to the most recent BRN annual school report (2021-2022), California graduated about 13,300 students in 2021-22 from registered nursing programs, which represents an 18 percent increase in student completions since 2012. Associate's degree completions decreased while bachelor's degrees and ELM nursing completions increased. The number of joint associate degrees in nursing and bachelor's programs has increased over the last 10 years. The time it takes a student to graduate from a program varies by degree. An associate degree in nursing prepares students for registered nursing care in a variety of settings in two-three years, whereas a bachelor's degree takes about four years to train students for registered nursing care as well as administrative and leadership positions. An ELM is a one- to two-year program for baccalaureate degree holders in other fields seeking to become registered nurses. All schools are required to provide clinical instruction with

clinical placement in a health care facility in each phase of the educational process. Students must pass a national licensure examination to earn a license. The BRN projects enrollment to increase for the 2023-2024 academic year to about 18,500. www.rn.ca.gov/forms/rnsurvey201718.shtml

- 8) **Enrollment decisions controlled by BRN.** The author argues that a key factor contributing to this crisis is that California's nursing school capacity has not been able to keep up with demand. As noted in the above comment, the BRN is one of a few licensing boards that continues to actively approve educational programs and make enrollment decisions. According to a recent state audit of the BRN, two of the key factors that should be included in the BRN's enrollment decisions are the forecasted supply of nurses that the state will need to fulfill demand and the available number of clinical placement slots. The audit found that the BRN has failed to gather and use sufficient data related to both of these factors to appropriately inform its enrollment decisions. *Should the BRN continue to approve RN educational programs? Shouldn't institutions play a greater role in determining enrollment decisions?*
- 9) **Nursing shortage projected to close within a few years.** According to a 2022 University of California, San Francisco (UCSF) study, "Forecasts of the Registered Nurse Workforce in California," data shows consistent employment rates for RNs since 2018, but decreasing rates for older RNs. It further warns that a greater number of RNs plan to retire or quit within two years compared to 2018. The pandemic also had an impact on retention rates. RN education programs experienced fewer enrollments and graduates during the 2018-2019 academic year. Combined, these changes have reduced the supply of RNs relative to previous forecasts. *However*, circumstances are improving. RN education enrollments are expected to surpass pre-pandemic levels starting with the 2021-22 academic year. It is projected that the supply of new RNs will match demand by 2029, thereby filling unfilled positions. According to UCSF's updated 2024 forecast (unpublished), there is a statewide supply-demand gap of 17,000 full-time equivalent nurses, which is projected to close within four years (2028), one year earlier than the 2022 report indicated. Notably, retention of new and experienced nurses is key. Below is a graph from the UCSF 2022 forecast report. www.rn.ca.gov/pdfs/forms/forecast2022.pdf

Figure 11. Projected supply and demand of RN full-time equivalent employment, 2022-2037



- 10) **Duplication indicates that California needs better higher education coordination.** All of California's public education institutions share a commitment to work together to ensure that parts of the system work for all Californians. Since the defunding of the California Postsecondary Education Commission (CPEC) in 2011, California has not had a statewide coordinating entity for higher education. Prior to its demise, the role of the CPEC included academic program review to coordinate the long-range planning of the state's public higher education systems as a means to ensure that the segments were working together to carry out their individual missions while serving the state's long-range workforce and economic needs. The absence of a higher education coordinating entity has hindered the state's ability to review degree programs to align with state and workforce needs. In its place, changes to higher education's blueprint are being made one legislative proposal at a time in a piecemeal way, which could result in an uncoordinated and fragmented system. Although this bill is limited to one community college baccalaureate degree program, it establishes a precedent for permitting duplication of degree programs and expands CCC's ability to establish baccalaureate degrees independent from California's other public universities. The committee may wish to consider all of the following:
- *What relationship is there among the different missions of California's higher education segments and their differential ways in which they offer education?*
 - *Is it appropriate to rely solely on the legislative process to implement significant programmatic changes to higher education without any coordination or long-range plan to guide the conversation? Does the legislative process allow for consideration of priority relative to other demands in higher education?*
 - *How should the legislature leverage the strength of each segment to address regional or statewide workforce needs? What is the expectation for collaboration among the segments?*
 - *The delineation of missions serves as a guide for how and where to allocate state resources. If there is a lack of clarity about institutional missions, what will guide the future of higher education?*
- 11) **Arguments in support.** According to the letter of support submitted to the committee from the Community College League, co-sponsors of the bill, it states in part, "SB 895 does not intend to create competition between public nursing schools. Currently, when students are not admitted into a public nursing program, they turn to for-profit and private institutions. While this may be a good option for many students, it is an unnecessarily expensive option when the local community college could offer the program at a lower cost. Many capable students are also priced out of the option to attend a private university or are forced to incur tremendous amounts of debt. Those are the students this bill intends to help—students who may otherwise not seek baccalaureate degrees, including working adults, economically disadvantaged students, people of color, and place-bound

students. The Community College League further asserts, “California’s nursing shortage cannot be solved by one singular approach but rather requires a collaborative, multi-program solution. SB 895 seeks to address the nursing shortage through California’s community colleges, which have already shown to be successful through ADN-BSN partnerships. As a 6-year pilot program, SB 895 would authorize 15 community college districts with existing ADN infrastructure to begin offering baccalaureate degrees in nursing. Several ADN programs are already well-positioned to take on this next step, and community college leaders across the state are eager and ready to serve their students by educating and training the next generation of nurses.”

- 12) **Arguments in opposition.** The California Association of Colleges of Nursing argues, in part, in their opposition letter, that SB 895 “will not add a single additional nurse to the state workforce beyond the number that would exist under current law. Community colleges lack the infrastructure needed to administer baccalaureate nursing degree programs in accordance with evolving nursing accreditation standards. In fact, we are concerned that the bill will exacerbate existing challenges in hiring nursing faculty, since community college programs will likely need to seek out more faculty, to teach the additional courses required as part of baccalaureate degree programs. CACN additionally stresses that, “while we absolutely concur with the author and proponents on the need to craft policies that increase the number of nurses in the state, we respectfully disagree that this approach will address any of the underlying constraints to that pipeline. CACN believes that we can increase the number of nursing students in our state faster by partnering with our community colleges and not duplicating efforts and competing for limited resources, including clinical placements and qualified faculty.”

- 13) **Amendments.**

The author wishes, and committee staff agrees, that the **bill be amended** as follows:

Legislative findings and declarations

- Modify the legislative findings and declarations to better reflect the intent of the bill.

Equitable access across the state

- Clarifies that the Community College Chancellor’s Office is encouraged to ensure equitable access between the northern, central, and southern parts of the state to the pilot program.

Provisional approval for unaccredited programs

- Allow community college districts without a nationally accredited nursing program, which are in “Candidate” status, to be provisionally selected to participate in this pilot program, and may commence the program upon final accreditation. With regard to this provision, require that priority be given to

- community college districts located in the Central Valley. If a district that is provisionally selected is found to be making untimely progress toward accreditation, after notice and opportunity to cure, allow the Chancellor of the California Community Colleges to withdraw the provisional selection and select a different community college district to participate in the pilot program.
- Require the California Community College Chancellor's Office to develop a process designed to assist community college nursing programs applying for national accreditation for the purpose of qualifying for the Baccalaureate Degree in Nursing pilot program, such assistance shall be made available to community college districts upon request.

Extend the sunset date and set the report submission deadline

- Set July 1, 2032, as the LAO report submission deadline.
- Extend the pilot program to January 1, 2034.

Committee staff recommends, and the author agrees, that the **bill be further amended** as follows:

Continue associate degree programs

- Require districts selected for the pilot program to continue offering an associate degree in nursing program.
- Require that each participating community college district give priority registration for enrollment in the pilot program to students with an associate degree in nursing from that community college district.

Define underserved nursing area

- Define underserved nursing area to mean registered nurse shortage areas designated at a high, medium, or low severity level as identified by the California Department of Health Care Access and Information.

Information included in the LAO report

- Require that LAO report include, but not be limited to, all of the following:
 - How many, and which specific, districts applied for a BSN pilot program.
 - The number of BSN pilot programs implemented, including information identifying the number of enrollments and degree recipients.
 - Which of the selected districts developed a BSN pilot program in an underserved nursing area.
 - Which districts were selected and why they were selected.
 - BSN degree pilot program costs and the funding sources that were used to finance these programs.
 - The cost charged to students including tuition and any additional fees.
 - The extent to which instruction was provided in-person or online.

- Current completion rates, if available, for each cohort of students participating in the BSN degree pilot program.
- Time-to-degree rates and completion rates for the BSN pilot programs.
- The extent to which the BSN pilot programs established by the bill's provisions are in compliance with the requirements with the bill's provisions.
- Other factors to consider when expanding BSN opportunities across the state.
- Recommendations on whether and how the authorization establishing the pilot program should be extended.

Submit information to LAO

- Require that districts submit the information necessary to conduct the evaluations required in the bill, as determined by the Legislative Analyst's Office, to the Chancellor of the California Community Colleges, who shall provide the information to the Legislative Analyst's Office upon request.

14) **Related and prior legislation.**

AB 2104 (Soria, 2024) would require the CCC Chancellor's office to develop a Baccalaureate Degree in Nursing Pilot Program that authorizes select community college districts to offer a Bachelor of Science in Nursing degree. AB 2104 has been referred to the Assembly Committee on Higher Education.

SB 1183 (Hurtado, 2024) would add living in a medically underserved area or population as a factor for consideration in the multicriteria screening tool used for admission into an impacted registered nursing program at a CCC. It also extends the sunset date by five years. SB 1183 was approved by this committee on April 3.

AB 1311 (Soria, Chapter 126, Statutes of 2023) required the LAO to conduct an assessment, on or before January 1, 2025, evaluating the efficacy of existing programs in allied health jointly offered between campuses of the CCC, CSU, and UC.

AB 1695 (Gipson, 2023) would establish the Nursing Pathway Pilot program in high schools to create pathways toward associate degrees in nursing at CCC. AB 1695 was heard and approved by this committee on June 28, 2023 and held on the Senate floor.

SUPPORT

American Federation of State, County, and Municipal Employees (co-sponsor)
 Community College League of California (co-sponsor)
 Los Angeles Community College District (co-sponsor)
 United Nurses Associations of California (co-sponsor)
 Adventist Health White Memorial
 Alameda Health System

Antelope Valley Community College District
Asian Pacific Islander Trustees and Administrators Caucus of the Community College
League of California
Association of California Community College Administrators
Association of California Healthcare Districts
Bakersfield College
Butte-Glenn Community College District
Cabrillo Community College District
California Assisted Living Association
California Association for Health Services at Home
California Association of Health Facilities
California Association of Latino Community College Trustees and Administrators
California Community College Baccalaureate Association
California Community Colleges
California Community Colleges Chief Instructional Officers
California Hospital Association
Cerritos Community College District
Chabot-Las Positas Community College District
Citrus College
Coast Community College District
Compton Community College District
Contra Costa Community College District
County Health Executives Association of California
County of Los Angeles Board of Supervisors
Cuesta College
Desert Community College District
El Camino Community College District
Faculty Association of California Community Colleges
Foothill-De Anza Community College District
Gavilan Joint Community College District
Glendale Community College
Grossmont College
Grossmont-Cuyamaca Community College District
HealthNet
Kern Community College District
Lassen Community College District
Long Beach City College
Los Angeles Area Chamber of Commerce
Los Angeles Pierce College
Los Angeles Valley College
MiraCosta Community College District
Monterey Peninsula Community College District
Moorpark College
Mt. San Antonio College
Mt. San Jacinto Community College
North Orange County Community College District
Palo Verde Community College District
Palomar Community College District
Pasadena City College
Peralta Community College District

Providence
Rancho Santiago Community College District
Redwoods Community College District
Rio Hondo College
Riverside Community College District
San Diego Community College District
San Diego Unified School District
San Jose-Evergreen Community College District
San Luis Obispo County Community College District
Santa Clarita Community College District - College of the Canyons
Sharp HealthCare
Sierra Joint Community College District
Siskiyou Joint Community College District
Sonoma County Junior College District
South Orange County Community College District
Southwestern Community College District
Student Senate for California Community Colleges
Sutter Health
TELACU
Union of Health Care Professionals
Ventura County Community College District
Victor Valley College
West Hills College Lemoore
West Hills Community College District
West Kern Community College District
9 individuals

OPPOSITION

Association of Independent California Colleges and Universities
Azusa Pacific University
California Association of Colleges of Nursing
California Baptist University
California Faculty Association
California State University, Office of the Chancellor
Concordia University Irvine
Dominican University of California
University of San Francisco School of Nursing and Health Professions
1 individual

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No: SB 1115 **Hearing Date:** April 24, 2024
Author: Limón
Version: March 19, 2024
Urgency: No **Fiscal:** Yes
Consultant: Ian Johnson

Subject: Professional learning: mathematics and literacy.

SUMMARY

This bill requires the California Department of Education (CDE), on or before January 1, 2026, to identify and recommend professional learning programs for certificated and classified staff that support pupil development in mathematics and literacy.

BACKGROUND

Existing Law:

- 1) Requires CDE to issue a request for proposals to contract for the development of standards for professional development for educators and instructional leaders.
- 2) Requires those standards to, among other things, present a vision of ongoing, high-quality professional development, give special attention to high-need schools and school districts, and build on existing work on quality professional development, including the Designs for Learning system.
- 3) Requires the entity contracted by CDE for these purposes to submit the standards to the Superintendent of Public Instruction (SPI) for approval, and requires the SPI to submit the standards to the State Board of Education (SBE) for approval, as specified.

ANALYSIS

This bill:

- 1) Requires the CDE, on or before January 1, 2026, to identify and recommend high-quality professional learning programs for certificated and classified staff that support pupil development in mathematics and literacy and do all of the following:
 - a) Include literacy professional learning for certificated and classified staff serving pupils in transitional kindergarten, kindergarten, or any of grades 1 to 6, inclusive, that align with the principles of the science of reading by focusing on results-driven methods of teaching, which may include, but is not limited to, offerings such as Lexia LETRS and CORE Learning.
 - b) Support the development of biliteracy in pupils.

- c) Have proven, evidence-based outcomes for pupils.
 - d) Have proven, evidence-based outcomes for educator knowledge and instruction.
 - e) Focus on pupil engagement and equity.
 - f) Address supports for pupils.
 - g) Support educators at different stages and roles in their careers with offerings of varied duration and intensity that tie to their specific responsibilities.
- 2) Appropriates an unspecified amount from the General Fund to the SPI for allocation to local educational agencies (LEAs) for purposes of providing high-quality professional learning programs for certificated and classified staff that support pupil development in mathematics and literacy.
- 3) Requires, as a condition of receiving funds, an LEA to report to CDE measurable outcomes of pupil achievement due to the professional learning provided for professional development related to mathematics and English language arts, including, but not limited to, test scores, pupil attendance, and graduation rates.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “In October 2023, the CDE released assessment results that indicate the impact of the state recovery effort from the COVID-19 pandemic.

“The Smarter Balanced Summative Assessment for mathematics showed an increase from 33.4percent to 34.6 percent, followed by an increase from 29.5 percent to 30.2 percent in science based on the California Science Test Student Scores from 2021 to 2023. In addition, the English Language Arts (ELA) showed a decrease from 47.1percent to 46.7 percent.

“With promising improvement in assessment results for both math and science, we must continue efforts to improve student success. This can only be done with the support of education staff, who have a crucial role in the performance of students. SB 1115 ensures our student assessment goals are met.

“Professional learning programs provide support for teachers and serve as an incentive for teacher recruitment and retention. Educators who are supported and continuously developing their skills are more likely to create engaging and interactive learning environments.”

- 2) ***Poor access to high-quality STEM education.*** Science, Technology, Engineering, and Mathematics (STEM) education includes four specific disciplines—science, technology, engineering, and mathematics—in an interdisciplinary and applied approach. STEM teaches and trains students to engage in critical thinking, inquiry, problem solving, collaboration, and what is

often referred to in engineering as design thinking. In recent years, the state has undertaken a number of policy reforms to address STEM teaching and assessment practices, curriculum, and policies that expand STEM opportunities for all students.

There is wide acknowledgement that many California students have insufficient access to high quality STEM education. The SPI's STEM Education Task Force, in a 2014 report on STEM education titled *INNOVATE: A Blueprint for Science, Technology, Engineering and Mathematics in California Public Education*, found:

“Many of California’s students lack consistent access to high-quality STEM education. Although the importance of STEM learning has been widely acknowledged, several factors have limited access to STEM education: the focus on English language arts and skill-based mathematics required by No Child Left Behind; insufficient focus on science as well as on STEM education in the classroom; lack of access to high-quality STEM materials and instruction; insufficient opportunities for students to engage in hands-on, inquiry based learning; and insufficient professional preparation by teachers at all levels.”

In recognition of this problem of access, the SPI's STEM Education Task Force recommended that the state make access to high-quality STEM experiences and programs universal to all K-12 students through a variety of opportunities in school, expanded learning, and community partnerships through informal, formal, and digital pathways.

A 2016 review of STEM education studies conducted by the U.S. Department of Education's Institute of Education Sciences shows that access to advanced math and science courses in high school is a strong predictor for success in post-secondary STEM courses. This finding holds true for both male and female students, and across all ethnicities examined. However, certain populations, including Hispanic and African American students, take fewer high-level high school math and science courses, even though their interest levels in STEM subjects match those of their white peers.

Limited access to STEM education is of concern not only at the high school level, but in elementary grades as well. In 2011, WestEd, the Lawrence Hall of Science at UC Berkeley, and SRI International issued a report on elementary STEM education in California. Among their key findings: 40 percent of K-5 teachers report that their students receive 60 minutes or less of science instruction per week, less than 15 percent have received any science-related professional development in the previous three years, and only a third of elementary school teachers feel very prepared to teach science. In addition, the authors found that racial inequities in STEM knowledge are already apparent in elementary school: in 2009, the state's fourth graders performed at the lowest level nationally on the National Assessment of Educational Progress (NAEP) science test, and fewer than 10 percent% of African American and Hispanic fourth graders scored proficient, compared to 41 and 45 percent of their white and Asian peers, respectively. Altogether, these findings led the authors to conclude that “children rarely encounter high-quality science learning

opportunities in California elementary schools because the conditions that would support them are rarely in place.”

In 2012, the President’s Council of Advisors on Science and Technology stated that the United States will need 1 million more STEM professionals than the country will produce at the current rate over the next decade, if the country is to maintain its status as a global leader in science and technology. The above report raises the question of whether today’s K-12 students are being adequately and equitably prepared to take full advantage of emerging opportunities in STEM professions.

- 3) ***Revision of the Mathematics Framework.*** The CDE, Instructional Quality Commission (IQC), and SBE have completed the revision process for the Mathematics Framework for California Public Schools: Kindergarten Through Grade Twelve (Mathematics Framework). The Framework is important guidance designed to help educators align classroom teaching with California’s rigorous math learning standards. The purpose of the revised Mathematics Framework is to achieve excellence in math teaching and learning through curriculum and instructional approaches grounded in research and reflective of best practices across the globe. The revised Mathematics Framework provides guidance for mathematics learning for all students at all levels of math, including calculus, and ensures students have a wide variety of options including pursuing STEM in college and in their careers. Instructional materials aligned to the new Mathematics Framework are expected to be adopted in 2025.
- 4) ***Current English Language Arts/English Language Development curriculum framework takes integrated approach to literacy.*** In 2014, the SBE adopted the current ELA/ELD Curriculum Framework, which reflects an integrated approach to literacy instruction.

According to the Commission on Teacher Credentialing (CTC), the Framework incorporates five broad, overarching literacy themes, which, taken together, are intended to provide a comprehensive road map for helping students develop literacy across the curriculum. The five themes are:

- a) Meaning Making.
- b) Language Development.
- c) Effective Expression.
- d) Content Knowledge.
- e) Foundational Skills.

Within the new organizational structure and content of the Framework, the foundational skills of teaching reading now represent one of five integrated domains that guide literacy development across the curriculum and K-12 grade span.

