

Date of Hearing: April 28, 2015

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

AB 1370 (Medina) – As Amended April 22, 2015

SUBJECT: Public postsecondary education: student residency

SUMMARY: Revises provisions governing the nonresident tuition at the University of California (UC) and the California State University (CSU). Specifically, **this bill:**

- 1) Requires UC and CSU to establish nonresident tuition rates at each campus of their respective segment based on the total nonresident charges imposed by comparison institutions, as identified by the California Postsecondary Education Commission or a successor agency, and the cost of instruction.
- 2) Removes requirements that nonresident tuition increases be gradual and moderate with a minimum of a 10-month notice, and instead requires nonresident students have predictable increases that ensure an appropriate notice of the increase to students.
- 3) Requires, at minimum, 50% of revenues generated, above the cost of instruction, from undergraduate nonresident enrollment to be directed to enrollment of resident students.
- 4) Removes language that sets aside the provisions of the law in the event that state revenues and expenditures are substantially imbalanced due to unforeseen factors.
- 5) Prohibits the number of undergraduate nonresident students enrolled at any UC campus from exceeding 10% of total student enrollment. Provides, until July 1, 2021, any campus of UC at which undergraduate nonresident enrollment exceeds 10% on the operative date of this bill is prohibited from increasing the enrollment of undergraduate nonresident students above that amount.
- 6) Requires UC to establish a revenue sharing agreement pursuant to which revenues generated by undergraduate nonresident student enrollment are distributed equitably to each campus of the UC.
- 7) Requires the UC to annually publish an annual report that includes the undergraduate nonresident tuition and fee level established at each campus, the amount of revenues generated by undergraduate nonresident enrollment at each campus, the method by which the revenues were distributed among the campuses of the university, and, for each campus, the purposes for which these revenues were expended.
- 8) Provides that the Regents of the UC shall not allocate any state funds appropriated to the UC in the annual Budget Act or another statute to a campus of the UC unless the campus is in compliance with this article.

EXISTING LAW:

- 1) Requires that a student classified as a nonresident pay nonresident tuition. Current law authorizes both the UC and the CSU to establish nonresident student tuition policies and methodologies to be developed by each institution's governing body. The annual fee rate is prohibited from falling below the marginal cost of instruction and the rates at comparison institutions, as identified by the California Postsecondary Education Commission, must be considered. (Education Code Sections 68050-68052)
- 2) Establishes UC as a public trust and confers the full powers of the UC upon the UC Regents. The Constitution establishes that the UC is subject to legislative control only to the degree necessary to ensure the security of its funds and compliance with the terms of its endowments. Judicial decisions have held that there are three additional areas in which there may be limited legislative intrusion into university operations: authority over the appropriation of state moneys; exercise of the general police power to provide for the public health, safety and welfare; and, legislation on matters of general statewide concern not involving internal university affairs. (Constitution of California, Article IX, Section 9)

FISCAL EFFECT: Unknown

COMMENTS: *Purpose of this bill.* According to the author, the California Constitution establishes UC as a public institution; annually, over \$3 billion in California taxpayer funds are provided to support UC's teaching, research, and public service mission. However, evidence suggests that the way in which UC enrolls and uses funds generated by nonresident students could be undermining the UC's public mission.

The author notes that during California's recession and resulting state budget cuts, UC increasingly relied on tuition (and nonresident students, in particular, who pay an additional \$23,000 in tuition) to meet revenue needs. From 2007-08 to 2013-14 the number of nonresident undergraduates grew from 7,103 to 20,073. In 2000 90% of freshman at UC Berkeley came from California. By 2012, the proportion dropped to 71%. At UCLA, the percentage of California residents dropped 23%, to 72% in 2012.

According to the author, UC argues that admitting nonresident students has allowed the system to enroll about 7,500 California students for which the state has not provided funding. However, UC allows tuition revenues generated by nonresident students to be kept by the campus in which the student enrolls. As the author points out, according to UC's own records, the majority of "unfunded students" are attending campuses with very low nonresident enrollment. In fact, in 2013, UCLA, with 19.2% nonresidents, was only serving 191 California residents for which it was not funded. UC Berkeley, with 21.2% nonresidents, was serving 332 fewer California students than it was funded to serve. UC Riverside, on the other hand, served 1,871 unfunded Californians, but enrolled only 448 nonresidents.

The author points to UC's recent indication that, for the 2015-16 academic year, it will be capping the number of in-state enrollments at current levels pending the outcome of budget negotiations. While UC has indicated it will cap nonresidents at UCLA and Berkeley, it will continue to enroll nonresident students at other campuses during this time. According to the

author, this means that UC-qualified California students will be wait-listed and potentially turned away, while nonresident students are provided access to the system.

Nonresident enrollment. Out-of-state and international students (nonresidents) are recognized in higher education as enhancing the college experience by bringing a diversity of backgrounds and perspectives to campuses. However, the state has traditionally considered only resident students when determining enrollment for CSU and UC because the state does not provide funding for nonresident students. Current law allows each segment to set nonresident enrollment levels and fees, requiring that nonresident fees, at minimum, cover marginal costs. At UC, approximately 13% of all students systemwide are nonresidents, and undergraduate nonresidents pay about \$23,000 more than California students in tuition. At CSU, about 5% of all students are nonresidents, and undergraduate nonresidents pay an additional \$11,160. Both UC and CSU indicate that monies generated from nonresident enrollment are used to support and enhance educational access and quality for all students (residents and nonresidents) at that campus.

