

Date of Hearing: April 17, 2012

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Marty Block, Chair

AB 1965 (Pan) – As Amended: April 9, 2012

SUBJECT: California State University: trustees.

SUMMARY: Authorizes ex officio members of the California State University (CSU) Board of Trustees (BOT) to designate a representative to attend, speak, and vote at CSU BOT meetings in the ex officio member's absence and authorizes the non-voting student trustee to vote at a BOT meeting if the voting student member is absent from the meeting. Specifically, this bill:

- 1) Authorizes ex officio members of the CSU BOT to designate a representative to attend CSU BOT meetings in the ex officio member's absence and to speak and vote on his or her behalf at those meetings.
- 2) Prohibits the designated representative from participating in closed sessions.
- 3) Allows the ex officio member to designate only one person in a calendar year to attend a CSU BOT meeting or meetings in the ex officio member's absence.
- 4) Authorizes the non-voting student trustee to vote at a BOT meeting if the voting student member is absent from that meeting.

EXISTING LAW:

- 1) Provides that the CSU BOT be composed of the following ex officio members: the Governor, Lieutenant Governor, Speaker of the Assembly, Superintendent of Public Instruction, and CSU Chancellor.
- 2) Provides that the CSU BOT be composed of the following members:
  - a) 16 members appointed by the Governor and subject to confirmation by two-thirds of the membership of the Senate;
  - b) A representative of the CSU alumni associations, selected for a two-year term by the CSU alumni council (this person cannot be a CSU employee during the two-year term);
  - c) Two CSU students, appointed by the Governor for two-year terms; and,
  - d) A tenured CSU faculty member, appointed by the Governor for a two-year term.

FISCAL EFFECT: Unknown

COMMENTS: Need for this bill. According to the author, CSU BOT ex officio members are not able to participate in meetings due to scheduling conflicts, and the first year student Trustee is not able to act as an alternate in the second year student's absence. This bill is necessary to

facilitate increased representation of the public and constituents to ensure a more responsive and transparent decision-making process by the BOT.

Virtue of the office. The Legislature established the importance of certain state-elected offices participating on the boards of public postsecondary institutions as a means to ensure that elected leaders are able to share their perspective in the formulation of system policy. By virtue of the office they hold, these individuals bring unique perspective and experience to the policy and governance discussions of the Trustees. Presumably, this bill would allow an ex officio Trustee to send a designee to act in the official's place and stead with the same rights and responsibilities, including the right of the deputy to be counted in constituting a quorum, participating in the proceedings of the Board, and to vote upon any and all matters, excluding closed sessions. Is it appropriate for nonelected proxies to vote on behalf of elected officials who represent the people of California in the governance of the CSU? Will designees be held to the same confidentiality and fiduciary requirements as the ex officio members?

Effect on ex officio participation. While the intent of the bill is to increase ex officio involvement in CSU BOT decisions by ex officio members, does the ability to appoint a designee serve as a disincentive for the ex officio to participate? While both the Trustees and ex officio members could benefit from regular contact, it is not clear that this bill will, by itself, ensure more responsible and transparent decision making, as it will continue to be incumbent on the ex officio members to be informed about Trustee agendas and meeting outcomes.

Designee requirements. This bill allows the ex officio to choose anyone as their designee, regardless of employment qualifications. The Committee may wish to consider whether this should be further defined.

Other entities. The California Public Employees' Retirement System, California State Teachers' Retirement System, Board of Equalization, and Franchise Tax Board allow ex officio members to send a deputy to act on their behalf at board meetings. The Committee may wish to consider whether these boards are an appropriate comparison group for governance of a state university system.

Student members. Two students serve staggered two-year terms on the CSU BOT. During a student's first year, he or she may participate fully in BOT meetings but may not vote. The student may vote during his or her second year on the BOT. The intent of this staggered voting provision is to allow the student a year to transition onto the board and learn the issues before exercising their voting responsibilities in the second year.

Clarifying amendments.

- 1) Staff recommends amending the bill to remove the Chancellor's authority to designate a staff person to attend Trustee meetings, since this does not seem logical or appropriate.
- 2) Staff recommends amending the bill to establish a process whereby the BOT Secretary is notified in a timely manner of an ex officio's designation of a representative.

Related legislation. SB 1515 (Yee), pending in the Senate Education Committee, would change the CSU BOT composition, increasing the number of faculty, students and represented staff. AB 690 (Ammiano, 2009), AB 1413 (Portantino, 2007) and AB 2339 (McLeod, 2004), which were

all vetoed by Governor Schwarzenegger, contained provisions substantially similar to this bill. In his veto statement of AB 690, the Governor stated:

As I stated before, it is unnecessary to statutorily authorize a person to attend a board meeting in the absence of an ex-officio member since the meetings are open to anyone from the public to attend and provide comment. Moreover, ex officio members serve by virtue of their experience and qualifications in sharing their perspective on issues impacting higher education. Allowing these members to appoint a substitute to attend in their absence creates a disincentive for the member to actually attend the meetings, and diminishes the value of an ex-officio member's contribution to the public discourse.

REGISTERED SUPPORT / OPPOSITION:

Support

California Faculty Association (sponsor)  
California Labor Federation

Opposition

California State University

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