In 2019, the CTC adopted revised Teaching Performance Expectations in literacy for multiple subject, educational specialist, and single subject English teacher candidates to align the document to the 2014 ELA/ELD Framework.

- 5) ***The proposed Governor’s Budget includes funding to assist educators in teaching mathematics and support literacy screenings.*** The 2024-25 proposed Governor’s Budget (Budget) includes two proposals that are closely related to this bill.

First, the Budget proposes \$20 million one-time Proposition 98 General Fund for a county office of education to work with the University of California Subject Matter Projects, as well as other well-qualified governmental or non-profit providers, to develop and provide training for mathematics coaches and leaders who can in turn provide training and support to math teachers to deliver high-quality instruction. The Budget also proposes to make statutory changes to focus use of unexpended allocated Learning Recovery Emergency Block Grant funds on actions to address the needs of students most impacted by learning loss and to clarify that the allowable uses of the Learning Recovery Emergency Block Grant include professional development aligned to the new Mathematics Framework.

Second, the Budget proposes \$25 million ongoing Proposition 98 General Fund through the K-12 Mandate Block Grant to support training for educators to administer literacy screenings. This proposal recognizes that the 2023 Budget required LEAs to begin screening students in kindergarten through second grade for risk of reading difficulties, including dyslexia, by the 2025-26 school year.

SUPPORT

State Superintendent of Public Instruction Tony Thurmond (sponsor)
California Charter Schools Association
Collaborative Classroom

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No:	SB 1195	Hearing Date:	April 24, 2024
Author:	Limón		
Version:	March 19, 2024		
Urgency:	No	Fiscal:	No
Consultant:	Kordell Hampton		

Subject: Assessments: advanced placement examinations: fall testing date.

SUMMARY

This bill would require each local educational agency (LEA), county office of education (COE), and charter school that operates a block schedule to request the College Board to provide an alternative testing date at the end of the fall semester for pupils whose advanced placement courses conclude in the fall semester, while maintaining the option for those pupils to take the advanced placement examination for those courses during the spring semester, at the discretion of the pupil.

BACKGROUND

Existing Law:

Education Code (EC)

- 1) A school district may help pay for all or part of the costs of one or more advanced placement examinations that are charged to economically disadvantaged pupils. (EC § 52242)
- 2) Requires a testing agency to investigate complaints of inadequate or improper test conditions in Advanced Placement (AP) tests and requires that the school in charge must cooperate with the investigation and provide requested information within five business days. (EC § 99160.5)
- 3) A school district's governing board is given the option and encouraged to offer a comprehensive educational counseling program for all students enrolled. This program should include guidance on the coursework and experiences needed for each student to meet the A-G requirements for admission to the University of California (UC) and California State University (CSU). Additionally, students in grades 6 to 12 should be encouraged to participate in college preparation programs, such as Advancement Via Individual Determination (AVID), early college, dual enrollment, advanced placement, and international baccalaureate programs. (EC § 49600)
- 4) Requires the school accountability report card (SARC) to include, but is not limited to, the number of advanced placement courses offered, by subject. (EC § 33126)

- 5) Requires the Local Control Accountability Program (LCAP) template, adopted by the State Board of Education (SBE), and the LCAP adopted by a school district, COE, or charter school, to include as a measure of pupil achievement the percentage of pupils who have passed an AP examination with a score of 3 or higher. (EC § 52060 & 52066)

ANALYSIS

This bill would require each LEA, COE, and charter school that operates a block schedule to request the College Board to provide an alternative testing date at the end of the fall semester for pupils whose advanced placement courses conclude in the fall semester, while maintaining the option for those pupils to take the advanced placement examination for those courses during the spring semester, at the discretion of the pupil.

STAFF COMMENTS

- 1) **Need for the bill.** According to the author, “The Advanced Placement (AP) exam is designed to allow students to showcase their proficiency in a particular subject and earn college credits based on their performance, with a scoring scale from 1 to 5. The College Board administers the AP exam once a year, during a two-week period in May. Students who take the course in the fall must wait roughly a whole semester before they can complete the May exam, which can lead to an almost 5-month learning loss for students, exacerbating the scoring gap amongst underrepresented students. SB 1195 ensures that all students who take an AP course have the opportunity to take the exam immediately following the completion of their course.”
- 2) **College Board.** The AP program is managed by the College Board, a non-profit organization that aims to help students achieve success and opportunities in higher education. The program allows high school teachers to teach college-level introductory courses to high school students. At the end of the year, students take a standardized test in one of the 35 subject areas offered by the program. If students score well, they may receive college credit from the university they later enroll in. The AP program gives exams in various subjects, such as Arts, English, History and Social Sciences, Math and Computer Science, Sciences, and World Languages and Cultures. Each exam is scored on a 5-point scale that determines how qualified a student is to receive college credit and placement. However, each college decides what scores to award credit or placement. The AP program studies all subjects to compare AP student performance with college students in similar courses. These studies determine how AP students' scores are translated into an AP score of 1-5. More than 60% of all exams taken earn a score of 3 or higher. Depending on locally developed policies, students may receive extra points on their grade point average by participating in an AP course.

AP Testing

Exams come in various structures and contents, but most consist of several questions and last for two to three hours. For every multiple-choice question, students must choose one answer option out of four or five available options. The multiple-choice section of the exam plays a significant role, and the score is based on the number of correctly answered questions. It is important to note that incorrect or unanswered questions will not result in any penalty. Only the correctly answered

questions will be awarded points. The second part of the exam usually contains free-response questions requiring students to generate responses. Depending on the exam, it could be an essay, a solution to a problem, or a spoken response. AP exams assess a student's understanding of the content and skills taught in a specific AP course. Most courses have an exam towards the end of the year, but some have alternative assessment methods. For example, students in AP Art and Design submit their portfolios of work for evaluation.

The 2024 AP Exams will be administered in schools over two weeks in May: May 6–10 and May 13–17.

Week 1	Morning 8 a.m. Local Time	Afternoon 12 p.m. Local Time	Week 2	Morning 8 a.m. Local Time	Afternoon 12 p.m. Local Time	Afternoon 2 p.m. Local Time
Monday, May 6, 2024	United States Government and Politics	Art History Chemistry	Monday, May 13, 2024	Calculus AB Calculus BC	Italian Language and Culture Precalculus	
Tuesday, May 7, 2024	Human Geography Microeconomics	Seminar Statistics	Tuesday, May 14, 2024	English Language and Composition	African American Studies Physics C: Mechanics	Physics C: Electricity and Magnetism
Wednesday, May 8, 2024	English Literature and Composition	Comparative Government and Politics Computer Science A	Wednesday, May 15, 2024	French Language and Culture World History: Modern	Computer Science Principles Music Theory	
Thursday, May 9, 2024	Chinese Language and Culture Environmental Science	Psychology	Thursday, May 16, 2024	Spanish Language and Culture	Biology Japanese Language and Culture	
Friday, May 10, 2024	European History United States History	Macroeconomics Spanish Literature and Culture	Friday, May 17, 2024	German Language and Culture Physics 1: Algebra- Based	Latin Physics 2: Algebra- Based	

Art and Design: Friday, May 10, 2024 (8 p.m. ET), is the deadline for AP Art and Design students to submit their three portfolio components as final in the AP Digital Portfolio.

AP coordinators will inform students about the date and venue for their exams. It is strictly forbidden to take the test early or at a time other than those specified by the College Board. However, certain unforeseen circumstances may force students to take the test after the scheduled date. In such cases, alternate versions of the exam will be provided to maintain the security of the AP Exams. All students who take the test later in the same school must take the alternate version of the exam on the scheduled late-testing dates at the designated times.

Currently, College Board does not offer an AP Testing schedule for student who may take, and complete, an AP course in the fall.

- 3) **What is a Block Bell Schedule?** Secondary schools traditionally have six to eight 40 to 55-minute classes per day. However, in a block schedule, classes are longer, ranging from 75 to 95 minutes, and students attend fewer daily classes. In a block schedule, students can take up to eight courses per year.

Some block schedules have a 4x4 block, where students take four courses daily for the first half of the school year and then switch to four classes for the second half. This type of schedule operates on a semester schedule, meaning students and

teachers follow new schedules halfway through the year. By focusing on four classes at a time, students and teachers can provide deeper and more comprehensive instruction.

In an A/B or alternating block schedule, classes meet every other day for the academic year. This schedule still allows for some benefits of more extended class periods, such as building relationships and more interactive lessons. Still, students and teachers focus on eight classes throughout the year.

Some schools combine traditional and block schedules into a hybrid weekly schedule. Hybrid schedules provide similar benefits and challenges to alternating block schedules.

In addition, schools have many other schedule modifications, such as flex block, rotating block, and trimester schedules. Some schools add a flex block to the schedule to make time for advisory, intervention, or other student/school/district needs. A flex block typically lasts 30 minutes and can occur at the beginning, middle, or end of the day. A flex block can help balance the schedule in a school with multiple lunch waves.

- 4) ***Do Block Schedules Impact Performance on AP Examinations?*** In 1998, the College Board conducted a study to examine the impact of block schedules on the performance of students taking AP exams in May.

The study focused on four AP exams - AP Biology, Calculus, History, and English Literature - taken by students in 1997. The sample included students who had taken the PSAT/NMSQT in 1995 or 1996 and attended schools with four different instructional schedules. These schedules were the traditional schedule with 30- to 60-minute sessions each day throughout the school year, the alternating schedule with 61- to 90-minute sessions every day throughout the school year, the semesterized fall block course, and the semesterized spring block course.

The study states, “while [the] results are not uniform across the tests examined, the evidence in this study suggests that students who are taught in compressed schedules score lower on all four AP Examinations than those who receive year-long instruction. For courses on compressed schedules (fall or spring), there is some evidence that higher AP Examination grades may be obtained when testing immediately follows instruction. Finally, there is also some supporting evidence that students obtain higher AP grades when more time is devoted to instruction.”

This bill would require each LEA, COE, and charter school that operates a block schedule to request the College Board to provide an alternative testing date at the end of the fall semester for pupils whose advanced placement courses conclude in the fall semester. This would potentially result in hundreds of school districts submitting request to the College Board for an alternative testing date at the end of the fall semester. The committee may wish to consider if it would be more appropriate to require the California Department of Education or the State Superintendent of Public Instruction on the behalf of California schools to request the College Board to provide an alternative testing date at the end of the fall semester for pupils whose AP courses conclude in the fall semester.

5) ***Related Legislation.***

SB 915 (Hill, Chapter 245, Statutes of 2014) imposes specified requirements on test agencies and schools when they learn of a complaint or notice of inadequate or improper test conditions in the administration of the AP test.

SUPPORT

None received

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No:	SB 1203	Hearing Date:	April 24, 2024
Author:	Grove		
Version:	February 15, 2024		
Urgency:	No	Fiscal:	Yes
Consultant:	Ian Johnson		

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

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

SUMMARY

This bill would establish the Education Flex Account (EFA) Act of 2024 only if a Senate Constitutional Amendment (SCA 9, 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 EFA Act of 2024 and establishes the EFA Trust as a fund within the State Treasury to be administered by the EFA 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 EFA or a Special Education Flex Account (SEFA), based on their parent's or guardian's income. After the first four years, every school-aged child would become EFA-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.

- 4) Requires the Superintendent of Public Instruction to establish a procedure for the parents and legal guardians of eligible students to apply to establish an EFA and submit an executed participation agreement.
- 5) Authorizes EFA or SEFA fund disbursements to full-time private schools operating in the state that are either accredited or have a pending accreditation.
- 6) Specifies that the child of a parent or legal guardian who chooses to educate their child at home pursuant to an affidavit and in lieu of enrolling in an eligible school shall not be entitled to establish an EFA or SEFA. However, the parent or legal guardian of a child enrolled in a private school to facilitate homeschooling may establish an EFA or SEFA.
- 7) 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.
- 8) Requires the costs of providing EFA 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.
- 9) Excludes, for taxable years beginning on or after January 1, 2025, from gross income any amounts received as distribution from an EFA or SEFA.
- 10) Becomes operative on January 1, 2025 only if SCA 9 (Grove, 2024) 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, “Many parents believe the current system has created an environment where California public schools are failing and that many K-12 students who graduate are not college ready. Despite spending \$1,000 more per student than the national average, California has consistently ranked below the nation in academic achievement among 4th and 8th graders.

“Graduation requirements have been weakened, and the state’s high school exit exam was eliminated to mask the underperformance of public schools. Big disparities in academic performance exist, especially among students of color with African American and Latino students performing below the standards for English Language Arts and Mathematics exams.

“Although school districts work with private schools and parents to create the most inclusive and thoughtful services for students in special education programs, unfortunately, religious families with children in special education

programs who want to send their child to a religious private school are excluded from receiving funding.”

- 2) ***Is this similar to a voucher program?*** Voucher programs generally allow public funds to be used for private school tuition. EFAs are a type of voucher program, but they are structured differently in that, in addition to private school tuition, EFA 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 of funding currently apportioned to LEAs 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 EFA programs that do not include eligibility requirements. Arizona expanded their already existing EFA 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 EFA 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' EFAs. 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.** 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.** 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 9 (Grove, 2024) 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 EFA.

SUPPORT

California Policy Center (sponsor)
 California Catholic Conference
 De La Salle High School
 Olive Knolls Christian School
 Protection of the Educational Rights of Kids
 Save Glendora Schools
 Silicon Valley Association of Conservative Republicans

15 individuals

OPPOSITION

California Federation of Teachers
California Labor Federation
California School Employees Association
California State PTA
California Teachers Association

-- END --

- 4) Requires the California Mosquito Surveillance and Research Program to perform these functions to the extent the program receives federal or state grants or private donations or grants made for those purposes. (HSC § 2101)

ANALYSIS

This bill requires the California Mosquito Surveillance and Research Program to consult with partners at UC and CSU about the most up-to-date research pertaining to mosquito abatement.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “Mosquitoes pose significant public health risks, with invasive species of mosquitoes exacerbating the state's issue with the flying pests. As the author of this bill, I know the immediate need to address the escalating threat of mosquito-borne illnesses in California. By mandating the CalSurv to consult with ALL UC and CSU campuses, we ensure access to the latest research on mosquito abatement throughout the entire state. This collaborative approach fosters comprehensive strategies and leverages the expertise of our academic institutions. This bill empowers our state to stay ahead of emerging challenges, safeguarding public health and promoting effective mosquito control efforts statewide.”
- 2) ***California Vectorborne Disease Surveillance System (CalSurv).*** CalSurv was formally established in statute by AB 320 (Quirk, Chapter 422, Statutes of 2019). Prior to AB 320, CalSurv functioned without a mandate in law. CalSurv is a program jointly operated by UC Davis, CDPH, and the California Mosquito and Vector Control Association (which represents more than 50 local mosquito and vector control agencies). While the system primarily focuses on mosquitoes and mosquito-borne viruses, it also supports surveillance for ticks and tick-borne diseases. CalSurv provides an online portal through which organizations from across the state are able to provide real-time reporting through surveillance maps of potentially dangerous mosquito risks and share solutions. This portal acts as a statewide database of California-specific vectorborne disease surveillance results and related information which is used to track mosquito migration patterns and rate of infection, and prevent the spread of mosquito borne viruses like Zika and West Nile. <https://calsurv.org/>
- 3) ***Related legislation.***

SB 1251 (Stern, 2024) would require an electrical corporation to enter into a vector management agreement with a mosquito abatement or vector control district or city or county health department within 180 days of a request to do so. SB 1251 is scheduled to be heard in the Senate Energy, Utilities and Communications Committee on April 22.
- 4) ***Prior legislation.***

AB 320 (Quirk, Chapter 422, Statutes of 2019) established CalSurv in statute.

AB 2892 (Quirk, 2018) was similar to AB 320 (2019), but would have housed CalSurv at CDPH. AB 2892 was held on the Senate Appropriations Committee suspense file.

SB 382 (Pan, 2017) would have created the California Mosquito Surveillance and Research Program Account to fund CalSurv and research grants to help mitigate the effects of increasing vector populations. SB 382 was held on the Senate Appropriations Committee suspense file.

SUPPORT

None received

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No:	SB 1471	Hearing Date:	April 24, 2024
Author:	Stern		
Version:	April 11, 2024		
Urgency:	No	Fiscal:	No
Consultant:	Kordell Hampton		

Subject: Pupil instruction: quiet reflection.

SUMMARY

This bill would authorize a certificated employee at a public school to conduct a brief period of quiet reflection, with the participation of all pupils in attendance, for not more than 60 seconds at the beginning of each school day.

BACKGROUND

Existing Law:

Education Code (EC)

- 1) It is the policy of the State of California to afford all persons in public schools, regardless of their disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes set forth in the Penal Code, including immigration status, equal rights, and opportunities in the educational institutions of the state. (EC § 200)
- 2) No person shall be subjected to discrimination on the basis of disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes set forth in the Penal Code, including immigration status, in any program or activity conducted by an educational institution that receives, or benefits from, state financial assistance, or enrolls pupils who receive state student financial aid. (EC § 220)

ANALYSIS

This bill:

- 1) Authorizes a certificated employee at a public school to conduct a brief period of quiet reflection, with the participation of all pupils in attendance, for not more than 60 seconds at the beginning of each school day.
- 2) Requires that a brief period of quiet reflection cannot be conducted as or construed to be a religious service or exercise, but rather as an opportunity for silent reflection on the anticipated activities of the day.

- 3) Makes findings and declarations that the wellness of society as a whole could be enhanced if pupils in the public schools were afforded a quiet moment of reflection at the beginning of each school day.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “I believe SB 1471 is the key to fostering a supportive and inclusive learning environment at all schools across the state. This bill proposes to offer teachers the option to facilitate a moment of reflection at the start of each school day, inviting student participation. This simple yet powerful practice allows students and educators to pause, center themselves, and cultivate a sense of mindfulness and empathy. By providing this opportunity for reflection, we would promote emotional well-being, respect for diverse beliefs, and a sense of community within our schools. SB 1471 encourages the development of whole-child education and supports holistic growth.”
- 2) ***Origin of “Moment of Silence” in Schools.*** “Moment of silence” laws in schools were adopted in many states following the Supreme Court’s holding that school-sponsored prayers violated the First Amendment’s Establishment Clause. The Supreme Court ruling in *Engel v. Vitale* (1962) explicitly held that school-sponsored prayer in public schools violated the First Amendment’s establishment clause. Meanwhile, the next year, the Supreme Court decision in *Abington School District v. Schempp* (1963) considered two companion cases—one involving the reading of verses from the Bible, and the other involving reciting the Lord’s Prayer, in public school settings—and struck down both laws on the same basis as in *Engel*, without further comment. The *Schempps*, who were Unitarians from Pennsylvania, had challenged both of these practices. In both cases, the Court sought to prevent either the power of government or the proclivities of politicians from unduly interfering in people’s pursuit of religious belief. The “moment of silence” laws were enacted as a way to avoid the explicit religious activity prohibited by the Supreme Court.

Alabama was one of the states that adopted a “moment of silence” law, in 1978, allowing one minute of silence for meditation. This law did not impede a person’s pursuit of religious belief as it did not establish state-sponsored prayer. But a second statute was added in 1981, which permitted voluntary prayer in school. The third statute, added in 1982, allowed teachers to lead a prescribed, explicitly Christian prayer with willing students. It was not until 1985, when the Alabama law was in Court following additional legislation that updated the statute. The first statute was created in 1978, allowing one minute of silence for meditation. A second statute was added in 1981, which permitted voluntary prayer in school. The third statute, added in 1982, allowed teachers to lead prayer with willing students.