Resident enrollment targets. According to the LAO, while it appears that some campuses, like UC Berkeley, are substituting nonresidents for residents, it is difficult to hold these campuses accountable for resident displacement without a clear indication from the state on what it expects in terms of resident enrollment systemwide and at each campus. Governor Brown's budget proposal requires UC and CSU to not increase student fees and requires UC to not increase nonresident enrollment above 2014-15 levels in order for each segment to receive the proposed \$119 million augmentation. As noted by the LAO, if the intent of this proposal is to prioritize access to UC for California residents, in the absence of enrollment targets and associated funding, restricting nonresident enrollment alone might not achieve this objective. Reestablishing resident enrollment targets in the Budget Act is an item under discussion by the Assembly Budget Subcommittee No. 2 on Education Finance (subcommittee).

Funding directed toward California resident access. This bill would require at least 50% of the revenue generated from undergraduate nonresident enrollment, in excess of the cost of instruction, to be used to support enrollment of resident students. According to the Subcommittee, which heard issues surrounding UC enrollment at a hearing on April 21, 2015, the data reveal that rising admission and enrollment of nonresident students has coincided with decreasing admission and enrollment of Californians at many UC, particularly flagship, campuses. The Subcommittee analysis notes that, in a paper published in October 2014 called "Tuition Rich, Mission Poor: Nonresident enrollment and the changing proportions of low-income and underrepresented minority students and public research universities," professors at the University of Arizona, University of Missouri, and University of Michigan studied enrollment trends at public research universities across the country – including UC – and reported that "nonresident enrollment growth may have negative consequences for access" to low-income and underrepresented students.

Campus-based nonresident tuition. Currently nonresident tuition rates are established on a segment-wide basis. The bill would allow UC and CSU to establish nonresident tuition rates at each campus based on nonresident tuition rates of that campus's comparison institutions. This requirement would potentially allow UC and CSU to charge different nonresident tuition rates for each campus, based on the amount the market allows. Depending on the rates established,

this provision could increase the ability of some campuses to increase nonresident enrollment and revenue from that enrollment.

UC nonresident enrollment limitations. In 2009, former-UC President Yudof announced the creation of the UC Commission on the Future, charged with developing a vision for the future of the UC that would reaffirm its role in sustaining California's economy and cultural life while recognizing that limited state resources required the UC to be creative and strategic in meeting that mission. The final report of the Commission was adopted in November 2010.

Among other things, the Commission recommended that the UC allow campuses to increase the number and proportion of undergraduate nonresident students to generate additional resources to sustain current instructional capacity and quality. The Commission requested:

- a) Campuses establish targets that did not displace funded California residents eligible for UC admission.
- b) The President of the UC monitor enrollments to ensure that these students were fairly apportioned among campuses.
- c) The President to ensure that the proportion of nonresidents systemwide did not exceed 10% and annually report on the systemwide proportion to the Regents.

Governor Brown's January budget proposal prohibits UC from increasing nonresident enrollment above 2014-15 levels in order for each segment to receive the proposed \$119 million augmentation.

This bill would prohibit the number of nonresident students enrolled at any campus of the UC from exceeding 10% of total student enrollment and would, until July 1, 2021, prohibit any campus at which nonresident enrollment currently exceeds 10% of total student enrollment from increasing the enrollment of nonresident students above current levels. Currently, UC Berkeley, UC Los Angeles and UC San Diego are above the 10% threshold. This bill would provide until 2021 for these campuses to reach the 10% limitation.

In response to concerns over nonresident enrollment, current-UC President Napolitano recently announced capping nonresident enrollment at UC Berkeley and UCLA, and limiting growth at UC San Diego. UC has expressed concern that by instituting the cap proposed in this bill, this bill could disadvantage campuses seeking to increase nonresident enrollment to fund resident enrollments and operational needs not met by the state.

As previously noted, nonresident tuition provides a source of revenue to UC that is particularly important in budget years where General Fund support is not provided to the system. Moving forward, the author may wish to consider whether it would be appropriate to set aside the nonresident student cap when necessary to address fiscal imbalance.

Sharing nonresident revenues among UC campuses. Formerly, UC required supplemental nonresident tuition to be collected centrally and redistributed back to all campuses based on systemwide priorities. Since 2007-08, UC has allowed individual campuses to retain the revenue

associated with nonresident supplemental tuition. UC argues that excess funding generated by nonresident enrollment is used to improve services and access for California students. Nonresident enrollment is managed at the campus level, and campuses have taken different approaches in recent years.

As shown by the 2013 undergraduate enrollment numbers outlined below, UC campuses have taken different approaches to resident and nonresident enrollment:

<i>UC Campus</i>	<i>Undergraduate Nonresidents</i>	<i>% Nonresident</i>	<i>Undergraduate Residents</i>	<i>Budgeted Residents</i>	<i>"Unfunded" Residents</i>
Berkeley	5,418	21.2%	20,147	20,479	0 (-332)
Davis	1,748	7.1%	22,822	20,780	2,042
Irvine	2,138	9.3%	20,733	20,348	385
Los Angeles	5,185	19.2%	21,877	21,686	191
Merced	21	0.4%	5,517	3,935	1,582
Riverside	448	2.7%	16,180	14,309	1,871
San Diego	3,375	14.7%	19,625	20,315	690
Santa Barbara	1,362	7.6%	16,662	16,365	297
Santa Cruz	378	2.5%	14,742	13,670	1,072

Under the current UC nonresident tuition structure, only those campuses that enroll nonresidents benefit from the revenue generated by those nonresident enrollments. This bill would require UC to establish an equitable revenue sharing agreement. The intent of the author is to ensure that all campuses, and particularly those enrolling additional California students, benefit from revenues generated by nonresident enrollment.

UC has expressed concern that requiring redistribution of nonresident tuition could take away campuses' incentive to invest the resources necessary to attract out-of-state students and thereby generate nonresident tuition revenues. The author may wish to consider this concern moving forward.

REGISTERED SUPPORT / OPPOSITION:

Support

None on File

Opposition

None on File

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