

Date of Hearing: April 9, 2013

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Das Williams, Chair

AB 1162 (Frazier) – As Amended: April 1, 2013

SUBJECT: Student financial aid: debit cards.

SUMMARY: Requires the Board of Trustees of the California State University (CSU) and the Board of Governors of the California Community Colleges (CCC) and requests the Regents of the University of California (UC) and the governing bodies of accredited private non-profit postsecondary institutions, to adopt policies for negotiating contracts between their postsecondary educational institutions and banks and other financial institutions to disburse students' financial aid awards and other refunds onto a debit card, prepaid card, or a preloaded card. Specifically, this bill:

- 1) Requires the Board of Trustees (BOT) of the CSU and the Board of Governors (BOG) of the CCC and requests the Regents of the UC and the governing bodies of accredited private non-profit postsecondary institutions, to adopt policies for negotiating contracts between their postsecondary educational institutions and banks and other financial institutions to disburse students' financial aid awards and other refunds onto a debit card, prepaid card or a preloaded card.
- 2) Requires the policies created by CSU BOT and BOG of the CCC and requests the policies created by the Regents of the UC and the governing bodies of accredited private non-profit postsecondary institutions, to best serve the needs of the students; encouraging all four segments to include the following in their policies:
 - a) Provides students clear and unbiased choices as to where to bank by ensuring that students can elect to receive their financial aid award and other refunds through their own existing bank accounts or by way of a paper check;
 - b) Ensures students are not subjected to paperwork that attempts to direct them to banking options favored by the bank or financial institution with which the institution is partnering;
 - c) Requires at least one fee free automated teller machine (ATM) to be located on a participating campus and satellite campus;
 - d) Requires an additional ATM for every 3,000 students enrolled at which a student may use his/her debit card, prepaid card or preloaded card in order to access his/her financial aid award and other refunds;
 - e) Prohibits the debit card, prepaid cards or preloaded cards from imposing the following fees on students, including, but not limited to:
 - i) Insufficient fund fees at ATMs or point of sale,
 - ii) Account balance inquiry fees,

- iii) PIN-based transaction fees,
 - iv) Inactive account fees,
 - v) Replacement card fees,
 - vi) Transfer or wire fees,
 - vii) Dispute fees, and,
 - viii) Account wire fees.
- f) Requires all debit card, prepaid card or preloaded card fees to be prominently displayed on the partnering or financial institution's Web site and/or have the information mailed to students;
- g) Prohibits the debit cards, prepaid cards or preloaded cards from including the logo of the postsecondary educational institution;
- h) Requires the debit cards, prepaid cards or preloaded cards to include the same level of consumer protections that are provided to ATM customers under the federal *Electronic Fund Transfer Act*, 15 U.S. C. 1601 et seq., as it exists on January 1, 2014; and,
- i) Prohibits debit card, prepaid card or preloaded card contracts from including mandatory arbitration clauses.

EXISTING LAW:

- 1) Defines the term "debit card" as an accepted card or other means of access to a debit cardholder's account that may be used to initiate electronic funds transfers and may be used without unique identifying information such as a personal identification number to initiate access to the debit cardholder's account (Civil Code [CIV] § 1748.30).
- 2) Limits a debit cardholder's liability for unauthorized use of a debit card (CIV § 1748.31).
- 3) Provides for a variety of student financial aid programs including the Cal Grant programs and the CCC Board of Governors fee waiver program. Current law requires that eligibility for a Cal Grant and the determination of financial need be accomplished using the Free Application for Federal Student Aid (FAFSA), and that this application be used for all programs funded by the state or a public institution of post-secondary education as well as all federal programs administered by a postsecondary educational institution. Current law makes an exception to this requirement for the BOG fee waiver program which is authorized to use a simplified application designed for that sole purpose (Education Code § 69432.9 and § 69433).

FISCAL EFFECT: Unknown

COMMENTS: Background. When students receive financial aid, whether it is in the form of a scholarship, grant, or student loan, schools apply that money to college costs then disburse the rest to the student. Instead of disbursing aid refunds by check, many campuses are funding financial aid awards through special debit cards that sometimes double as student identification cards.

Need for the bill. According to the author, colleges and universities are outsourcing their student financial aid distribution to banks and financial firms in order to lower cost and save money. These banks and financial firms then issue debit cards to the students so they can access their financial aid. The federal government requires that schools disburse financial aid refunds to students free of charge; however, these debit cards come with fees for other services that can take away from students' aid. As a result students end up bearing some costs directly, including per-swipe fees, inactivity fees, overdraft fees, ATM fees and more. The author contends that other issues include aggressive marketing strategies by partnering companies on student choice and weaker consumer protections on certain cards that hold student aid funds.

According to a recent report by the U.S. Public Interest Research Group (PIRG) Education Fund, debit cards for disbursing funds may be good for colleges, but argue that cash-strapped students absorb the costs. The PIRG study finds that some debit cards come with fees as high as 50 cents per swipe in transaction fees, \$38.00 per overdraft and \$10.00 for inactivity after six months without use. The PIRG study finds that students do not fully realize what they are signing up for when they elect to receive their financial aid award via debit card.

The author states, "This bill was written based off the recent U.S. PIRG Campus Debit Card Trap and the National Association of College and University Business Officers reports describing best practices for negotiations of the contract between a college or university and a bank or financial firm." This measure seeks to protect students by ensuring California colleges and universities set fair and appropriate regulations in place for campus debit card programs in order to best serve and protect their students; making sure they are not unfairly targeted or faced with aggressive marketing.

Unclear policy rationale. It is unclear why the bill requires at least one fee-free ATM for every 3,000 students enrolled at participating campuses and satellite campuses. **Staff recommend** the following amendment: Require at least one fee-free regularly replenished automated teller machine to be placed on a participating campus or satellite campus, and additional **fee-free regularly replenished automated teller machines placed on campuses in high enough concentration in order to avoid students having to go to multiple automated teller machines**, with which they may use their debit cards, prepaid cards, or preloaded cards to access their financial aid award and other refunds.

Arguments in support. The Center for Responsible Lending argues that students who opt to receive their financial aid on a debit card should be entitled to fair limits on the fees they incur to access and utilize their own money.

Arguments in opposition. The California Bankers Association argues that this measure is an infringement on a bank's freedom to price for services rendered.

Previous legislation. AB 262 (Coto), Chapter 679, Statutes of 2007, required the BOT of the CSU and the BOG of the CCC and urged the Regents of the UC and to (1) annually direct each of their campuses to disclose specified information regarding on-campus credit card marketing activities, and (2) prohibit banks and other commercial entities from offering gifts to students in exchange for completing credit card applications.

REGISTERED SUPPORT / OPPOSITION:

Support

California Public Interest Research Group
California State Student Association
Center for Responsible Lending
Consumer Action
Consumers Union
Institute for College Access & Success
Student Senate for California Community Colleges

Opposition

California Bankers Association

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