In May 1982, Ishmael Jaffree filed a complaint against three Mobile County, Alabama public school teachers, administrators, and school board members. The complaint was filed on behalf of his three children’s attendance at the school, and specifically sought an injunction against the regular religious prayer services and observances that were being held there on the basis that it violated their First Amendment rights. Jaffree sought a declaratory judgment and an injunction to stop the school from allowing such practices. During a hearing in the District Court, the primary sponsor of the 1981 statute, State Sen. Donald G. Holmes, stated that the

1981 bill's purpose was to reinstate optional prayer in Alabama's public schools. After a trial, the District Court upheld all three laws, concluding that the Establishment Clause of the First Amendment did not bar a state (as opposed to the federal government). The Court of Appeals determined that the 1981 bill and the other two statutes were constitutional, as the Establishment Clause allowed the state to establish a religion. However, the Court of Appeals reversed the lower Court's ruling regarding the other two 1981 and 1982 statutes, concluding that they violated the First Amendment and that the District Court had misapplied the Supreme Court's existing case law.

The U.S. Supreme Court granted certiorari on the question of whether the 1981 law—permitting voluntary prayer in school—violated the Establishment Clause. The Court did not agree to consider the 1978 or 1982 law—meaning the Court agreed with the Court of Appeals that the 1978 “moment of silence” law was constitutional, and the 1982 “teacher-led prayer” law violated the Establishment Clause. The Court thus granted tacit approval of “moment of silence” laws that do not encourage or mandate prayer or other religious activity the case was presented before the U.S. Supreme Court on December 4, 1984. The Supreme Court found that the federal district court had incorrectly concluded that state officials were not prohibited from establishing a religion by the Establishment Clause. The Court used the Lemon test to determine whether the statutes violated the Establishment Clause. The Supreme Court applied the Lemon test and concluded that the additions to the 1978 statute violated the principle of government neutrality towards religion, stating that the two additional changes to the 1978 statute were enacted to support school prayer at the beginning of each school day rather than for a secular purpose. The Court upheld the constitutionality of the 1978 bill but invalidated the 1982 statute using similar logic. The decision affirmed the decision of the appellate Court, leaving in place the ability to establish a moment of silence without religion.

- 3) ***Federal Guidance Published by the United States Department of Education (USDOE).*** The USDOE recognizes the permissibility of “moment of silence” laws. The DOE’s Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools states that moments of silence are permitted provided that students are free to pray silently, or not to pray, during those times, and that teachers and other school employees may not require or encourage students to pray, or discourage them from praying, during those moments.

This bill specifies that a brief quiet reflection is not to be conducted as or construed to be a religious service or exercise, but rather as an opportunity for silent reflection on the anticipated activities of the day.

- 4) ***Committee Amendments.*** *Committee staff recommends, and the author has agreed to accept, the following amendments:*
- a) Clarify that all other requirements of law to mean state and federal law.
 - b) Clarify that **a** certificated employee at a public school cannot require pupils to participate in a period of quiet reflection, and that participation is at the discretion of the student.

- c) Prohibits the governing board of a local educational agency from requiring a certificated employee at a public school to conduct a brief period of quiet reflection.
- d) Defines “Local educational agency” means a school district, county office of education, or charter school.

5) Related Legislation.

SB 254 (Borgeas, Chapter 102, Statutes of 2021) designates and sets apart September 11 of each year as September 11th Remembrance Day, a day having special significance, and encourages each public elementary and secondary school to observe a moment of silence at an appropriate time while school is in session.

SUPPORT

County of Ventura Board of Supervisors
Saving Lives Camarillo

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No:	SB 1288	Hearing Date:	April 24, 2024
Author:	Becker		
Version:	April 15, 2024		
Urgency:	No	Fiscal:	Yes
Consultant:	Kordell Hampton		

Subject: Public schools: artificial intelligence working group.

SUMMARY

This bill would require the State Superintendent of Public Instruction (SPI), in consultation with the State Board of Education (SBE), to convene a working group, as specified, for the purpose of evaluating artificial intelligence (AI)-enabled teaching and learning practices.

BACKGROUND

Existing Law:

Education Code (EC)

- 1) Within the California Online Community College Act, requires California Community College's Research and Development Unit to focus on using technology, data science, behavioral science, machine learning, and AI to build out student supports, such as, but not limited to, a virtual help desk which uses technology to respond to commonly asked questions from students at any hour of the day and week. (EC § 75008)
- 2) Requires the Instructional Quality Commission (IQC) to consider developing and recommending to the SBE, on or before July 31, 2019, computer science content standards for kindergarten and grades 1 to 12 pursuant to recommendations developed by a group of computer science experts. (EC § 60605.4)

ANALYSIS

This bill:

Requirements of the SPI and the California Department of Education (CDE)

- 1) Requires the SPI, in consultation with the SBE to convene a working group for all of the purposes:
 - a) Identifying specific uses of AI that negatively impact pupil development, jeopardize pupil data security, or risk the jobs of educators, and developing recommendations on how to best protect pupils and educators from these types of AI.

- b) Expanding guidance on safe, responsible, and strategic uses of AI in education, where educators deem AI to be appropriate.
 - c) Developing a model policy, reflecting evidence-based research, for LEAs and charter schools regarding the safe and effective use of AI in ways that benefit, and do not negatively impact, educational quality, pupil critical thinking and writing skills, creativity, and the essential work of educators.
 - d) Identifying other ways in which the state can protect pupils and educators from any potential negative impacts of AI while supporting educators in creating effective practices.
- 2) Requires the CDE to post on its website the guidance produced by the working group.

Work Group Membership

- 3) Requires the working group to consist of the following members:
- a) Current, credentialed public school teachers serving in elementary and secondary teaching positions.
 - b) Classified public school staff.
 - c) Schoolsite administrators.
 - d) School district or county office of education administrators.
 - e) University and community college faculty.
 - f) Representatives of private sector business or industry.
 - g) Pupils enrolled in public school.

Objectives of the Work Group

- 4) Requires the working group, subject to the Bagley-Keene Open Meeting Act, to do the following and solicit input from educators and pupils on their experience using technology:
- a) Conduct at least six public meetings to incorporate feedback from pupils, families, and relevant stakeholders to assess the current and future state of AI use in education including the technologies most commonly in use, the typical cost of those technologies, the ownership structure of those technologies, the ownership structure of pupil- and employee-created material, the licensing agreements for those technologies, the ability to access source code for those technologies, the degree to which educators were involved in the decision to use AI, and AI as a topic of instruction in developing class content.
 - b) Detail current uses of AI in education settings and recommend action based on this research, in such a way that best protects pupils and educators from the

potential negative impacts of AI including through examples of human-centered AI that aid, further, and improve the education process and the work of educators and human replacement AI that could negatively impact pupil development, jeopardize pupil data security, or risk the jobs of educators and strategies to ensure that the collective opportunity to offer meaningful feedback before any given form of AI is introduced to pupils or educators.

- c) Develop, on or before January 1, 2026, guidance for LEAs and charter schools on the safe use of AI in education that addresses academic integrity and plagiarism, acceptable and unacceptable uses of AI for pupils and educators, pupil and educator data privacy and security, parent and guardian access to information that pupils enter into AI systems, and procurement of software that ensures the safety and privacy of pupils and educators, and the protection of their data.
- d) Develop, on or before July 1, 2026, a model policy for LEAs and charter schools regarding the safe and effective use of AI in ways that benefit, and do not negatively impact, pupils and educators for academic integrity and plagiarism, acceptable and unacceptable uses of AI for pupils and educators, parent and educator data privacy and security, parent and guardian access to pupil information, procurement of software that ensures the safety of pupils and educators data, effective use of AI to support, and avoid risk to, teaching and learning and practices to support, and avoid risk to, educators and pupils, strategies to ensure that AI does not exacerbate existing inequities in the education system, and professional development that AI does not exacerbate existing inequities in the education system including strategies for educators on the use of AI.
- e) Identify other ways in which the state can support educators in developing and sharing effective practices that minimize risk and maximize benefits to pupils and educators, including, but not limited to, establishing communities of practice on the use of AI in education.
- f) Submit, on or before January 1, 2027, a report to the Legislature, including any findings or recommendations.

General Provisions

- 5) Defines “Educator” as a certificated or classified employee of a local educational agency or charter school.
- 6) Defines “Local educational agency” as a school district or county office of education.
- 7) Makes findings and declarations that there is an urgent need for expanded state guidance and locally adopted policies regarding the safe and effective use of artificial intelligence in education to benefit and protect pupils and educators. Also states it is the intent of the Legislature to ensure that the use of artificial intelligence technology-enabled teaching and learning practices are in coordination with, rather than a replacement of, educators.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “The use of generative artificial intelligence (GenAI) increased rapidly over the last year with the release of ChatGPT and other GenAI companies. While algorithms have been used in personalized student learning, voice assistants, and grammar correction programs, GenAI is quickly becoming a larger presence in the education space. The Pew Research Center recently reported that roughly one in five teenagers who are aware of ChatGPT, a popular GenAI, indicate they have utilized it in completing their schoolwork. Additionally, AI is increasingly being embraced as an educational topic of study. AI courses are included in computer science education, with the proportion of new computer science PhD Graduates who specialized in AI almost doubling since 2010. Due to the increasing use of GenAI programs, schools have been forced to engage with the emerging technology, encountering issues such as a lack of centralized teacher training on GenAI, unauthorized use by students to complete assignments, and concerns on algorithmic biases. Given the profound impact the use of AI on students and teachers can have, California must develop guardrails and guidelines for AI’s use in education. SB 1288 establishes the space for needed experts to develop guardrails and guidelines for the use of AI in education.”
- 2) ***What is AI?*** AI refers to computers and robots performing intelligent tasks. The goal is to endow them with human-like intellectual processes. Since the 1950s, researchers have explored creating machines that mimic human intelligence. While computers can perform complex tasks, no program can match human flexibility. However, some programs have achieved human-level performance in specific tasks. For example, AI diagnoses medical conditions, search engines retrieve relevant information, and speech recognition software interprets human speech.
- 3) ***California Educators Together Statewide AI Group.*** Announced in 2021, The CDE, in collaboration with the Californians Dedicated to Education Foundation, has launched California Educators Together, an online platform designed to streamline communication between educators and allow them to access and share a vast library of content, resources, strategies, and supports.

In accordance with State Superintendent of Public Instruction Tony Thurmond’s Professional Learning Initiative, CDE is committed to supporting AI-focused professional learning for administrators and educators, to educate them about AI’s benefits and limitations. The Professional Learning Initiative can keep educators up-to-date on emerging technology tools for the classroom. CDE’s Computer Science Coordinator has participated in numerous AI panels across the state and has led CDE’s STEAM (Science, Technology, Engineering, Arts, Mathematics) workgroup in introducing AI to CDE. The CDE’s webpage, *Learning With AI, Learning About AI*, outlines various ways in which AI can be incorporated into the classroom and in school settings appropriately.

CDE is preparing additional resources to support educators, including the implementation of an AI webinar series “Artificial Intelligence: Learning with AI, Learning about AI,” which features educators from K12 and postsecondary spaces, as well as industry professionals, complete with actionable resources for schools with a learner centered focus. CDE is participating along with multiple organizations

including Code.org, Educational Testing Services, International Society for Technology in Education, Khan Academy, and World Economic Forum, in the TeachAI project (teachai.org), to engage in conversations with a goal of empowering educators to teach with and about AI. The website, *California Educators Together*, serves as a clearinghouse for educators to seek various curriculum ideas and sample lesson plans.

The committee may wish to consider whether establishing the working group, as created by this bill, aids or is duplicative of the work currently being conducted by the CDE.

- 4) **Computer Science Standards – Artificial Intelligence.** On September 30, 2014, Governor Brown signed Assembly Bill 1539 (Hagman, Chapter 876, Statutes 2014) into law, adding Section 60605.4 to the EC and directing the IQC to consider developing and recommending to the SBE computer science (CS) content standards on or before July 31, 2019, pursuant to recommendations developed by a group of CS experts. The IQC approved and recommended the draft CA CS Standards to the SBE on July 2018. The SBE approved the IQC recommendations and adopted the CA CS Standards in September 2018.

The CA CS Standards are based on CS core concepts and core practices from the revised international Computer Science Teachers Association standards, which align with the national K–12 Computer Science Framework. The CA CS Standards are standards that define the knowledge, concepts, and skills that students should acquire in each grade band and encourage school districts to provide opportunities for CS education for all students. CS core concepts and practices in the standards are vertically aligned, coherent across grades, and designed in developmentally appropriate grade spans K–2, 3–5, 6–8, and 9–12. The standards are designed to be accessible to every student in California and to inform teachers, curriculum developers, and educational leaders to ensure all students receive quality CS instruction.

Beginning in high school students who take CS course are expected to describe how AI drives many software and physical systems, implement an algorithm that uses AI to overcome a simple challenge, and acquire and apply appropriate AI techniques used by the game development industry.

5) **Related Legislation.**

AB 2652 (Muratushi, 2024) directs the Superintendent of Public Instruction to convene a working group in order to study the risks and benefits of artificial intelligence (AI) in education. The working group would be composed of teachers, public school staff, administrators, university and community college faculty, private sector representatives, and pupils enrolled in public school. In assessing the current and future state of AI use in education, the working group would focus especially on the risks and benefits of AI for students and teachers.

SB 892 (Padilla, 2024) would require the Department of Technology to establish safety, privacy, and nondiscrimination standards relating to AI services, as defined,

and, commencing August 1, 2025, prohibit a contract for AI services from being entered into by the state unless the provider meets those standards.

SB 893 (Padilla, 2024) would require the Government Operations Agency, the Governor's Office of Business and Economic Development, and the Department of Technology to collaborate to establish the California Artificial Intelligence Research Hub in the Government Operations Agency to serve as a centralized entity to facilitate collaboration between government agencies, academic institutions, and private sector partners to advance artificial intelligence research and development that seeks to harness the technology's full potential for public benefit while safeguarding privacy, advancing security, and addressing risks and potential harms to society,

SB 896 (Dodd, 2024) established the Artificial Intelligence Accountability Act and requires the Government Operations Agency, the Department of Technology, and the Office of Data and Innovation to produce a State of California Benefits and Risk of Generative Artificial Intelligence Report that includes certain items, including an examination of the most significant, potentially beneficial uses for deployment of generative artificial intelligence tools by the state, and would require those entities to update the report, as prescribed.

SB 313 (Dodd, 2023) would have established the Office of Artificial Intelligence and would have required state agencies to disclose when they are using generative AI to communicate with a person and to provide them an option to speak with a natural person at the agency. *This bill was held in Senate Appropriations Committee.*

SUPPORT

State Superintendent of Public Instruction Tony Thurmond (co-sponsor)
Generation Up (co-sponsor)
California Association of School Business Officials
California Federation of Teachers
EdVoice
Los Angeles County Office of Education
Outschool, Inc.
Scaling Student Success
TechNet

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No:	SB 1388	Hearing Date:	April 24, 2024
Author:	Archuleta		
Version:	March 18, 2024		
Urgency:	No	Fiscal:	Yes
Consultant:	Ian Johnson		

Subject: Education finance: community colleges: general fund balance.

SUMMARY

This bill establishes an annual 16.7 percent reserve cap for a community college district, unless the district participates in specified employee benefit programs and has at least 75 percent of instruction taught by full-time instructors.

BACKGROUND

Existing law:

- 1) Establishes the Public School System Stabilization Account (Proposition 98 Reserve), a state reserve specifically for school and community college districts.
- 2) Establishes a 10 percent reserve cap for a K-12 school district only in years when the amount of moneys in the Proposition 98 Reserve is equal to or exceeds 3 percent of the combined total of General Fund revenues appropriated for school districts and allocated local proceeds of taxes for that fiscal year.
- 3) Authorizes a county superintendent of schools to grant a school district under its jurisdiction an exemption from the reserve cap for up to two consecutive fiscal years within a three-year period if the school district provides documentation indicating that extraordinary fiscal circumstances, including, but not limited to, multiyear infrastructure or technology projects, substantiate the need for a general fund reserve that is in excess of 10 percent.
- 4) Exempts basic aid school districts and small school districts from the reserve cap requirement.
- 5) Establishes the Part-Time Community College Faculty Health Insurance Program to encourage community college districts to offer health insurance for part-time faculty. Community college districts that establish a program must negotiate with the exclusive bargaining representative the share of the premium payments not covered by the state.
- 6) Establishes the Community College Part-Time Faculty Office Hours Program to encourage community college districts to compensate part-time faculty who hold office hours related to their teaching load. To establish a program, a district must

negotiate with the exclusive bargaining representative or with faculty, if there is no bargaining unit.

- 7) Requires the Board of Governors (BOG) of the California Community Colleges (CCCs) to adopt regulations regarding the percent of credit instruction taught by full-time faculty and authorizes districts with less than 75 percent full-time instructors to apply a portion of their "program improvement" funds toward reaching a 75 percent goal. However, the state has stopped providing program improvement funds and the BOG has since required CCDs to provide a portion of their growth funds to hiring more full-time faculty.

ANALYSIS

This bill:

- 1) Prohibits a community college district's annual unrestricted general fund balance for a fiscal year from exceeding 16.7 percent of its unrestricted general fund expenditures for that year, unless the community college district does all of the following:
 - a) Participates in the Part-Time Community College Faculty Health Insurance Program;
 - b) Participates in the Community College Part-Time Faculty Office Hours Program;
 - c) Has at least 75 percent of hours of credit instruction taught by full-time instructors.
- 2) Prohibits a community college district from transferring unrestricted general funds to another fund for the purpose of complying with this bill if either of the following applies:
 - a) The receiving fund has an existing balance of 33 percent or more of the community college district's unrestricted general fund expenditures for that fiscal year.
 - b) The transfer of the unrestricted general funds would cause the receiving fund to have a balance of 33 percent or more of the community college district's unrestricted general fund expenditures for that fiscal year.
- 3) Specifies that, for a community college district that violates the provisions of this bill, the amount of the annual unrestricted general fund balance that exceeds 16.7 percent shall be proportionally distributed to the nonsupervisory and nonmanagement employees of the community college district based solely on the number of hours worked by those employees in the preceding fiscal year, as determined by a collective bargaining agreement between those employees and the governing board of the community college district.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “SB 1388 states that a community college district cannot hold an unrestricted financial reserve of over 16.7% of its annual operating budget unless the district provides their part time faculty health insurance, pays part time faculty for office hours, and provides that 75% of its teaching hours are taught by full time faculty.

“Over the last decade, California has provided significant financial support for community college districts to provide part-time faculty health insurance, provide compensation to part-time faculty for providing students office hours, and to ensure that most teaching hours are being performed by full time faculty. Unfortunately, the programs that provide community college districts these financial resources or reimbursements are undersubscribed and under-utilized. As a result, many adjunct and part time faculty throughout California do not have access to employer provided health insurance and students do not have access to office hours for their courses.

“At the same time, in the past decade the number of funds that community colleges have not utilized in their budgets has increased. In 2021, several districts had over 70% of their annual budget in reserve. These unused funds, or unrestricted balance, indicate that some community colleges are not fully utilizing their funding to benefit student learning and faculty stability, a determinative component to student success.”

- 2) ***Recent Funding and Reserve Boosts for Community College Districts.*** Community college districts primarily receive funding through apportionments based on the state's Student Centered Funding Formula (SCFF), which considers factors like credit and noncredit instruction. In 2023-24, districts got 70 percent of their Proposition 98 funding through apportionments, with the rest allocated through over 40 categorical programs. Over the past three years, districts received significant cost of living adjustments (COLAs) and base apportionment increases, leading to record-high per-student funding. Unrestricted reserves have also grown substantially, from \$1.8 billion (22 percent of expenditures) in 2018-19 to an estimated \$3.1 billion (33 percent of expenditures) in 2022-23. This increase is due to factors such as increased state funding during the pandemic despite enrollment drops, federal relief funds, and savings from staff reductions and vacancies.
- 3) ***Balancing the Importance of Local Reserves While Guarding Against Excess.*** Local reserves allow community colleges (as they do other local agencies) to sustain their operations even if their annual funding drops due to economic recessions. Local reserves also allow colleges to handle lower-than-budgeted local property tax receipts or unexpected drops in enrollment. Additionally, local reserves help colleges manage their cash flow and pay their bills while awaiting receipt of funds—which is especially helpful during times when the state is deferring payments, as colleges might not receive their state funding until many months after they have incurred operating costs. Reserves help too in covering unexpected costs. For example, when campuses moved to

remote operations during the pandemic, they incurred higher technology and professional development costs. Though campuses in some cases are reimbursed for certain costs, they might need to cover costs upfront. Colleges also use reserves to pay for large, planned, one-time purchases (such as a large-scale upgrade of instructional equipment).

While maintaining local reserves as a safeguard against financial uncertainties has merit, the concerns that arise when reserves swell are legitimate. Supporters of this bill, understandably, view growing reserves as a sign of financial health and advocate for increased employee benefits or compensation. Striking the right balance between prudent fiscal management and addressing the needs and expectations of employees is difficult and important.

- 4) ***State Budget Shortfall Signals Need for Community College Reserve Management.*** The looming state budget deficit underscores the crucial role of local reserves. Initial projections by the Legislative Analyst's Office (LAO) put the shortfall at \$58 billion, a figure that has since worsened according to recent revenue data. This translates to a projected \$24 billion gap below the Governor's budget estimates for 2022-23 to 2024-25, indicating a worsening fiscal scenario expected to be revealed in the upcoming May Revision.

Consequently, the Proposition 98 minimum guarantee faces significant downward revisions, with a notable \$9.1 billion reduction projected for 2022-23 alone—the largest rollback since the inception of Proposition 98 in 1988. To mitigate these revised estimates, the LAO advises against granting a COLA to community college apportionments or categorical programs in 2024-25. While this adjustment may pose challenges for districts, their healthy local reserves, coupled with recent years of substantial funding increases, could cushion the impact to students of stagnant funding amid rising operational costs.

With the ongoing budgetary strain, the Committee should weigh the consequences of imposing limits on community college reserves against the backdrop of the state's growing fiscal shortfall. Will local reserve levels be sustainable in the face of potential continued revenue decline and escalating costs?

- 5) ***Part-Time Faculty Health Insurance and Office Hours Programs: Undersubscribed, Yet Questionable Reserve Cap Triggers.*** Existing law establishes two programs aimed at supporting part-time faculty in community colleges: the Part-Time Community College Faculty Health Insurance Program and the Part-Time Faculty Office Hours Program. The health insurance program incentivizes districts to offer health coverage for part-time faculty, though it doesn't cover dental or vision premiums. Districts receiving allocations negotiate with bargaining representatives regarding premium payment shares not covered by the state. The 2022 Budget Act allocated \$200.5 million for this program, with \$23.3 million disbursed to districts and the remaining \$177.2 million reverted to the General Fund. The 2023 Budget Act similarly appropriates \$200.5 million for the same purpose.

Similarly, the Part-Time Faculty Office Hours Program encourages districts to compensate part-time faculty for office hours related to their teaching load. Compensation negotiations occur either with bargaining representatives or directly with faculty if no bargaining unit exists. Part-time faculty participating in the program must be compensated for a minimum of one office hour per every two classes taught per week or 40 percent of the district-defined full-time load. Additionally, compensation is provided for each 20 percent of the district-defined full-time faculty load. While the 2021 Budget Act provided \$90 million in one-time funds for this program, subsequent acts in 2022 and 2023 allocated \$23.6 million each. The Chancellor's Office estimates a total of \$105 million available for the program in fiscal year 2023-24.

This bill seeks to mandate community college districts' participation in these programs, under the threat of a reserve cap.

Staff notes that participation in these programs entails ongoing costs, unlike reserve balances which are one-time in nature. Moreover, the state funding allocated for these programs, which does not reimburse all of the costs to districts, may face uncertainty in the near future amidst the looming budget deficit. Should districts have the autonomy to evaluate their financial priorities and make decisions accordingly, ensuring fiscal sustainability and flexibility in light of changing budgetary circumstances? Would maintaining local bargaining as the forum for considering district participation in these programs make more sense?

- 6) **Full-Time Faculty 75 Percent Instructional Goal: Not Being Met, Yet Also a Questionable Reserve Cap Trigger.** Since 1988, AB 1725 (Vasconcellos, Chapter 978, Statutes of 1988) has aimed for community colleges to have full-time faculty teach 75 percent of all for-credit class hours, though enforcement of regulations for this goal remained lax. Recent state funding initiatives have infused an additional \$450 million into bolstering full-time faculty hiring since 2018, with annual increments of \$100 million since fiscal year 2021–22, allocated based on student enrollment to aid districts in reaching the 75 percent target.

Despite these initiatives, districts have grappled with meeting the 75 percent goal. Tracking progress through the percentage of full-time-equivalent faculty, the Chancellor's Office notes that only 18 districts have hit the 75 percent mark since 1999, with none sustaining this level for more than five years. To address this, last year's budget trailer bill mandated the Chancellor's Office to compile an annual report on districts' progress towards the goal, with the first report slated for May 30, 2024, and subsequent reports annually thereafter.

Like the part-time faculty programs discussed previously, this bill also seeks to mandate community college districts meet the 75 percent target, under the threat of a reserve cap.

Similarly, staff notes that using the 75 percent goal as a reserve cap trigger is questionable. An ongoing reporting process has been established to address progress towards the 75 percent goal, suggesting that the issue is being actively

monitored and managed through channels that are more appropriate than the proposed reserve cap.

- 7) **Concerns Regarding the Impact on Community College Fiscal Management.** As currently drafted, this bill raises several concerns that could impact the operational flexibility and financial stability of community college districts. First, including the "unrestricted general fund balance" as reserves subject to the cap is broad. Districts rely on these funds for day-to-day operations and to address various financial obligations, such as unfunded retirement liabilities, other post-employment benefits (OPEB) liabilities, capital outlay, deferred maintenance, and IT projects. A more prudent approach would be to only consider the unrestricted general fund balance that has been specifically designated by the district's governing board as reserves for economic uncertainties. This targeted approach would ensure that essential operational needs are not compromised while still addressing the intent of the bill.

Second, the bill's restriction on transfers of unrestricted general fund dollars could inadvertently hinder the operational capacity of districts acting responsibly. By limiting transfers to receiving funds with existing balances of 33 percent or more of the district's unrestricted general fund expenditures, even when these transfers are transparent and necessary for operational purposes, districts may face unnecessary constraints. This limitation could impede districts from efficiently managing their finances and responding to evolving needs, potentially hindering their ability to provide quality education and support services to students.

Third, allocating any reserves beyond the cap to nonsupervisory and nonmanagement employees based solely on the number of hours worked raises questions about the efficacy and alignment with the overall goals of the district. While employee recognition and retention are important, distributing excess reserves as bonuses may not necessarily address the underlying financial challenges facing the district or further initiatives and investments aimed at improving educational outcomes and institutional effectiveness.

- 8) **Existing Reserve Cap for K-12 School Districts.** Current law establishes a 10 percent reserve cap for a K-12 school district only in years when the amount of moneys in the Proposition 98 Reserve is equal to or exceeds 3 percent of the combined total of General Fund revenues appropriated for school districts and allocated local proceeds of taxes for that fiscal year. As a result of the balance in the Proposition 98 Reserve, the statutory limitation on school district reserves is in effect for the 2024–25 budget period.

The reserve cap requirement does not apply to small school districts or basic aid school districts. Further, a county superintendent of schools may grant a school district under its jurisdiction an exemption from the reserve cap for up to two consecutive fiscal years within a three-year period if the school district provides documentation indicating that extraordinary fiscal circumstances, including, but not limited to, multiyear infrastructure or technology projects, substantiate the need for a combined assigned or unassigned ending general fund balance that is in excess of 10 percent.

- 9) ***Promoting Consistency Between School and Community College Reserve Cap Standards.*** The Legislature's prior adoption of a reserve cap policy for K-12 school districts sets a precedent for how a reserve cap policy for community college districts should be structured. The school and community college district systems share similarities, particularly in their shared reliance on the Proposition 98 Guarantee and the Proposition 98 Reserve. That said, unlike school districts, community college districts lack a continuous appropriation from the state, meaning they must rely on local reserves to cover shortfalls in property taxes, student fees, or other funds. Additionally, community college districts tend to serve a larger proportion of students pursuing Career and Technical Education and licensure programs, whose enrollment tends to be more volatile compared to the compulsory education provided in K-12 settings. Despite these differences, harmonizing the local reserve cap policies would promote consistency across the education sector, ensuring clarity, fairness, and accountability in fiscal management practices.

For community college districts, determining the precise percentage of general fund expenses for a reserve cap presents a complex and subjective challenge. Whereas the school district reserve cap level is 10 percent, community college districts currently operate without a reserve cap, with the Government Finance Officers Association and the Chancellor's Office recommending a *minimum* reserve level of 16.7 percent (equivalent to two months) of expenditures. If this bill progresses further, deliberations over the ideal percentage should continue throughout the legislative process, reflecting the nuanced nature of fiscal management in the education sector.

SUPPORT

California Federation of Teachers (co-sponsor)
 California Community College Independents (co-sponsor)
 California Teachers Association (co-sponsor)
 Faculty Association of California's Community Colleges (co-sponsor)

OPPOSITION

Allan Hancock College
 Antelope Valley Community College District
 Association of California Community College Administrators
 Association of Chief Business Officials
 Association of Chief Human Resource Officers
 Bakersfield College
 California Community Colleges Chief Instructional Officers
 Cerro Coso Community College
 Chabot-Las Positas Community College District
 Chaffey College
 Citrus College
 Coalinga College
 College of the Canyons
 College of the Desert

College of the Redwoods
College of the Sequoias
Community College League of California
Compton Community College District
Contra Costa Community College District
Copper Mountain College
Crafton Hills College
Cuesta College
Equal Employment Officers
Feather River College
Fresno City College
Gavilan Joint Community College District
Grossmont-Cuyamaca Community College District
Kern Community College District
Lassen Community College District
Lemoore College
Madera Community College
Mendocino-Lake Community College District
Merced Community College District
MiraCosta Community College District
Modesto Junior College
Mt. San Antonio College
Napa Valley Community College District
North Orange County Community College District
Palo Verde Community College District
Peralta Community College District
Porterville College
Reedley College
Riverside Community College District
San Bernardino Community College District
San Bernardino Valley College
San Jose-Evergreen Community College District
Santa Clarita Community College District - College of the Canyons
Santa Rosa Junior College
Shasta-Tehama-Trinity Joint Community College District
Sierra College
Sierra Joint Community College District
Southwestern Community College District
State Center Community College District
Taft College
Victor Valley College
West Hills College Coalinga
West Hills College Lemoore
West Hills Community College District
West Kern Community College District
Yuba Community College District

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No: SB 1477 **Hearing Date:** April 24, 2024
Author: Ashby
Version: April 15, 2024
Urgency: No **Fiscal:** Yes
Consultant: Ian Johnson

Subject: School accountability: independent study, educational enrichment activities, oversight, and audit requirements.

Note: This bill has been referred to the Committees on Education and *Public Safety*. A “do pass” motion should include referral to the Committee on *Public Safety*.

SUMMARY

This bill requires: (1) the governing board of a charter school to review, at a public meeting, the annual audit of the charter school for the prior fiscal year, (2) auditors of non-classroom based (NCB) charter schools to perform specified actions, and (3) all local educational agencies (LEAs) to only enter into an agreement for educational enrichment activities with a vendor that is vetted and approved pursuant to prescribed criteria.

BACKGROUND

Existing law:

- 1) Establishes the Charter Schools Act of 1992 which authorizes a school district governing board or county board of education to approve or deny a petition for a charter school to operate independently from the existing school district structure as a method of accomplishing, among other things, improved pupil learning, increased learning opportunities for all pupils, with special emphasis on expanded learning experiences for pupils who are identified as academically low achieving, holding charter schools accountable for meeting measurable pupil outcomes, and providing the schools with a method to change from rule-based to performance-based accountability systems.
- 2) Prohibits the authorization and establishment of new NCB charter schools between January 1, 2020 and January 1, 2026.
- 3) Requires, not later than October 1, 2023, the Legislative Analyst’s Office (LAO) and the County Office Fiscal Crisis and Management Assistance Team (FCMAT) to study the processes used to determine funding for NCB charter schools. Requires the study to identify and make recommendations on potential improvements to the processes, including recommendations for enhancing oversight and reducing fraud, waste, and abuse.
- 4) Requires a charter school to transmit a copy of its annual, independent financial audit report for the preceding fiscal year to its chartering entity, the State

Controller's Office (SCO), the county superintendent of schools of the county in which the charter school is sited, (unless the county board of education of the county in which the charter school is sited is the chartering entity) and the California Department of Education (CDE), by December 15 of each year.

- 5) Requires financial and compliance audits to be performed in accordance with General Accounting Office standards for financial and compliance audits. Requires that the audit guide prepared by the SCO be used in the performance of these audits until an audit guide is adopted by the Education Audits Appeal Panel. When an audit guide is adopted by that panel, the adopted audit guide be used in the performance of these audits, and that every audit report specifically and separately address each of the state program compliance requirements included in the audit guide, stating whether or not the district is in compliance with those requirements.

ANALYSIS

This bill:

- 1) Requires, beginning on January 31, 2025, the governing board of a charter school to annually review, at a public meeting as an item on the agenda, the annual audit of the charter school for the prior fiscal year, any audit exceptions identified in that audit, the recommendations or findings of any management letter issued by the auditor, and any description of correction or plans to correct any exceptions or management letter issue.
- 2) Requires an auditor of a NCB charter school, when performing an independent, financial audit, to do the following:
 - a) Contact a random sample, to be selected by the auditor, of parents or guardians of pupils enrolled in the charter school to verify their enrollment.
 - b) As part of the random sample of documents selected and reviewed, sampling of credit card statements, debit card statements, other electronic payment methods and media, and bank statements of the charter school shall be subject to an enhanced materiality standard, as specified.
 - c) Identify in the audit report any transfers of funds or assets to other individuals or organizations that exceed one million dollars or ten percent of the charter school's budget, with a written explanation from the school regarding the purpose of the expenditures.
 - d) Identify any other irregular transfers, as defined in the mandatory training developed and provided by FCMAT.
 - e) Include a letter with the audit report discussing any concerns or findings, along with a response by the school if the school elects.
- 3) Defines a "nonclassroom-based charter school" as a charter school that offers NCB instruction for more than 20 percent of the instructional time offered.

- 4) States that if, as part of the independent study written agreements for each independent study pupil, an LEA employee willfully states as true any material fact that the employee knows to be false, the CDE may assess an administrative penalty of \$10,000 beginning July 1, 2025.
- 5) Requires all LEAs to only enter into an agreement for the provision or arrangement of educational enrichment activities with a vendor that is vetted and approved pursuant to prescribed criteria, beginning July 1, 2025.
- 6) Requires the governing board of any LEA, in approving any contract for vendor services for educational enrichment activities, to establish specified policies and procedures to ensure educational value, pupil safety, and fiscal reasonableness, and requires the LEA to certify that vendor services for educational enrichment activities meet designated criteria.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “A recent joint report by the Legislative Analyst’s Office (LAO) and the Fiscal Crisis Management Assistance Team (FCMAT) identified concerns with the independent audits and other issues relating to charter school oversight. Many of these concerns center on the actions of bad actors.

SB 1477 would implement a number of recommendations by strengthening auditing, contracting, and enrollment policies for charter schools to prevent fraud, improve charter school governance and transparency, and hold bad actors accountable.”

- 2) ***Charter school overview.*** Charter schools are public schools that provide instruction in any combination of grades kindergarten through 12. In 1992, the state enacted legislation allowing charter schools in California to offer parents an alternative to traditional public schools and encouraged local leaders to experiment with new educational programs. Except where specifically noted otherwise, California law exempts charter schools from many of the statutes and regulations that apply to school districts. Generally, all charter schools must (1) provide nonsectarian instruction, (2) charge no tuition, and (3) admit all interested students up to school capacity. To both open and continue operating, a charter school must have an approved charter setting forth a comprehensive vision for the school.

Over the last decade, charter school enrollment has grown steadily. In 2006, 560 charter schools served about 200,000 students (3.5 percent of the state’s K-12 enrollment). By 2016, over 1,200 charter schools served about 580,000 students (almost 10 percent of the state’s K-12 enrollment). Most charter schools are small, compared to traditional public schools, and located in urban areas. The median charter school enrolls about 250 students, whereas the median traditional public school enrolls about 525 students. Together, nine Bay Area counties, Los Angeles County, and San Diego County account for more than 60 percent of all charter schools and charter school enrollment in the state.

Charter schools can be conversions of existing public schools or new startup schools. About 15 percent of charter schools are conversions, with the remaining 85 percent being startups. Of these, about 80 percent offer traditional, classroom-based instruction and 20 percent offer some form of independent study, such as distance learning or home study.

- 3) ***What are nonclassroom-based charter schools?*** By law, any charter school in which less than 80 percent of student learning occurs in a physical classroom is classified as NCB. Within this category, schools offer several different teaching models. The majority of NCB charter school students are enrolled in schools whose education is delivered primarily online, whether under the direction of a teacher or through self-guided programs. Others rely on more traditional forms of instruction, including local arts or enrichment classes, paper packets, textbooks, and parental instruction at home. An NCB charter school must submit a funding determination request to the CDE and receive approval of its funding determination request from the State Board of Education (SBE) to be eligible to receive state funding for its NCB average daily attendance (ADA).
- 4) ***Moratorium on establishing new nonclassroom-based charter schools.*** Based on recommendations from the California Charter School Policy Task Force Report, existing law establishes a moratorium on the establishment of new NCB charter schools from January 1, 2020, to January 1, 2026. In the report, the task force noted, “There has been growing concern that virtual charter schools are operated without appropriate academic rigor and oversight, providing a sub-par education for their students.”

Notwithstanding the benefit that NCB charter schools can have for certain students, there are clear examples of misuse of public funds by these schools due to the nature of the instruction they provide. For example, the California Virtual Academies and three Insight Schools were found to be improperly accounting for Common Core education funds, to the tune of \$2 million.

Staff notes that this bill does not propose to change the date by which the moratorium on NCB charter schools is currently set to expire.

- 5) ***Recent A3 Charter Schools fraud case reveals significant weaknesses in nonclassroom-based charter school law.*** In *People v. McManus*, the San Diego County District Attorney’s Office indicted 11 defendants in a fraud scheme involving nineteen charter schools (“A3 Charter Schools”). The case revealed many weaknesses in state public charter school law in the areas of student data tracking, auditing, school finance, and oversight, which resulted in A3 schools repaying more than \$210 million, 13 houses, and numerous shares in third-party companies.
- a) ***Lack of student data tracking.*** Currently, charter schools submit aggregate attendance numbers for the school without any information about individual students. Oversight agencies do not maintain individual student data about enrollments in charter schools they oversee for state funding purposes. One A3 charter school was found to be paying a

private company to recruit and collect personal information from student athletes. The school then enrolled the athletes in the charter school without their knowledge—thereby fraudulently generating ADA—and paid the recruiting company a portion of the public funds generated as a finder's fee.

- b) *Multi-track calendar abuses.* The A3 schools were found to have tricked the state into paying them significantly more funds by manipulating the “multi-track calendar”, which charter schools are currently authorized to use. The A3 schools would (1) run a fake summer school to collect funding for students that never knowingly enrolled, (2) inflate their fraudulent summer school attendance numbers—to the tune of about 60 percent—by offering fewer days of fake summer school instruction, and (3) transfer students between different A3 schools, increasing attendance fraudulently by another roughly 40 percent.
- c) *Lack of meaningful audit requirements.* The annual audits required by law found little to no malpractice by A3 schools. First, auditors are not required to complete any specialized up-front or ongoing training in school finance or law to audit a charter school. Second, charter schools can choose their auditors—A3 schools were shown to have fired their auditing firms and hire less experienced firms in the rare event that audit findings were made. Third, NCB charter schools are allowed to pick their own samples of student documentation showing compliance with independent study laws—enabling A3 to hide the fraudulent aspects of their operation from auditors. Fourth, auditors are not required to audit the education program received by students, only compliance with documentation. In the A3 schools, many children became enrolled from sports teams believing they were participating in a fundraiser and had no knowledge they were enrolled in a charter school at all.
- d) *No meaningful funding determination process.* While existing law proposes that NCB charter schools only receive full funding in exceptional circumstances—when at least 80 percent of funding is spent directly serving students—the current funding determination process essentially funds all schools at 100 percent. This is because existing regulations define “instructional and related services” very broadly and charter schools can meet these spending benchmarks without necessarily spending money on students. Further, NCB charter schools are only required to request a funding determination, and provide compliance documentation to the SBE, every five years.
- e) *Perverse financial incentives for charter school authorizers.* Existing law allows charter authorizers to collect oversight fees from charter schools under their authority but does not require authorizers to demonstrate that the fees are spent on meaningful school oversight. Small school districts that approve NCB charter schools serving students not located in the district can earn significant oversight fees—creating a built-in incentive to overlook poor charter school practices. For example, Dehesa Elementary School District approved over ten charter schools all providing NCB

programs. The district's oversight fees for the 2017-2018 school year were more than its entire expenditures for all employees hired by the district. When the district learned of improprieties from their charter schools it took no meaningful action. Ultimately, the district collected the oversight fees and only acted to revoke the A3 Charter Schools under its authority once law enforcement was involved.

- 6) ***State law requires evaluation of nonclassroom-based charter schools.*** SB 114, Committee on Budget and Fiscal Review, Chapter 48, Statutes of 2023) requires the LAO and FCMAT to study the processes used to determine funding for NCB charter schools and report their findings. The statute specifies that this study shall “identify and make recommendations on potential improvements to the [funding determination] processes, including recommendations for enhancing oversight and reducing fraud, waste, and abuse.”

Released in February 2024, the report found, among other things, the following:

“The funding determination process can be a helpful tool to monitor the overall cost structure of a nonclassroom-based charter school and to ensure funding is being spent on staffing and other services that benefit students. The process, however, is not an effective approach for ensuring that charter schools are complying with other state laws. Given the funding determination process is based on the review of audited expenditures and attendance data, it relies on other aspects of the system to be working effectively. These other aspects of oversight—such as annual audit requirements and oversight from authorizers, county superintendents, and the state—are more appropriate ways to monitor these issues.”

Specific to charter school oversight, the report recommends the following:

“We recommend the Legislature consider several changes to improve the quality of authorizer oversight. Specifically, we recommend the Legislature set limits on district authorizers by district size and grade, increase minimum requirements for authorizers, and consider an alternative authorizing structure for virtual schools.

“Current audit requirements often do not address the complexities and unique flexibilities of charter school finances. We recommend the Legislature align the audit process for charter schools to that of school districts and add audit requirements that would address issues specific to charter schools.”

The LAO and FCMAT report include far more expansive reform recommendations related to NCB charter school funding determinations and oversight, which are not included in this bill as currently drafted.

- 7) ***This bill makes improvements to existing auditing requirements, but future legislation including far more substantial reforms is needed before the nonclassroom-based charter school moratorium expires.*** As currently drafted, this bill would improve the auditing of NCB charter schools by (1) requiring auditors to perform a check on the validity of the school's enrollment records, (2) requiring bank statements and fund transfers to individuals or

corporations to be reviewed with further scrutiny, and (3) requiring auditors to look for any other irregular practices.

Examples such as the A3 Charter Schools case demonstrate that the need for NCB charter school reforms go far beyond the contents of this bill. For example, it is unclear whether this bill would reveal abuses made possible by utilizing the multi-track calendar. Further, the bill does not prevent NCB charter schools from picking their own auditors. But perhaps most importantly, the contents of this bill only pertain to financial audits, which can only make findings after nefarious behavior has already occurred and public funds have been apportioned. Given that the moratorium on establishing new NCB charter schools will expire on January 1, 2026, reforms that are designed to prevent “bad actors” from engaging in fraudulent behavior on the front end must be considered—and in a way that preserves the ability for “good actors” to continue to serve students effectively.

For example, would prohibiting schools from utilizing a multi-track calendar unless there is a demonstrated programmatic or facilities need help curb enrollment abuses? Would reforming the NCB charter school funding determination process in a way that incentivizes more in-person instruction lead to better outcomes for students? Are charter school authorizers better positioned to identify and prevent fraudulent practices than independent financial auditors? If so, would providing more professional development for authorizers to identify irregular practices also make sense? Further, would a cap on the amount of NCB charter school ADA small school districts can oversee improve authorizer quality and address existing perverse incentives for districts collecting large amounts of oversight fees?

SUPPORT

Real Journey Academies (co-sponsor)
Visions in Education (co-sponsor)
Excelsior Charter Schools
Fenton Charter Public Schools
JCS Family Charter Schools
LA Verne Elementary Preparatory Academy
Los Angeles Leadership Academy
Santa Rosa Academy
SOAR Charter Academy
Springs Charter Schools
Sycamore Academy of Science and Cultural Arts

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No:	SB 1235	Hearing Date:	April 24, 2024
Author:	Gonzalez		
Version:	April 15, 2024		
Urgency:	No	Fiscal:	Yes
Consultant:	Olgalilia Ramirez		

Subject: Public postsecondary education: Artificial Intelligence and Deepfake Working Group.

SUMMARY

This bill requires the California State University, Long Beach (CSULB), in consultation with other public institutions of higher education, to establish the Artificial Intelligence (AI) and Deepfake Working Group and annually report to the Legislature on its research and findings. It further authorizes CSULB to develop a scoping plan in the first year to establish the topics that may be evaluated by, and the stakeholders that may be included in, the working group.

BACKGROUND

Existing law:

- 1) Requires the Secretary of Government Operations, upon appropriation by the Legislature, to evaluate, among other things, the impact the proliferation of deepfakes, as defined, has on state government, California-based businesses, and residents of the state, and the risks, including privacy risks, associated with the deployment of digital content forgery technologies and deepfakes on state and local government, California-based businesses, and residents of the state. (Government Code § 11547.5 et seq)
- 2) Establishes the California Community Colleges, the California State University, and the University of California (UC) as the public segments of postsecondary education in the state. (Education Code § 66010.4 et seq)

ANALYSIS

This bill:

- 1) Requires a CSULB, in consultation with other public institutions of higher education, to establish the AI and Deepfake Working Group.
- 2) Authorizes CSULB to develop a scoping plan in the first year to establish the topics that may be evaluated by, and the stakeholders that may be included in, the working group. Specifies that the topics addressed by the scoping plan may include the following:

- a) The impact of the proliferation of AI and deepfakes on state and local government, California-based businesses and the workforce, elementary, secondary, and postsecondary education, and residents of the state.
 - b) The risks, including privacy risks, associated with AI and the deployment of digital content forgery technologies and deepfakes on state and local government, California-based businesses, higher education institutions, and California residents.
 - c) The potential impact on the workforce and strategies to protect employees and to prevent potential job loss due to AI proliferation.
 - d) The impact of AI, digital content forgery technologies, and deepfakes on civic engagement, including voting and elections.
 - e) The legal implications and privacy impacts associated with the use of AI, digital content forgery technologies, deepfakes, and technologies allowing public verification of digital content provenance.
- 3) Requires CSULB, if developing the scoping plan as described in the bill to solicit input from a broad range of stakeholders with a diverse range of interests affected by emerging AI and deepfake technologies.
 - 4) Authorizes CSULB to include as part of the working group at least one representative from various groups including, workforce impacted by potential job loss due to AI adoption, labor unions, privacy rights organizations, consumer protection organizations, the technology industry, education and postsecondary education staff, teachers, faculty and students, elections experts and ethics specialist, the specified state government officials and others.
 - 5) Requires on or before January 1, 2026, and annually thereafter, the working group to submit and make publicly available, a report to the Legislature on the working group's research and findings, including, but not limited to, research and findings related to the issues and impacts identified pursuant to the bill.
 - 6) Authorizes CSULB to consult with the Government Operations Agency and the California Privacy Protection Agency or any other state or local agency on the establishment of the working group.
 - 7) Provides that meetings of the working group be subject to the Bagley-Keene Open Meeting Act.
 - 8) Defines all of the following terms for purposes of the bill:
 - a) "Artificial intelligence" to mean machine-based system that can, for a given set of human-defined objectives, make predictions, recommendations, or decisions influencing real or virtual environments. AI systems use machine- and human-based inputs to do all of the following:

- i) Perceive real and virtual environments.
 - ii) Abstract those perceptions into models through analysis in an automated manner.
 - iii) Use model inferences to formulate options for information or action.
- b) “Deepfake” to mean audio or visual content that has been generated or manipulated by AI that would falsely appear to be authentic or truthful and that features depictions of people appearing to say or do things they did not say or do without their consent.
- c) “Digital content forgery” to mean the use of technologies, including AI and machine learning techniques, to fabricate or manipulate audio, visual, or text content with the intent to mislead.
- d) “Digital content provenance” to mean the verifiable chronology of the original piece of digital content, such as an image, video, audio recording, or electronic document.

STAFF COMMENTS

- 1) **Need for the bill.** According to the author, “Artificial intelligence (AI) and deepfake technology is developing at an unprecedented pace and is already having profound impacts on almost every sector of the economy, government, and our everyday lives, with new applications being implemented in real time. In the same way that society couldn’t have predicted the advancement and pervasiveness of AI and deepfake technology 20 years ago, it is likewise hard to predict how these technologies will impact Californians several decades from now. Clearly, AI and deepfakes will come with benefits and risks, but the full impact of these new tools is not yet fully understood, especially as the technology continues to rapidly evolve. Currently, there is no official stakeholder body advising the Legislature on AI and deepfakes. The widespread application and fast-paced development of the technologies will present challenges for the Legislature as it seeks to balance enabling innovation while mitigating negative outcomes on privacy, elections, jobs, and other areas of civic life. Senate Bill 1235 will provide valuable, ongoing information and guidance to the Legislature on this issue by creating an AI and deepfake Working Group at a public university in California (CSULB). The Working Group will enable the Legislature to make informed decisions about AI and deepfakes by tapping into the collective brain trust of leading experts from a broad range of interests, including privacy, consumer protection, courts, academia, organized labor, business, and state and local government.”
- 2) **Deepfakes and AI.** According to the congressional research service report, the term “deepfakes,” describes realistic photo, audio, video, and other forgeries generated with AI technologies. The report warns that the use of AI to generate deepfakes is causing concern because the results are increasingly realistic, rapidly created, and cheaply made with freely available software and the ability to rent processing power through cloud computing. As a result, unskilled operators

could download the requisite software tools and, using publically available data, create increasingly convincing counterfeit content. Deepfakes is used for entertainment and other beneficial purposes such as producing medical images for training purposes. However, the technology can also be used in nefarious ways. For example, creating falsified videos of public figures behaving inappropriately. Existing state law requires the Government Operations Agency to evaluate the impact of deepfakes and the risks associated with the deployment of digital content forgery technologies on government businesses and California residents. The evaluation conducted by the Government Operations Agency is not continuous. This bill proposes that an annual report be provided to the Legislature.

- 3) **Function of the working group.** Statutory changes are not necessarily required in order for CSULB to establish a working group. However, the bill is intended to provide a direct benefit to the legislature in the form of advice and information on an emerging and evolving topic, which may warrant statutory changes. On numerous occasions, the Legislature has called on the state's public universities to help address state needs by funding various research initiatives or centers. Examples of these initiatives include the Firearm Violence Research Center at UC Davis and the Dyslexia Center at UC, San Francisco. Rather than have CSULB research and advise the Legislature, this bill delegates those responsibilities to a working group that can be composed of a diverse range of individuals to convene over the impact of AI and deepfakes technologies on the workforce, government, privacy, and legal issues. The working group structure is more conducive to sharing opinions and experiences rather than conducting extensive research. The working group proposed in this bill has the task of producing a yearly report resulting from its research and findings. The committee may wish to consider whether the working group structure is the appropriate model for achieving a research goal or whether providing further clarity on the working group's role in relation to the university is merited.

As drafted, the university's primary purpose is to assemble a group of experts who can provide guidance to the Legislature. However, this role appears to be better suited for the California State University Chancellor's Office as they have a greater geographic reach and other responsibilities that necessitate regular reporting to the Legislature. For these reasons, **staff recommends that the bill be amended** to make the CSU Chancellor's Office, rather than CSULB, responsible for implementing the provisions of the bill.

- 4) **Related legislation.**

SB 1288 (Becker, 2024) would require the State Superintendent of Public Instruction, in consultation with the State Board of Education, to convene a working group, as specified, for the purpose of evaluating AI-enabled teaching and learning practices. SB 1288 is set to be heard by this committee on April 24.

AB 2652 (Muratsuchi, 2024) is substantially similar to SB 1288.

SUPPORT

TechNet

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No:	SB 1368	Hearing Date:	April 24, 2024
Author:	Ochoa Bogh		
Version:	February 16, 2024		
Urgency:	No	Fiscal:	Yes
Consultant:	Kordell Hampton		

Subject: School curriculum: sexual health education and human immunodeficiency virus (HIV) prevention education: health framework: pregnancy centers.

SUMMARY

This bill requires pregnancy centers to be included in the next revision of the Health framework and for information about pregnancy centers to be made available by the California Department of Education (CDE) and local educational agencies (LEA), as specified.

BACKGROUND

Existing Law:

Education Code (EC)

- 1) Establishes the California Healthy Youth Act (CHYA), which requires LEAs to provide comprehensive sexual health and HIV prevention instruction to all students in grades 7 to 12, at least once in middle school and once in high school. (EC § 51933)
- 2) Authorizes an LEA to contract with outside consultants or guest speakers, including those who have developed multilingual curricula or curricula accessible to persons with disabilities, to deliver comprehensive sexual health education and HIV prevention education or to provide training for school district personnel. All outside consultants and guest speakers shall have expertise in comprehensive sexual health education and HIV prevention education and have knowledge of the most recent medically accurate research on the relevant topic or topics covered in their instruction. (EC § 51936)
- 3) Requires that pupils in grades 7 to 12, inclusive, receive comprehensive sexual health education at least once in junior high or middle school and at least once in high school. (EC § 51934)
- 4) Requires that the instruction and related instructional materials be, among other things:
 - a) Age appropriate.
 - b) Medically accurate and objective.

- c) Appropriate for use with pupils of all races, genders, sexual orientations, and ethnic and cultural backgrounds, pupils with disabilities, and English learners.
 - d) Made available on an equal basis to a pupil who is an English learner, consistent with the existing curriculum and alternative options for an English learner pupil.
 - e) Accessible to pupils with disabilities. (EC § 51934)
- 5) Authorizes LEA to provide comprehensive sexual health education and HIV prevention education earlier than grade 7 using instructors trained in the appropriate courses and age-appropriate and medically-accurate information. (EC § 51933)
- 6) Requires LEAs to provide parents and guardians with a notice at the beginning of each school year, or, for a pupil who enrolls in a school after the beginning of the school year, at the time of that pupil's enrollment the following:
- a) About instruction in comprehensive sexual health education and HIV prevention education and research on pupil health behaviors and risks planned for the coming year.
 - b) Advise the parent or guardian that the educational materials used in sexual health education are available for inspection.
 - c) Advise the parent or guardian whether the comprehensive sexual health education or HIV prevention education will be taught by school district personnel or by an outside consultant, as provided.
 - d) Advise the parent or guardian that the parent or guardian has the right to excuse their child from comprehensive sexual health education and HIV prevention education and that in order to excuse their child, they must state their request in writing to the LEA. (EC § 51938)
- 7) Provides that the parent or guardian of a pupil has the right to excuse their child from all or part of that education, including related assessments, through a passive consent ("opt-out") process. (EC § 51938)

ANALYSIS

This bill:

- 1) Requires the Instructional Quality Commission (IQC) to include in the next revision of the Health Framework for California Public Schools, after January 1, 2025, information on pregnancy centers as a resource.
- 2) Requires the CDE, on or before July 1, 2025 to make information about pregnancy centers available on its internet website.

- 3) Require each LEA to ensure that all pupils in grades 7 to 12, at least once in junior high and high school, receive information about local resources, including but not limited to, pregnancy centers.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “SB 1368 would provide an additional resource for middle and high school students alongside the resources that are already provided under the CYHA. Our goal is not to change existing law but to add options, specifically to increase awareness for already available free services provided by local pregnancy centers. It is our duty to present women with all choices when it comes to pregnancy. Young women who want to explore all of their choices should have the right to do so and when organizations like pregnancy centers provide exceptional services at little to no cost they should be recognized.”
- 2) ***What is a Pregnancy Center?*** In September 2012, the Guttmacher Institute released a report regarding Crisis Pregnancy Centers (CPCs). The report cites that “these centers offer counseling and prenatal services with an anti-abortion (pro-life) perspective. CPCs are typically associated with national anti-abortion organizations and evangelical Christian networks. Women who visit these centers need accurate medical information and timely medical attention. However, CPCs often offer misleading information that may delay or deny women access to proper reproductive health services, influence their decisions, and ultimately lead to more unintended births.”

Recently, on April 8, 2022, California Attorney General Rob Bonta sent a letter to Modesto Pregnancy Center, also known as Personal Health Now, demanding that the entity substantiate its claims that it provides medically accurate and unbiased sexual education to public school students. The Center currently provides sexual education curriculum to Modesto City Schools District and advertises that its program meets the requirements of the CHYA, which requires sexual education in California’s public schools be “comprehensive” and medically accurate, and may not promote religious doctrine. However, the Department of Justice (DOJ) has received parent complaints indicating that the Center’s sexual education curriculum does not, in fact, appear to comply with state law. Under Business and Professions Code section 17508, the Attorney General demands that the Center substantiate their claims within 20 days of letter issuance. Failure to provide substantiation by that deadline may result in legal action.

California Health and Human Services Agency (Abortion.ca.gov).

In 2022, the Legislature passed SB 1142 (Caballero, Chapter 566, Statutes of 2022), which required the California Health and Human Services Agency (CHHSA), or a designated entity, to create an internet website that provides information on abortion services in the state. Recently, the website abortion.ca.gov was launched, and it offers information on the types of abortion and the steps involved, as well as a tool to find abortion providers. The website also features telehealth-only options, alerts on CPCs providing false and medically incorrect information to discourage abortion, and a link to the consumer alert from the DOJ titled “Know the Difference: Crisis Pregnancy Centers v. Reproductive Health Facilities.”

Current statute already requires LEAs to provide students, at least once in junior high and once in high school, information, including but not limited to Information about local resources, how to access local resources, and pupils' legal rights to access local resources for sexual and reproductive health care such as testing and medical care for HIV and other sexually transmitted infections and pregnancy prevention and care, as well as local resources for assistance with sexual assault and intimate partner violence (EC 51934 § (a)(8)).

- 3) **Health Education Framework (2019).** On May 8, 2019, the State Board of Education (SBE) officially adopted the 2019 Health Education Curriculum Framework for California Public Schools (the Health Education Framework) after over two years of development. The Health Education Framework is aligned to the 2008 California Health Education Content Standards, which support the development of knowledge, skills, and attitudes in eight overarching standards: (1) essential health concepts; (2) analyzing health influences; (3) accessing valid health information; (4) interpersonal communication; (5) decision making; (6) goal setting; (7) practicing health-enhancing behaviors; and (8) health promotion in six content areas of health education, including sexual health.

This bill would require the IQC in the next revision of the Health Framework for California Public Schools include information on pregnancy centers as a resource. The committee may wish to consider if it is appropriate to bind the IQC to a future obligation when considering the next revision of the Health Framework.

- 4) **California Healthy Youth Act.** The CHYA took effect in 2003 and was initially known as the Comprehensive Sexual Health and HIV/AIDS Prevention Education Act (Act). Originally, the Act required LEAs to provide comprehensive sexual health education in any grade, including kindergarten, so long as it consisted of age-appropriate instruction and used instructors trained in the appropriate courses. Beginning in 2016 with AB 329 (Weber, 2015), the act was renamed the CHYA and, for the first time, required LEAs to provide comprehensive sexual health education and HIV prevention education to all students at least once in middle school and at least once in high school. From its inception in 2003 through today, the CHYA has always afforded parents the right to opt their child out of a portion, or all, of the instruction and required LEAs to notify parents and guardians of this right. Parents and guardians can exercise this right by informing the LEA in writing of their decision.

In addition to the CHYA, CDE also provide information on its website regarding resources for sexual and reproductive health for LEAs.

- 5) **Instructional Quality Commission. How Curriculum, Standards, Frameworks, and Model Curricula Are Created and Adopted.** The Legislature has vested the IQC and SBE with the authority to develop and adopt state curriculum and instructional materials. The IQC develops curriculum frameworks in each subject by convening expert panels, developing drafts, and holding public hearings to solicit input. Changes are frequently made in response to public comment. The SBE then adopts the frameworks in a public meeting. The SBE also adopts, in a public process, instructional materials aligned to those frameworks for grades K-8. School district governing boards and charter schools then adopt instructional materials

aligned to these standards and frameworks. Local adoption of new curricula involves significant local cost and investment of resources and professional development.

These existing processes involve practitioners and experts who have an in-depth understanding of curriculum and instruction, including the full scope and sequence of the curriculum in each subject and at each grade level, constraints on instructional time and resources, and the relationship of curriculum to state assessments and other measures of student progress.

The committee has adopted a joint policy with the Assembly Education Committee that prohibits the introduction of measures which 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, must comply with requirements set forth in this policy. A portion of this bill violates the policy adopted by this committee.

6) Related Legislation.

SB 1142 (Caballero, Chapter 566, Statutes of 2022) requires CHHSA, or an entity designated by the agency, to establish an internet website where the public can find information on abortion services in California. Requires CHHSA to also develop, implement, and update, as necessary, a statewide educational and outreach campaign to inform the public on how to access abortion services in the state.

AB 2134 (Akilah Weber, Chapter 562, Statutes of 2022) among various provisions, establishes the California Abortion and Reproductive Equity Program, and the California Reproductive Health Equity Program within the Department of Health Care Access and Information, to ensure abortion and contraception services are affordable for and accessible to all patients and to provide financial support for safety net providers of these services.

AB 315 (Bauer-Kahan, 2023) would have specified a person doing business who performs or intends to perform pregnancy-related services cannot advertise using false or misleading statements about whether they provide abortion services, and allows public prosecutors to file lawsuits against businesses that violate this provision. This bill also creates a private right of action that allows any individual who is harmed by a business's false or misleading advertising about abortion services, as specified, to bring a civil lawsuit against the business. *This bill was held in Assembly Appropriations Committee.*

AB 710 (Schiavo, 2023) would have required the Department of Public Health (DPH) to conduct an awareness campaign to communicate with local health departments, health care providers, and the public, regarding facilities that provide health care services, including, but not limited to, primary care and specialty clinics. *This bill was held in Assembly Appropriations Committee.*

SUPPORT

Life Choice Pregnancy Center (sponsor)

California Baptist for Biblical Values
California Catholic Conference
California Family Council
Informed Choices
Moreno Valley Women's Health Center
National Institute of Family and Life Advocates
The American Council
The National Center for Law & Policy
41 individuals

OPPOSITION

1 individual

-- END --

SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No:	SB 1410	Hearing Date:	April 24, 2024
Author:	Ochoa Bogh		
Version:	March 18, 2024		
Urgency:	No	Fiscal:	Yes
Consultant:	Kordell Hampton		

Subject: Pupil instruction: curriculum frameworks: mathematics: algebra.

SUMMARY

This bill would require the State Board of Education (SBE), in adopting any revised mathematics curriculum framework on or after January 1, 2025, to include a requirement that grade 8 pupils be offered the opportunity to take any Algebra I or Mathematics I course that is aligned to the content standards adopted by the SBE.

BACKGROUND

Existing Law:

Education Code (EC)

- 1) States in order for a pupil to receive a diploma of graduation from high school, in addition to other subject area requirements, a pupil must complete two courses in mathematics and specifies that if a governing board of a school district requires more than two courses in mathematics for graduation, the governing board of the local educational agency (LEA) may award a pupil up to one mathematics course credit for successfully completing a “category C” approved computer science course. (EC § 51225.3)
- 2) Specifies that a pupil who, before enrollment in grade 9, completes a course in Algebra I or Mathematics I, or mathematics courses of equal rigor, that is aligned to the content standards adopted by the SBE, is exempt from taking Algebra 1 Mathematics 1 in high school but is not exempt from the requirement that the pupil complete two courses in mathematics while enrolled in grades 9 to 12. (EC § 51224.5 (b))
- 3) Requires local educational agencies to develop and adopt a fair, objective, and transparent mathematics placement policy for grade 9 students and consider multiple academic measures, include a placement checkpoint, examine aggregate data annually, provide clear recourse for students, and address consistency between elementary and high school districts. (EC § 51224.7)
- 4) Declares that in the state government, the Instructional Quality Commission must consist of a Member of the Assembly appointed by the Speaker of the Assembly, a Member of the Senate appointed by the Senate Committee on Rules, one public member appointed by the Speaker of the Assembly, one public member appointed

by the Senate Committee on Rules, one public member appointed by the Governor, and 13 public members appointed by the SBE upon the recommendation of the Superintendent or the members of the SBE. (EC § 33530(a))

California Code of Regulation (CCR)

- 5) The SBE may establish a Curriculum Framework and Evaluation Criteria Committee (CFCC) to assist in the process of developing a curriculum framework and evaluation criteria for a particular content field and to make a recommendation to the Subject Matter Committee, IQC and SBE regarding a curriculum framework and evaluation criteria and specifies when the SBE requests that the IQC recommend a curriculum framework and evaluation criteria, the California Department of Education (CDE) shall convene four public focus groups of educators in different regions of California to provide comment to the IQC, the Curriculum Framework and Evaluation Criteria Committee (CFCC) (if established), and the SBE. (CCR Tit. 5 § 9511 (b) and (c))
- 6) Requires the IQC must consider a curriculum framework and evaluation criteria developed by the CFCC, approve it, and make it public for 60 days. The CDE must post the criteria on the CDE website and Learning Resources Display Center (LRDCs). Public comments must be received 14 days before the meeting, and the CDE must post the criteria for public review. (CCR Tit. 5 § 9515 et seq.)
- 7) Oral and written public comment, whenever submitted, addressing the content of instructional materials should specifically identify the instructional material and page number where the subject content appears and, if pertinent, provide a reason as to why the content is inaccurate or does not meet the content standards, curriculum frameworks, evaluation criteria or social content standards and, if pertinent, suggest a correction to the identified problem. (CCR Tit. 5 § 9521 (a)).

ANALYSIS

This bill would require the SBE, in adopting any revised mathematics curriculum framework on or after January 1, 2025, to include a requirement that grade 8 pupils be offered the opportunity to take any Algebra I or Mathematics I course that is aligned to the content standards adopted by the SBE.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “In evaluating the new mathematics curriculum framework, experts, parents, and educators expressed concerns regarding guidance suggesting that school districts move away from teaching Algebra I and Mathematics I in 8th grade, and that for purposes of meeting California’s public university A-G requirements, data science course content met the same standards and rigor as an Algebra II course. Despite these concerns, the framework was adopted, putting students at risk of not meeting the minimum requirements for admission to California’s higher education institutions, especially those students applying for a STEM or mathematics-focused major.”

“Since this framework’s adoption, academic senates of our higher education institutions have repeatedly explained that data science courses do not meet admissions requirements as an “advanced math course.” Additionally, professors and experts have voiced how the framework’s suggestion to teach Algebra I or Mathematics I in 9th grade as opposed to 8th grade would have detrimental impacts on student access to advanced courses like calculus and college admissions.”

“By requiring that an Algebra I or Integrated Math I course be an available option to middle school students, all students will have the opportunity to take an Algebra I (or Integrated Math I) course prior to 9th grade, thereby ensuring students can more seamlessly transition from K-12 to higher education.”

- 2) ***Instructional Quality Commission. How Curriculum, Standards, Frameworks, and Model Curricula Are Created and Adopted.*** The Legislature has vested the IQC and SBE with the authority to develop and adopt state curriculum and instructional materials. The IQC develops curriculum frameworks in each subject by convening expert panels, developing drafts, and holding public hearings to solicit input. Changes are frequently made in response to public comment. The SBE then adopts the frameworks in a public meeting. The SBE also adopts, in a public process, instructional materials aligned to those frameworks for grades K-8. School district governing boards and charter schools then adopt instructional materials aligned to these standards and frameworks. This process occurs on a regular schedule, giving schools a predictable timetable to plan and budget for changes to the curriculum. Local adoption of new curricula involves significant local cost and investment of resources and professional development.

These existing processes involve practitioners and experts who have an in-depth understanding of curriculum and instruction, including the full scope and sequence of the curriculum in each subject and at each grade level, constraints on instructional time and resources, and the relationship of curriculum to state assessments and other measures of student progress.

This bill would require any revised mathematics curriculum framework adopted by the SBE on or after January 1, 2025, to include a requirement that grade 8 pupils be offered the opportunity to take an Algebra I or Mathematics I course that is aligned to the content standards adopted by the SBE. The committee may wish to consider if it is appropriate to bind the IQC to a future obligation when considering the next revision of the mathematics framework.

The committee has adopted a joint policy with the Assembly Education Committee that prohibits the introduction of measures which 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, must comply with requirements set forth in this policy. This bill violates this policy adopted by this committee.

- 3) ***Adoption of the 2023 Mathematics Framework.*** The revision of the 2023 Mathematics framework began in August of 2019. Pursuant to the CCR, when the SBE requests that the IQC recommend a curriculum framework and evaluation criteria, the CDE must convene four public focus groups of educators in different

regions of California to provide comment to the IQC, the CFCC (if established), and the SBE. Between the months of August and October, the focus groups were held on the following dates in the following locations:

- August 19, 2019 – San Diego County Office of Education
- August 20, 2019 – Sacramento County Office of Education
 - Humboldt County Office of Education and Shasta County Office of Education, via videoconference
- August 22, 2019 – Santa Clara County Office of Education
 - Fresno County Office of Education, via videoconference
- August 26, 2019 – Olive Middle School, Baldwin Park Unified School District

The report, *Mathematics Framework Focus Group Input Report*, shortly produced afterward contains a summary of oral and written comments made from each of the meetings and informs the 2021 revision of the Mathematics Framework for California Public Schools, Kindergarten Through Grade Twelve (Mathematics Framework). The final discussion questions used for the Mathematics Focus Groups reflect a desire to elicit detailed information that largely avoided feedback that was too specific, or that would prove extemporaneous for the drafting of the guidelines that the CFCC will use to revise the Mathematics Framework.

On January 8-9, 2020, the SBE appointed 20 members to the Mathematics CFCC. The membership consisted of two members from higher education (a Lecturer from the University of California, Riverside and an associate Director of secondary Mathematics, from the University of California, Los Angeles Graduate School of Education and Informational Studies), 18 members from school districts and county offices of education from across California with subject matter expertise in Mathematics.

Name	Employer	Job Title
Arts Biegler	Los Angeles Unified School District	Teacher
Lena Bradshaw	ABC Unified School District	Mathematics/Science Coach
Nancy Butler Wolf	University of California, Riverside	Lecturer
Erin Fraser	Oceanside Unified School District	Teacher
Lori Freiemuth	Sweetwater Union High School District	Teacher
Lori Fury	Western Placer Unified School District	Teacher on Special Assignment
Lindsey Gatfield	Saddleback Valley Unified School District	Teacher on Special Assignment
Crystal Gomez	Fairfield – Suisun School District	Consulting Teacher
Janet Hollister	Santa Barbara Unified School District	Instructional Support Specialist
Isabella Hoegerman	Apple Valley Unified School District	Instructional Coach
Stephanie Holloway	Lake Elsinore Unified School District	Teacher
Andrew Huffaker	Whittier City School District	Instructional Coach
Janny Kim	Los Angeles Unified School District	Elementary Mathematics Coordinator
Rebecca Pariso	Hueneme Elementary School District	Teacher
Christina Rubalcava	Stanislaus County Office of Education	Mathematics Project Coordinator
Theodore Sagun	UCLA Graduate School of Education and Information Studies	Associate Director of Secondary Mathematics
Ma Bernadette Salgarino	Santa Clara County office of Education	Mathematics Coordinator
Steven Sampson	Kern County Office of Education	Mathematics Coordinator
Rosa Serratore	Santa Monica – Malibu Unified School District	Mathematics Coordinator
Dianne Willson	Elk Grove Unified School District	Mathematics Program Specialist

Simultaneously, the SBE approved guidelines for the Mathematics CFCC on January 8, 2020. These guidelines aim to align with the California Common Core State Standards for Mathematics (CA CCSSM) and reflect the goal of achieving conceptual understanding, problem-solving capacity, and procedural fluency in mathematics. The guidelines are based on statutory requirements, feedback from focus group meetings in August of 2019, student focus groups in September and October 2019, information provided by the IQC and the SBE, and public comment.

Between February 26, 2020 and December 17, 2020, the Mathematics CFCC held 8 meetings:

- February 26-27, 2020
- June 24-25, 2020
- August 5-6, 2020
- September 23-24, 2020
- October 19-20, 2020
- November 3-4, 2020
- December 2, 2020
- December 16-17, 2020

At a May 2021 public hearing on the draft, the IQC noted concerns raised by the public in the first 60-day field review and recommended hundreds of edits and other changes. A revised draft was then posted on March 14, 2022, for a second 60-day field review. Over those two months, CDE received more than 900 comments, many quite detailed, requesting further changes. As is often the case with projects that require additional capacity, the CDE and SBE worked in partnership with the Region 15 Comprehensive Center (R15CC), a federally -funded technical assistance center led by WestEd, to carefully review and analyze feedback from the second field review. The R15CC tapped its network of in-house mathematics education experts

to assist in the process. The revised draft is responsive to public concerns, responsive to direction from the IQC, and aligned with SBE guidelines.

At its meeting on July 12, 2023, the SBE adopted the *Mathematics Framework for California Public Schools: Kindergarten Through Grade Twelve*. The framework is important guidance designed to help educators align classroom teaching with California's rigorous math learning standards. The mathematics framework reflects input from California parents, educators, students, and others who commented during the two 60-day field review periods that were held in 2021 and 2022.

During each revision of a framework, the IQC, SBE, CDE, and multiple committees conduct an extensive process by which the public has time before and during the development of a framework to engage with the frameworks CFCC to provide feedback, concerns, and corrections for the CFCC to consider while revising a framework. The committee may wish to consider if the requirement of this bill limits the ability for IQC and CFCCs to address concerns raised during public comment.

Algebra I in Eighth Grade Remains A Local Choice

The California Mathematics Framework, a 900-page document, began its third and final 60-day review process in March 2022 before being adopted by the SBE in July 2023. The decision of whether to offer algebra in eighth grade – and when, how, and for whom to accelerate math instruction – is for individual school districts and charter schools to make as it was not intended to be a mandate.

The framework provides voluntary guidelines to teachers and textbook publishers on how to teach the state's academic standards. The new framework has a more “student-centered goal” – to build an understanding of math concepts and relationships across grades and subjects while developing students' critical thinking and reasoning skills. According to an EdSource article, *California Revises New Math Framework To Keep Backlash At Bay*, “Critics question some principles of the framework, including the elimination of grouping students based on ability and the recommendation to refrain from offering algebra until ninth grade. Critics interpreted that position as a signal that the state was leveling down math instruction, delaying those ready for advanced math for the sake of misguided uniformity.”

The revised math acceleration framework acknowledges the option of offering Algebra I (or Integrated Math I) in eighth grade, but it also suggests that districts should assess students' readiness and consider requiring a summer course or additional preparation. It proposes designing a new high school course combining four years of courses into three by eliminating repeated material, leading to an advanced math course in the senior year. The framework urges districts not to create an advanced track for some students and a separate track that filters most students out of high-level mathematics from a young age, as this approach historically has denied opportunities to underrepresented minorities.

Notably, by requiring the IQC to include Algebra I or Mathematics I course in the next revision of the Mathematics framework, this bill tips the scale in what was thoroughly deliberated and discussed during public comment and revision process. The committee has adopted a policy that encourages Members to engage the IQC's

administrative process to ensure that the subject matter of concern is addressed in the revised frameworks.

These options are present in Chapter 7 (this chapter discusses the framework's approach to mathematics teaching in middle school, focusing on proportional reasoning, rational numbers, and measurement in geometrical and data science scenarios and provide guidance to help school districts determining whether students progress to high-level mathematics, impacting their futures in high school) and 8 (outlines traditional and integrated pathways, course options, and expectations for higher education, allowing students and families to choose courses based on their interests and aspirations).

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

a) Requires the Instructional Quality Commission to consider including that pupils in grade 8 be offered the opportunity to take an Algebra I or Mathematics I course that is aligned to the content standards adopted by the state board during the next revision.

5) **Related Legislation.**

SB 1411 (Ochoa Bogh, 2024) adds to the IQC, 6 public members appointed by the Intersegmental Committee of the Academic Senates (ICAS) as specified.

SB 342 (Seyarto, 2023) would have required the IQC to include, rather than consider, age-appropriate information related to financial literacy when the history-social science (H-SS) curriculum framework is revised after January 1, 2024. *This bill failed in Senate Education Committee.*

AB 1871 (Alanis, 2024) would require the social sciences and career technical education areas of study to also include instruction on personal financial literacy.

AB 1821 (Ramos, 2024) would, commencing the 2025–26 school year, require any instruction on the Spanish missions in California or the Gold Rush Era to also include instruction regarding the treatment of Native Americans during those periods.

SB 1094 (Limon, 2024) would explicitly require instruction in social sciences to also include principles of democracy and the State and Federal Constitutions and require students to engage with local, state, or national government at least once during grades 1 to 6 and again during grade 7 or 8.

AB 2097 (Berman, 2024) would require school districts and charter schools maintaining any of grades 9 to 12 to offer computer science education courses, as specified, timeline and, commencing with pupils graduating in the 2030–31 school year, including for pupils enrolled in a charter school, add the completion of a course in computer science to the above-described graduation requirements.

SUPPORT

SaveMath
5 individuals

OPPOSITION

The Education Trust - West

-- END --

SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No:	SB 1329	Hearing Date:	April 24, 2024
Author:	Committee on Education		
Version:	April 8, 2024		
Urgency:	No	Fiscal:	Yes
Consultant:	Lynn Lorber		

Subject: Elementary and secondary education: omnibus.

SUMMARY

This bill, the annual K-12 omnibus bill, makes numerous technical, clarifying, conforming, and other non-controversial revisions to a number of provisions related to education throughout statute.

BACKGROUND

Existing law

County offices of education

- 1) Authorizes the county superintendent of schools, with the approval of the county board of education, to employ supervisors to supervise instruction in the elementary school districts under his jurisdiction, as specified. Existing law requires those services to be performed by individuals who hold a valid credential issued by the State Board of Education (SBE) or Commission for Teacher Preparation and Licensing. (Education Code (EC) § 1732)
- 2) Authorizes the county superintendent of schools, with the approval of the county board of education, to employ personnel to supervise the attendance of pupils in elementary school districts under his jurisdiction, as specified. Existing law requires those services to be performed by individuals who hold a valid credential issued by the SBE or Commission for Teacher Preparation and Licensing. (EC § 1742)
- 3) Authorizes the county superintendent of schools, with the approval of the county board of education, to employ one or more supervisors of health to provide health services to pupils in elementary school districts under his jurisdiction, as specified. Existing law requires those services to be performed by individuals who hold a valid health and development credential, or life diploma based thereon, or a services credential with a specialization in health issued by the state board or Commission for Teacher Preparation and Licensing; provided, however, that a psychologist may be employed to perform psychological services or may perform psychological services under contract if he or she is the holder of a valid school psychologist credential issued by the state board. (EC § 1753)
- 4) Authorizes the county superintendent of schools, with the approval of the county board of education, to employ personnel to provide necessary guidance services

to pupils in elementary school districts under his jurisdiction, as specified. Existing law also authorizes the county superintendent of schools, with the approval of the county board of education, to enter into an agreement with the governing board of any district for the provision of guidance services in the district by the county superintendent of schools. Existing law requires those services to be performed by individuals who hold a valid credential issued by the state board or Commission for Teacher Preparation and Licensing authorizing performance of the services. (EC § 1762)

- 5) Authorizes the county superintendent of schools, with the approval of the board of supervisors and the county board of education, to agree with the county librarian to take over all existing contracts for supplementary books and other material adopted for the course of study between the school districts or community college districts and the county librarian. Existing law provides that thereafter the county superintendent of schools is generally to perform such library services for the school districts or community college districts as were theretofore performed by the county library. Existing law requires the county superintendent to employ a librarian holding a valid credential authorizing services as a librarian issued by the SBE or Commission for Teacher Preparation and Licensing. (EC § 1770)

Child development permit

- 6) Authorizes each county or city, and county board of education or community colleges board, to issue temporary certificates for the purpose of authorizing salary payments to preschool employees whose child development permit applications are being processed. Existing law provides that the certificate is to be valid for not more than 90 schooldays and only until the permit originally requested is either issued or denied by the Commission for Teacher Preparation and Licensing. (EC § 8302)

Instructional time requirements

- 7) Authorizes the SBE to waive instructional time requirements during the 1983-84 fiscal year for school districts that experienced unanticipated growth in the number of students over the 1982-83 fiscal year and there is an overcrowding of students with no reasonable alternative to house students without initiating the use of double session. (EC § 33050.3)

Commission on Teacher Credentialing (CTC)

- 8) Establishes the CTC in state government, consisting of 15 voting members, 14 of whom are to be appointed by the Governor with the advice and consent of the Senate. (EC § 44210)
- 9) Requires the CTC to, among other things, establish professional standards for entry and advancement in the education profession, and establish standards for the issuance and renewal of credentials. (EC § 44225)

- 10) States legislative intent that the Commission for Teacher Preparation and Licensing exercise authority over all services provided to pupils in grade 12 or below, and states it is not the intent to authorize the commission to issue credentials authorizing service in grades 13 and 14, or in any institution of higher education. (EC § 44202)

Time of validity of exam scores relative to credentials, certificates, permits

- 11) Extends the time of validity of examination scores used to satisfy a requirement for the issuance of a credential, certificate, permit, or waiver to 11 years for any score used to satisfy a requirement from March 19, 2020, to June 30, 2021, inclusive. (EC § 44225.4)

Information maintained for public record

- 12) Authorizes CTC, in order to expedite the application process for the benefit of applicants for credentials, certificates, permits, or other documents issued by the CTC, to receive from, or transmit to, the agency that submitted the application, either electronically or by printed copy, the information set forth in that application. For purposes of this subdivision, “agency” means a school district, county office of education, or institution of higher education having a commission-approved program of professional preparation. (EC § 44230)

Time of validity of fees

- 13) Extends the time of validity of fees submitted with paper applications for credentials not available for online renewal or recommendation to 120 days for applications received by CTC from March 19, 2020, to June 30, 2021, inclusive. (EC § 44235.4)

Children’s center instructional permit

- 14) Requires, beginning on September 1, 1984, applicants for an initial regular children’s center instructional permit, and applicants for the renewal of an emergency children’s center permit or a limited service permit to demonstrate proficiency in basic reading, writing, and mathematics skills by doing specified tasks. (EC § 44252.7)

Charter school teacher misassignments

- 15) Provides that, for teachers employed by charter schools during the 2019–20 school year, the monitoring authority shall not be required to advise the charter school administrator to correct a misassignment until July 1, 2025. (EC § 44258.10)

Requirements for completion of a program of professional preparation

- 16) Requires CTC to waive the requirements for completion of a program of professional preparation for any individual with a minimum of six years of full-time teaching experience in an accredited private school, as determined by CTC, in

the subject and level of the credential sought, who complies with specified criteria. (EC § 44259.2)

Field of practice assignment for pupil personnel services credential

- 17) Reduces the requirement for the field practice assignment for a pupil personnel services credential to take place in two or more school settings is reduced to one school setting from March 19, 2020, to June 30, 2021, inclusive. (EC § 44266.5)

Minimum requirements for preliminary services credential: teaching experience

- 18) Establishes minimum requirements for the preliminary services credential with a specialization in administrative services, including among other things:
- a) Completion of a minimum of three years of successful, full-time classroom teaching experience in the public schools, including, but not limited to, service in state- or county-operated schools, or in private schools of equivalent status or three years of experience in the fields of pupil personnel, health, clinical or rehabilitative, or librarian services; and,
 - b) Current employment in an administrative position after completion of professional preparation as defined in paragraph (3), whether full or part time, in a public school or private school of equivalent status. The commission shall encourage school districts to consider the recency of preparation or professional growth in school administration as one of the criteria for employment. (EC § 44270)

World Language Teacher Exchange and Recruitment

- 19) Requires the exchange of teachers with a foreign country to be conditioned upon the fact that the employing school district in California shall not be required to pay the salary of the teacher from the foreign country. Existing law requires the Commission for Teacher Preparation and Licensing to establish minimum standards for credentials for such exchange teachers from a foreign country and shall provide for the issuance of such credentials to such teachers. (EC § 44614)

Rendering of service in a position requiring certification qualifications

- 20) Requires, if the Commission for Teacher Preparation and Licensing approves, employment, rendering of service, inclusion of attendance, or drawing of the order for a warrant to be deemed fully legal whenever a person has rendered service in a position requiring certification qualifications, or the governing board of a district has employed a person in a position requiring certification qualifications, or the county superintendent has drawn an order for a warrant in favor of a person in a position requiring certification qualifications, for a period of service during which the person did not have a valid credential required for such. (EC § 45036)

Suspension or expulsion: willful defiance

- 21) Prohibits, beginning July 1, 2024, and until July 1, 2029, a pupil enrolled in a charter school in any of grades 9 to 12, inclusive, from being suspended for specified acts. Existing law authorizes a certificated or non-certificated employee to refer a pupil to charter school administrators for appropriate and timely in-school interventions or supports as specified. (EC § 48901.1)

Bilingual Teacher Training Assistance Program

- 22) Requires CDE to establish minimum requirements for teachers who may wish to participate in the program, including but not limited to a requirement that the teacher's waiver application includes a certification by an assessor agency approved by the Commission on Teacher Preparation and Licensing. (EC § 52183)

Diverse Education Leaders Pipeline Initiative

- 23) Requires the Superintendent of Public Instruction, for the 2023–24 fiscal year, to allocate the sum of \$10 million from the funding appropriated in Provision 3 of Item 6100-488 of the Budget Act of 2023 to the CTC to establish the Diverse Education Leaders Pipeline Initiative program. The purpose of the program is to train, place, and retain diverse and culturally responsive administrators in transitional kindergarten, kindergarten, and grades 1 to 12, inclusive, to improve pupil outcomes and meet the needs of California's education workforce. Existing law requires the program to have specified goals, including but not limited to mitigating or removing administrator credentialing costs for aspiring public school administrators for transitional kindergarten, kindergarten, and grades 1 to 12, inclusive, and administrator preparation and induction programs. (Section 112 of Chapter 48 of the Statutes of 2023, as amended by Section 25 of Chapter 194 of the Statutes of 2023)

Psychologist employed by California Community Colleges

- 24) Requires any psychologist employed by a community college to hold a school psychologist credential, a general pupil personnel services credential authorizing service as a school psychologist, a standard designated services credential with a specialization in pupil personnel services authorizing service as a psychologist, a services credential issued by the board of governors or the Commission for Teacher Preparation and Licensing, or meet applicable minimum qualifications established by the board of governors. (EC § 87448)

Leaves of absence from community college employment

- 25) Requires the accumulated leave of absence for illness or injury of the following people to be transferred with the person to the second position: any academic employee of a community college district who accepts a position requiring certification qualifications in the office of any county superintendent of schools; or, any certificated employee of any county superintendent of schools who accepts an academic position in a community college district or office of another county superintendent of schools; or, any person employed by the board of governors in a position requiring certification qualifications or an employee of the

office of the Chancellor of the California Community Colleges who accepts an academic position in a community college district or a position requiring certification qualifications in the office of any county superintendent of schools; or, any certificated employee of the Commission for Teacher Preparation and Licensing who accepts an academic position in any community college district. (EC § 87783)

National search of criminal records

- 26) Provides that statutes relative to the national search of criminal records applies to the California Commission for Teacher Preparation and Licensing, in licensing of all teaching and services credential applicants. (Penal Code § 11146)

Child development program personnel qualifications

- 27) Authorizes each county or city and county board of education or community colleges board to issue temporary certificates for the purpose of authorizing salary payments to child development employees whose child development permit applications are being processed. Existing law requires the applicant for such a temporary certificate to make a statement under oath that the employee has duly filed their application for a permit together with the required fee and that to the best of their knowledge no reason exists why the employee should not be issued a permit. Requires a certificate to be valid for not more than 90 schooldays and only until the permit originally requested is either issued or denied by the Commission for Teacher Preparation and Licensing. (Welfare & Institutions Code § 10384.5)

ANALYSIS

This bill:

CTC and credentials

- 1) Deletes obsolete references to the Commission on Teacher Preparation and Licensing, and replaces those references with the current name of CTC.
- 2) Strikes obsolete references to the SBE issuing credentials.

Instructional time requirements

- 3) Strikes the outdated and obsolete authority for the SBE to waive instructional time requirements during the 1983-84 fiscal year for school districts that experienced unanticipated growth in the number of students over the 1982-83 fiscal year and there is an overcrowding of students with no reasonable alternative to house students without initiating the use of double session.

Time of validity of exam scores relative to credentials, certificates, permits

- 4) Strikes outdated and obsolete provisions relative to the time of validity of examination scores used to satisfy a requirement for the issuance of a credential,

certificate, or permit.

Information maintained for public record

- 5) Clarifies that “status” is part of application information, and that charter schools are appropriate local educational agencies as a result of the enactment of AB 1505 (O’Donnell, Chapter 486, Statutes of 2019), which required charter school teachers to hold appropriate licensure.

Time of validity of fees

- 6) Strikes outdated and obsolete provisions relative to the time of validity of fees submitted with paper applications for credentials not available for online renewal.

Children’s center instructional permit

- 7) Updates outdated references to “children’s center instructional permits” to the current term of Child Development Permits.

Charter school teacher misassignments

- 8) Updates an incorrect cross-reference: the flexibility for charter school employees to remain in their positions references a section number within EC 44258.9 that was altered last year due to changes resulting from SB 114 (Committee on Budget and Fiscal Review, Chapter 48, Statutes of 2023), a budget trailer bill. The addition of 44258.9(e)(7) altered the numbering for the subsections that follow. Section 44258.9(e)(9) is no longer related to correcting a misassignment; that is now EC 44258.9(e)(10).

Requirements for completion of a program of professional preparation

- 9) Clarifies that “accredited” means *regionally accredited* relative to completion of a program of professional preparation.

Field of practice assignment for pupil personnel services credential

- 10) Strikes outdated and obsolete provisions relative to the requirement for the field practice assignment for a pupil personnel services credential to take place in two or more school settings is reduced to one school setting from March 19, 2020, to June 30, 2021, inclusive.

Minimum requirements for preliminary services credential: teaching experience

- 11) Clarifies that private schools of equivalent status are to be *regionally accredited*, relative to minimum requirements for the preliminary services credential with a specialization in administrative services.

Suspension or expulsion: willful defiance

- 12) Corrects a drafting error in cross-references that was contained in SB 274 (Skinner, Chapter 597, Statutes of 2023).

Diverse Education Leaders Pipeline Initiative

- 13) Clarifies that the grant funds are to be available for *preliminary administrative services credential* candidates, relative to \$10 million for the CTC to establish the Diverse Education Leaders Pipeline Initiative program.

STAFF COMMENTS

- 1) ***Purpose of the elementary and secondary education omnibus bill.*** Each year, there is typically a K-12 education omnibus bill that makes various technical, conforming, clarifying, and non-controversial revisions to the Education Code and other areas of statute related to education. Typically, staff with the Senate and Assembly education policy, fiscal and budget committees (and their minority consultants), the Department of Finance, the CDE, the Legislative Analyst's Office, and other similarly situated state government offices, identify statutes in existing law which need updating or correcting and propose corrections. Custom and practice provide that if offices or entities object to a proposed provision in the omnibus bill, that particular provision is prohibited from inclusion.
- 2) ***Commission on Teacher Credentialing.*** Numerous references remain in statute to CTC's former name of the California Commission for Teacher Preparation and Licensing. Those references should be updated to instead reference the CTC. Existing law also references credentials issued by the SBE; however, the SBE no longer issues credentials, and those references are obsolete.
- 3) ***Related legislation.***

AB 3290 (Committee on Higher Education, 2024) is the annual higher education omnibus bill that corrects technical errors and oversights and makes numerous non-controversial and conforming changes to various provisions of the Education Code. AB 3290 is pending in the Assembly Higher Education Committee.

SUPPORT

None received

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No:	SB 1449	Hearing Date:	April 24, 2024
Author:	Newman		
Version:	April 17, 2024		
Urgency:	No	Fiscal:	Yes
Consultant:	Olgalilia Ramirez		

Subject: California Private Postsecondary Education Act of 2009: complaint processing contracts.

SUMMARY

This bill authorizes a nonprofit law school that is otherwise exempt from regulation under the California Private Postsecondary Education Act (Act) and oversight by the Bureau for Private Postsecondary Education (Bureau) and which has in the past executed a contract, to execute a contract with the Bureau to review and act on complaints concerning the institution.

BACKGROUND

Existing law:

- 1) Authorizes the Board of Trustees of the State Bar of California to establish an examining committee (Committee of Bar Examiners, CBE) to examine all applicants for admission to practice law, administer the requirements for admission to practice law, and certify to the Supreme Court for admission to the bar those applicants who fulfill the requirements. (Business and Professions Code (BPC) § 6046)
- 2) Provides that the CBE is responsible for the approval, regulation, and oversight of degree-granting law schools that exclusively offer bachelor's, master's, or doctorate degrees in law, such as a J.D. (BPC § 6060.7)
- 3) Establishes the California Private Postsecondary Education Act of 2009 (the Act) until January 1, 2027, and requires the Bureau to, among other things, review, investigate, and approve private postsecondary institutions, programs, and courses of instruction pursuant to the Act and authorizes the Bureau to take formal actions against an institution/school to ensure compliance with the Act and even seek closure of an institution/school if determined necessary. The Act requires unaccredited degree granting institutions to be accredited by an accrediting agency recognized by the United States Department of Education. The Act also provides for specified disclosures and enrollment agreements for students, requirements for cancellations, withdrawals and refunds, and that the Bureau shall administer the Student Tuition Recovery Fund (STRF) to provide refunds to students affected by the possible closure of an institution/school. (Education Code (EC) § 94800 *et seq.*)
- 4) Provides numerous exemptions from the Act and oversight by Bureau, including, but not limited to:

- a) Law schools that are American Bar Association (ABA) accredited and State Bar accredited. (EC § 94874 (g))
- b) Schools that are accredited by the Accrediting Commission for Senior Colleges and Universities, Western Association of Schools and Colleges, or the Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges (WASC). (EC § 94874 (i))
- 5) Requires the Bureau to establish a process through which an institution exempt from the Act may request and obtain verification that the institution is exempt. Specifies that the verification is valid for a period of up to two years, as long as the institution maintains full compliance with the requirements of the exemption. (EC 94874.7)
- 6) Authorizes an institution otherwise exempt from the Act based on specified accreditation to apply to the Bureau for an approval to operate according to specified requirements, including that upon issuing an approval to operate, the Bureau is authorized to regulate that institution through the full set of powers granted, and duties imposed, by the Act and upon issuance of an approval to operate, the institution is no longer eligible for exemption. (EC § 94874.8)
- 7) Requires an independent institution of higher education that is otherwise exempt from the Act to comply with all applicable state and federal laws, including laws relating to fraud, abuse, and false advertising and authorizes these types of institutions to execute a contract with the Bureau for the Bureau to review and, as appropriate, act on complaints concerning the institution, according to specified requirements and subject to a fee of \$1,076. (EC § 94874.9.)
- 8) Establishes, under Title IV of the Federal Higher Education Act of 1965, the federal student aid program, administered by the United States Department of Education (USDE) to provide grants, loans, and work-study funds from the federal government to eligible students enrolled in eligible colleges or career schools (20 U.S.C. § 1070, et seq.) Institutional eligibility requirements for Title IV financial aid, include that institutions be “authorized” by each state in which they operate, and have an independent state-level student complaint process. (34 Code of Federal Regulations § 600.9)

ANALYSIS

This bill authorizes a nonprofit law school that is otherwise exempt from regulation under the Act and oversight by the Bureau to execute a contract with the Bureau to review and act on complaints concerning the institution. Specifically it:

- 1) Expands on the existing exemption from the Act and oversight by the Bureau for ABA accredited law schools and law programs that are subject to the Committee of Bar examiners oversight and which executed a contract with the Bureau between 2019 and 2023, by authorizing them to execute a contract with the Bureau to review and act on complaints concerning the institution.

STAFF COMMENTS

- 1) **Need for the bill.** Current state law allows certain nonprofit institutions the ability to enter into a complaint-processing contract with the Bureau without having to obtain Bureau approval. This benefit is limited to nonprofit institutions that have WASC accreditation. According to the author, over a span of almost 8 years, the Bureau authorized Southwestern law school to engage in contracts related to complaint handling similar to the benefit extended to WASC institutions. It was not until March 2023 that both the Bureau and Southwestern realized they had incorrectly interpreted the statute. At that time, in order to maintain eligibility for Title IV (federal student aid programs), the recommendation was to seek approval from the Bureau.

The author asserts that the bill would allow the restoration of the status quo that has existed without any issues since at least July 2015. “It also allows Southwestern’s faculty and staff to focus on the program of legal education instead of diverting precious human and financial resources on implementing a second compliance regime that largely duplicates topics covered by the ABA accreditation standards but implements them in a way that requires two parallel systems that are both costly to implement, maintain, and conflicting in terms of actual reporting requirements. Instead of promoting consumer protection, the conflicting processes and reports increase the cost to students, confuse applicants attempting to compare multiple ABA-accredited law schools, increase the costs students must pay to attend Southwestern, and reduce the direct services Southwestern can offer due to the costs required to maintain Bureau compliance on top of ABA compliance.”

The author further states, “For more than 110 years, Southwestern Law School has provided Californians with affordable and high-quality legal instruction. Its roster of distinguished alumni includes numerous members of the Legislature, statewide constitutional officers, justices of the California Supreme Court, members of Congress, and even California’s first African American and Latina judges. SB 1449 will provide Southwestern Law School with temporary regulatory relief as it continues to work through the process of WASC accreditation, thereby providing the same exemption from Bureau (Bureau) regulations that many other California law schools of the same caliber currently enjoy.”

- 2) **Entities that oversee higher education.** Three entities oversee higher education in the country, the USDE, accreditors and states. The USDE sets standards for institutions participating in federal student financial aid programs. It also approves accrediting agencies. Accreditor’s primary focus is educational quality and review institutions’ financial administrative and business practices to varying extents, depending on type of accreditor. States main role are to protect students from unfair business practices, states are also responsible for educational quality but often rely on accreditation to certify quality, for unaccredited schools states are sole oversight bodies to ensure educational quality financial and administrative capacity, fair practices and student protection.

- 3) **State oversight protects students.** AB 48 (Portantino, Chapter 310, Statutes of 2009), which established the Act, took effect January 1, 2010, following numerous legislative attempts to remedy the laws and structure governing regulation of private postsecondary institutions. The Act established the regulatory framework for state oversight of private postsecondary educational institutions operating in California. The Bureau was charged with ensuring minimum educational quality standards, providing students with an effective complaint resolution process, and preventing public deception associated with fraudulent or substandard degrees. While the Legislature has amended the Act several times since the initial passage of AB 48, it has consistently directed the Bureau to make protection of the public the highest priority in performing duties and exercising powers. The Bureau also actively investigates and combats unlicensed activity, administers the STRF, and conducts outreach and education activities for students and private postsecondary educational institutions within the state. SB 1192 (Hill, Chapter 593, Statutes of 2016), established the Office of Student Assistance and Relief within Bureau to advance the rights of students at private postsecondary educational institutions and assist students who have suffered economic loss due to unlawful activities or the closure of an institution.

- 4) **Background on “Good school” exemption.** According to the Senate Business Professions and Economic Development Committee analysis, “the exemptions in the Act, and attempts to create additional exemptions, have been an ongoing source of consideration for the Legislature. It was not until a hearing in the Senate that AB 48 was amended to include a “good schools” exemption, as institutions pushing for this exemption (based on criteria like length of operation under one owner and nonprofit status) argued that a similar recognition had been included in all legislation related to private postsecondary institution regulation since 1991 and should be continued. In 2014, during the discussion surrounding SB 1247 (Lieu, Chapter 840, Statutes of 2014), the Author submitted a letter to the Senate Journal requesting that the Legislature strike the exemption outlined above for WASC accredited institutions to remain exempt, and asked that all exemptions provided for in the Act be thoroughly examined by the Legislature to determine the merits of their continuation.

“Action taken by the United States Department of Education (USDE) in 2010 aimed at improving the integrity of programs authorized under Title IV of the Higher Education Act requires, among other things, that to remain eligible for Title IV, postsecondary education institutions must be authorized to operate in the state they are located and must ensure access to a complaint process that will permit student consumers to address alleged violations of state consumer protection laws. These changes rendered independent institutions of higher education, exempt from Bureau oversight and regulation under the Act by virtue of being accredited by a regional accrediting agency, potentially unable to meet the state authorization and complaints process requirements for Title IV. In response, the Department of Finance issued a Spring Finance Letter in May 2015 that proposed statutory changes allowing independent institutions of higher education to be recognized by the state and to enter into a contract with the Bureau to establish a state-level student complaint process. The Bureau subsequently entered into contracts with over 100 institutions in 2015.

“A number of institutions previously verified as exempt under the Act have now sought voluntary approval by Bureau to comply with Title IV requirements.

“The Act, as created by AB 48, attempted to correct many of the prior laws’ structural problems, most especially the former acts’ different standards and requirements for different categories of institutions that created legal and regulatory complexities. The Act has one single category of institution and establishes the same standards and requirements for all of the institutions under the Bureau’s oversight. Yet many of the institutions supportive of exemptions were exempt under the prior BPPVE regulatory framework and sought or even still seek to continue operating as they always have: subject to oversight by accreditors and state and federal oversight agencies responsible for approving the expenditure of public monies, but not the Bureau.”

- 5) **Federal complaint requirements linked to student aid programs.** Under state law, independent law schools accredited by the ABA are exempt from the Act and Bureau oversight. According to the bill sponsors, they are seeking to amend the Act, particularly in the way complaint-processing contracts are managed, by extending the exemption currently received by schools accredited by WASC to those accredited by the ABA. As mentioned above, exempt institutions have voluntarily sought Bureau approval to comply with federal Title IV requirements for federal student aid, which include programs like federal student loans and the Pell Grant program. Absent this bill, Southwestern, being an exempt school, could voluntarily seek approval from the Bureau to have complaints addressed by them and maintain federal student aid eligibility. The sponsors argue that ABA oversight is sufficient and that Bureau reporting requirements are duplicative and at times in direct conflict with ABA requirements. This bill would provide a narrow authority for exempt law schools including those ABA accredited that previously executed a contract with the Bureau. The Act’s primary goal is to provide meaningful student protection and adequate oversight for private colleges. If future legislation should follow suit in extending this privilege to other colleges, the committee may wish to consider whether this authority used to access public funds provides the appropriate level of state oversight.
- 6) **Heard by the Senate Business Professions and Economic Development Committee.** This bill was heard and amended by the Senate Business Professions and Economic Development Committee on April 15, where it passed on a 12-0 vote.

SUPPORT

Southwestern Law School

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No:	SB 1435	Hearing Date:	April 24, 2024
Author:	Ochoa Bogh		
Version:	April 8, 2024		
Urgency:	No	Fiscal:	Yes
Consultant:	Kordell Hampton		

Subject: Books and other school materials: obscene matter.

NOTE: This bill was previously heard by this Committee on April 17, 2024, and failed passage, but reconsideration was requested and granted.

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

SUMMARY

This bill would require the governing board of a local educational agency (LEA) to exclude from schools and school libraries serving pupils in preschool, transitional kindergarten, kindergarten, and grades 1 to 8, inclusive, all books, publications, or papers that contain harmful matter, as defined, by July 31, 2025 and allows a parent, guardian, or resident of a LEA to commence a civil action to obtain appropriate injunctive and declaratory relief for violations, as specified, after the governing board of the school district's refusal to remove any harmful matter requested of it.

BACKGROUND

Existing Law:

Penal Code (PEN)

- 1) "Harmful matter" means matter, taken as a whole, which to the average person, applying contemporary statewide standards, appeals to the prurient interest, and is matter which, taken as a whole, depicts or describes in a patently offensive way sexual conduct and which, taken as a whole, lacks serious literary, artistic, political, or scientific value for minors.
 - a) If it appears from the nature of the matter or the circumstances of its dissemination, distribution, or exhibition that it is designed for clearly defined deviant sexual groups, the appeal of the matter shall be judged with reference to its intended recipient group.
 - b) In prosecutions, if circumstances of production, presentation, sale, dissemination, distribution, or publicity indicate that matter is being commercially exploited by the defendant for the sake of its prurient appeal, this evidence is probative with respect to the nature of the matter and may justify the conclusion that the matter lacks serious literary, artistic, political, or scientific value. (PEN 313 (a))

- 2) "Matter" means any book, magazine, newspaper, video recording, or other printed or written material or any picture, drawing, photograph, motion picture, or other pictorial representation or any statue or other figure, or any recording, transcription, or mechanical, chemical, or electrical reproduction or any other articles, equipment, machines, or materials. "Matter" also includes live or recorded telephone messages when transmitted, disseminated, or distributed as part of a commercial transaction. (PEN § 313(b))
- 3) "Person" means any individual, partnership, firm, association, corporation, limited liability company, or other legal entity. (PEN § 313(c))
- 4) "Distribute" means transfer possession of, whether with or without consideration. (PEN § 313(d))
- 5) "Knowingly" means being aware of the character of the matter or live conduct. (PEN § 313(e)).
- 6) Every person who, with knowledge that a person is a minor, or who fails to exercise reasonable care in ascertaining the true age of a minor, knowingly sells, rents, distributes, sends, causes to be sent, exhibits, or offers to distribute or exhibit by any means, including, but not limited to, live or recorded telephone messages, any harmful matter to the minor shall be punished as specified in Penal Code. (PEN § 313.1 (a))
- 7) Every person who violates Section 313.1, as specified in Penal Code, is punishable by fine of not more than two thousand dollars (\$2,000), by imprisonment in the county jail for not more than one year, or by both that fine and imprisonment. (PEN § 313.4)
- 8) Allows, to be a defense in any prosecution, for any person violation, with knowledge that a person is a minor, or who fails to exercise reasonable care in ascertaining the true age of a minor, knowingly sells, rents, distributes, sends, causes to be sent, exhibits, or offers to distribute or exhibit by any means, including, but not limited to, live or recorded telephone messages, any harmful matter to the minor, was committed in aid of legitimate scientific or educational purposes. (PEN 313.3)

Education Code (EC)

- 9) Libraries may be established and maintained under the control of the governing board of any school district. (EC § 18100)
- 10) The governing board of a school district is accountable for the proper care and preservation of the school libraries of the district, and may make all necessary rules and regulations not provided for by the State Board of Education (SBE), or the Superintendent of Public Instruction (SPI) and not inconsistent therewith. (EC § 18121)

- 11) Requires the State Librarian to employ a consultant to provide technical assistance to public libraries in the development and enhancement of library services to children and youth. (EC § 19320.5)
- 12) Requires each district board to provide for substantial teacher involvement in selecting instructional materials and to promote the involvement of parents and other community members in choosing instructional materials. (EC § 60002)
- 13) Requires all instructional materials adopted by any governing board for use in the schools shall be, to the satisfaction of the governing board, accurate, objective, current, and suited to the needs and comprehension of pupils at their respective grade levels. (EC § 60045)

California Code of Regulation (CCR)

- 14) Persons employed by a school district as school librarians, assisted by other certificated personnel where deemed necessary, are responsible to perform the duties assigned by the school district governing board, including, but not limited to, supplementing classroom instruction, helping and instructing pupils in the choice and use of library materials, planning and coordinating school library programs with the instructional programs of a school district, selecting materials for school libraries, and conducting a planned course of instruction for those pupils who assist in the operation of school libraries, subject to such policies, rules and regulations as may be established by the governing board for the operation and utilization of school libraries. (CCR § 16043)

ANALYSIS

This bill:

- 1) Requires the governing board of a school district to exclude from schools and school libraries serving pupils in preschool, transitional kindergarten, kindergarten, and grades 1 to 8, inclusive, all books, publications, or papers that contain harmful matter, as defined in Penal Code by July 31, 2025.
- 2) Requires the governing board of an LEA, notwithstanding applying contemporary statewide standards, to establish contemporary local standards for deciding what is “harmful matter.”
- 3) Specifies that a defense, if a person with knowledge that a person is a minor, or who fails to exercise reasonable care in ascertaining the true age of a minor, knowingly sells, rents, distributes, sends, causes to be sent, exhibits, or offers to distribute or exhibit by any means, including, but not limited to, live or recorded telephone messages, any harmful matter to the minor, was committed in aid of legitimate scientific or educational purposes, in any prosecution related to “harmful matter”.
- 4) Allows a parent, guardian, or resident of an LEA to commence civil action to obtain appropriate injunctive and declaratory relief for violations of this section after the governing board of the school district’s refusal to remove any harmful matter requested of it.

- 5) Makes findings and declarations related to obscene and harmful matters defined as matter, taken as a whole, that to the average person, applying contemporary statewide standards, appeals to the prurient interest, that, taken as a whole, depicts or describes sexual conduct in a patently offensive way, and that, taken as a whole, lacks serious literary, artistic, political, or scientific value as it related broadcasting on the radio or television and how these standard should apply to public school libraries for children.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “The United States Supreme Court in *Miller v. California* (1973) 413 U.S. 15 found that obscene material is not protected under the First Amendment, and the Federal Communications Commission prohibits obscene, indecent, and profane content from being broadcast on the radio or television, in accordance with section 1464 of Title 18 of the United States Code.”

“When these sexually explicit books are presented during a school board meeting to be considered for removal, the materials are sometimes censored or unable to be read aloud for the safety of the viewing audience due these existing federal regulations. Yet, these books can be found in California school libraries, available for check out by children without their parents (or guardians) ever knowing.”

“SB 1435 ultimately seeks to protect our children from accessing content in school libraries that our state considers too sexually explicit to be distributed to minors in public, and material that our own federal government considers too obscene for adults to hear or view on radio and television.”

- 2) ***Background and Context: Miller v. California (1973).*** Within the provisions of the bill, the findings and declarations cite *Miller v. California* (1973) 413 U.S. 15 affirming that obscene materials are not protected under the First Amendment and clarifying what materials qualify as “obscene.” Before advancing, it is essential to discuss the context in which the ruling in *Miller* was made.

In 1968, Marvin Miller, after conducting a mass mailing campaign to advertise the sale of “adult” material (*Intercourse, Man–Woman, Sex Orgies Illustrated, and An Illustrated History of Pornography* — and a film entitled *Marital Intercourse*) for his business, was convicted of violating a California statute prohibiting the distribution of obscene materials. Unwilling recipients of Miller's brochures complained to the police, initiating the legal proceedings. Miller appealed to the U.S. Supreme Court, contending that the advertisements in question were not obscene under the First Amendment's freedom of speech guarantee.

Notability, while the findings and declarations highlight the Miller case, it is important to recognize that the Miller case was tried under the definition of “obscene matter” (Pen Code 311(a)) rather than “harmful matter” (Pen Code 313 (a)) as referenced in the bill. Although the definitions may seem similar, “obscene matter” generally refers to obscene materials in public, while “harmful matter” is more specific to minors.

During the trial, the judge had instructed the jury to use the *community standard* for California in determining whether the materials would be considered obscene. Miller then argued on appeal that these instructions had failed to comply with the Supreme Court's decision in *Memoirs v. Massachusetts*, which would require a national standard for obscenity because obscene works must be completely lacking in redeeming social value. The appellate decision rejected this argument, and the state appellate court refused review.

Vacating and remanding the state court decision, Supreme Court Justice Warren Earl Burger reiterated that the First Amendment does not protect obscene speech, and especially hardcore pornography, but created a more detailed standard for determining whether material is obscene. He noted that any statutes prohibiting obscenity must be narrowly constructed and created three factors to help state legislatures in formulating them. These were:

- 1) Whether the average person, applying contemporary community standards, would find that the work as a whole appeals to the prurient interest;
- 2) Whether the work depicts or describes sexual conduct or excretory functions, as defined by state law, in an offensive way; and
- 3) Whether the work as a whole lacks serious literary, artistic, political, or scientific value.

Only if all three of these factors are satisfied with regard to a work as a whole—not portions of the work—can the speech give rise to *criminal liability* as obscene matter. In developing this test, Justice Burger refined the ruling in *Memoirs* that speech was only obscene if it had absolutely no redeeming value.

This bill potentially extends criminal liability and punishment to school districts and allows a parent, guardian, or resident of a school district to commence a civil action to obtain appropriate injunctive and declaratory relief for violations related to schools and school libraries for containing “harmful material.” The committee may wish to consider if the ability for a parent, guardian, or resident of a school district to commence a civil action to obtain appropriate injunctive and declaratory relief for violations as established in this bill may result in frivolous lawsuits against school districts, and whether the threat of criminal prosecution will cause librarians to self-censor and remove important works from school libraries.

The Supreme Court in *Miller v. California* established a new standard for determining what could be considered obscene materials and subject to government restrictions. The three-part test asked whether the average person, applying contemporary community standards, would find the work appeals on the whole to prurient interests; describes sexual conduct in a patently offensive way; and lacks any serious literary, artistic, political or scientific value, to give raise to criminal liability.

The definition of “harmful matter” in Penal Code 313 is based on the obscene materials standard developed in *Miller v. California* in that it criminalizes material that, taken as a whole and using contemporary statewide standards appeals to the prurient interest or describes or depicts sexual conduct in a patently offensive way,

where the work, as a whole, lacks serious literary, artistic, political, or scientific value for minors.

Should the criminal standard for harmful material apply to school library books? Further, if the criminal standard were to be applied, the committee may wish to consider to what extent a book from a school library would, as a whole, lack serious literary, artistic, political or scientific value.

- 3) ***Students' First Amendment Right to Receive Information: Board of Education Island Trees Union Free School District v. Pico (1982)***. In *Pico*, a four-justice plurality of the U.S. Supreme Court stated that a student's First Amendment right to access of information is violated when school officials remove books from a library "simply because they dislike the ideas contained in those books and seek by their removal to 'prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion.'" (*Board of Educ., Island Trees Union Free School Dist. No. 26 v. Pico*, 457 U.S. 853, 871–72 (1982))

Unlike Miller (1973,) the U.S Supreme Court's ruling in Pico (1982) is very narrow and fact specific as it related to school libraries compared to the distribution of "adult" materials in public.

In 1976, the school board for the Island Trees Union Free School District No. 26 in New York removed 11 books from its schools' libraries, claiming they were "anti-American, anti-Christian, anti-Semitic and just plain filthy." The books included *Slaughterhouse-Five* by Kurt Vonnegut, *The Fixer* by Bernard Malamud, *Go Ask Alice* by Anonymous, *Black Boy* by Richard Wright, and *A Hero Ain't Nothin' but a Sandwich* by Alice Childress. After objections from the school superintendent—who noted that the officials had failed to follow the existing policy for book removal—the board appointed a review committee, which advised that five of the books at issue be kept in the libraries. The board, however, overruled the committee's recommendation, giving no explanation of its actions, and banned all but 2 of the 11 books. Steven Pico, a student at the high school, was among those who sought injunctive and declaratory relief, claiming that the school board violated their First Amendment rights.

A federal district court granted the board's motion for summary judgment on the basis that its motivation stemmed from a "conservative educational philosophy," which was permissible in light of the wide discretion usually given to school boards. Subsequently, The United States Court of Appeals for the Second Circuit reversed and remanded for trial, and certiorari was granted. Justice Brennan, writing the plurality opinion, stated that:

- 1) Local school boards may not remove books from school library shelves simply because they dislike the ideas contained in those books and seek by their removal to prescribe what shall be orthodox in politics, nationalism, religion or other matters of opinion; and
- 2) Issues of fact precluding summary judgment existed as to whether the school board exceeded constitutional limitations in exercising its discretion to remove the books from the school libraries.

- 4) **Removal of Library Materials – Local Discretion.** The selection of materials for school libraries (or media centers) is subject to the discretion of the governing board and guided by the rights of students.

This bill requires the governing board of a school district to establish contemporary local standards for deciding what is a “harmful matter.” It should be noted that Penal Code 313(a) requires the application of “contemporary statewide standards.” This bill ignores that application, and instead, requires the governing board of an LEA to apply a “local contemporary standard.” Existing law already allows governing board of school districts to determine, based on their community needs without exception to existing law, the books that can be found in school libraries.

According to CDE, school library plays an important role in preparing students to live and learn in a world of information. Since 1988, the mission of school library media programs across the country has been to ensure that students and staff are effective users of ideas and information by taking the following steps:

- Providing intellectual and physical access to materials in all formats.
- Providing instruction to foster competence and stimulate interest in reading, viewing, and using information and ideas.
- Working with other educators to design learning strategies to meet the needs of individual students.

Section 18121 of the education code states “the governing board of a school district is accountable for the proper care and preservation of the school libraries of the district, and may make all necessary rules and regulations not provided for by the SBE, or the SPI and not inconsistent therewith.” Further California Code of Regulation states school librarians and other certified personnel are responsible for performing various duties assigned by the school district's governing board. These duties may include supplementing classroom instruction, assisting students in choosing appropriate library materials, planning library programs, selecting materials, and providing instruction on library operations, all by the governing board's policies and regulations. (CCR 16043)

The standard set in *Pico* for when a book can be removed requires the removal to be due to the book's “educational suitability” or “pervasive vulgarity.” (*Id.* at 871.). The process for removing books must be “established, regular, and facially unbiased.” (*Id.* at 874.) In summary, local boards have discretion to remove books from school libraries, but they must only use that discretion in an established process and the intention for the removal must be constitutionally valid, meaning it “may not be exercised in a narrowly partisan or political manner.” (*Id.* at 854.)

- 5) **Related Legislation.**

AB 1825 (Muratsuchi, 2024), which would prohibit public libraries refusing to procure books in a manner that discriminates against or excludes materials based on race, nationality, gender identity, sexual orientation, religion, disability, political affiliation,

or socioeconomic status, or on the basis that the materials under consideration contain inclusive and diverse perspectives.

AB 1078 (Jackson, Chapter 229, Statutes of 2023) makes various changes to the adoption of instructional materials for use in schools, including a provision that would prohibit a governing board from disallowing the use of an existing textbook, other instructional material, or curriculum that contains inclusive and diverse perspectives, as specified.

AB 48 (Leno, Chapter 81, Statutes of 2011) require California public schools to provide Fair, Accurate, Inclusive, and Respectful representations of our diverse ethnic and cultural population in the K-12 grade history and social studies curriculum.

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Our Family Coalition
Public Advocates
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-- END --