

Date of Hearing: April 23, 2013

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Das Williams, Chair

AB 806 (Wilk) – As Amended: April 11, 2013

SUBJECT: Community colleges: salaries of classroom instructors.

SUMMARY: Revises the "current expense of education" at the California Community Colleges (CCC), for purposes of the 50% law, to include academic salaries, as defined, including the salaries of librarians, counselors, and department chairs, commencing with the 2014-15 academic year. Specifically, this bill:

- 1) Revises the following definitions to expand the faculty salaries that count toward a district's current expense of education:
 - i) "Academic salaries" means expenditures for salaries of employees in academic positions that require minimum qualifications established by the CCC Board of Governors (BOG);
 - ii) "Educational administrators salaries and benefits" means expenditures for salaries and health and welfare benefits of administrators who are employed in an academic position designated by the governing board of the district as having direct responsibility for supervising the operation of or formulating policy regarding the instructional or student services program of the college or district, including but not limited to, chancellors, presidents, and other supervisory or management employees designated by the governing board as educational administrators; and,
 - iii) "Instructional aide salaries" means expenditures for salaries of classified employees where any portion of their duties required to be performed under the supervision of an academic employee providing classroom instruction.
- 2) Revises the definition of "salaries of classroom instructors" that count toward a district's current expense of education to include all instructor activities and the health and welfare benefits provided to instructional aides, as defined.
- 3) Authorizes the CCC BOG to establish a compliance committee as follows:
 - a) To review the auditing procedures adopted pursuant to existing law to develop ways to ensure compliance with the 50% law as revised by this bill.
 - b) To review local district auditing procedures and recommend to the BOG any changes to the procedures published in the California Community Colleges Budget and Accounting Manual that may be necessary to achieve the current expense of education requirements as revised by this bill.
 - c) To be comprised of the following:
 - i) The CCC Chancellor;

- ii) One certified public accountant, to be selected by the board, who is licensed by the California Board of Accountants and has prepared an annual audit, as specified;
 - iii) One exclusive representative of classified employees of a district, to be selected by the BOG; and,
 - iv) One district administrator, to be selected by the BOG.
- 4) Make technical and clarifying changes.
- 5) Makes these provisions operative on July 1, 2014.

EXISTING LAW:

- 1) Requires each CCC district expend 50% of its current expense of education, as defined, for payment of classroom instructors, as defined. This is also known as “the 50% law.” (Education Code § 84362)
- 2) Requires each CCC district to contract for an independent financial audit, which according to the CCC Chancellor’s Office, must include an independent assessment of each district's computation of compliance with the 50% law is a required component of the audit. (EC § 840430)

FISCAL EFFECT: Unknown

COMMENTS: Background. Since 1961, existing law has required that each CCC district expend 50% of its current expense of education, as defined, for payment of classroom instructors. According to the CCC Chancellor's office, "current expense of education" generally includes the unrestricted general fund expenditures of a CCC district and excludes things such as student transportation, food services, community services, leases for plant equipment, and other costs specified in law and regulations, as well as amounts expended from State Lottery proceeds.

"Salaries of classroom instructors" is defined as salaries paid to instructors for the actual portion of the salary spent in the classroom, salaries of instructional aides performing duties under the supervision of an instructor, and the cost of all health and welfare benefits provided to instructors.

Need for the bill. According to the author, the 50% law was originally enacted to promote class size reduction when junior colleges and K-12 were one system, by allocating more funding to hire instructors to reduce the number of students in each classroom. Since that time, there have been considerable changes to CCC instruction, authorizing more responsibility for faculty members. However, many of these activities, such as counseling and librarian services, are not considered part of “classroom instruction,” thus falling on the “wrong” side of the 50% calculation.

This bill would count faculty who serve in roles related to instruction but do not provide “classroom instruction” on the same side of the 50% law as classroom instructors, including counselors, librarians, faculty coordinators, department chairs, and faculty directors of programs

(such as Extended Opportunity Programs and Services and Disabled Support Programs and Services).

Reports and related efforts.

- 1) **Auditor's report.** The Bureau of State Audits issued a report in October 2000 that noted that CCC districts were not accurately reporting the level of resources dedicated to instructor salaries. The report cited poor oversight as the underlying cause and noted that the Chancellor's office gives little guidance or training to the districts on calculating their compliance with the 50% law. It also noted that the Chancellor's office relies primarily on district-hired CPAs to verify whether the districts reports are accurate, but because these CPAs use inadequate audit procedures developed by the Chancellor's office, they fail to discover errors. The BSA specifically recommended that the Chancellor's office:
 - Clarify its instructions;
 - Provide the districts with regular training on compliance;
 - Discontinue its existing practice of excluding non-instructional activities not enumerated in the 50% law or seek an opinion from the Attorney General to support its interpretation of the law as reflected in regulations;
 - Expand suggested audit procedures for district CPAs to detect errors in risky areas, such as faculty reassignments and exclusions from current educational expenses; and,
 - Perform routine, independent checks of the work CPAs do for the districts.

The Chancellor's office reports that, with the assistance of the Association of Chief Business Officers, they have taken action to respond to all recommendations made by the BSA.

- 2) **Institute for Higher Education Leadership & Policy (IHELP) report.** In February 2007, IHELP released *Rules of the Game: How State Policy Creates Barriers to Degree Completion and Impedes Student Success in the California Community Colleges*, raising concerns about the low rates of completion in the CCC and citing state and system policies as a major cause.

Among the specific policy barriers identified in the report was the 50% law. The report noted, "Most significant is the law that each college must spend at least 50% of its budget on direct classroom instruction – on the salaries and benefits of faculty for their classroom teaching. This means that colleges face strict limits on what they can spend on staff who provide support services that are essential to so many of today's CCC students, such as academic advisors, financial aid advisors, information technology consultants, health care staff, and orientation leaders. Also on the "wrong" side of the 50% is the time that faculty spend working with students outside of the classroom, such as advising, working with student organizations, or updating curricula." The report notes that, in combination with other such laws, the result is the hiring of a mix of faculty and staff that may not be optimal to ensure student success, spending of funds on lower priorities than those that could promote greater student success, and spending scarce time and money documenting and justifying inputs instead of outcomes.

- 3) **Legislative Analyst's Office (LAO) report.** In its June 2008 report, *Back to Basics: Improving College Readiness of Community College Students*, the LAO recommended, among other things, that giving colleges' fiscal flexibility to provide students with the appropriate mix of classroom instruction and counseling services would assist colleges to identify, place, and advise basic skills students. The LAO also noted that orientation and counseling are constrained by the current 50% law and must compete for a limited portion of a district's funding, in some cases, resulting in funding these services at a level lower than what a campus would otherwise desire. The LAO specifically recommended that the 50% law be amended to include counseling staff in order to better serve students' interests.
- 4) **Student Success Task Force.** Numerous recent studies have noted that a significant percentage of students who are able to enroll in CCC courses do not complete in a timely fashion. These poor student success rates led to the enactment of SB 1143 of 2010, requiring the CCC BOG to convene a task force of stakeholders to make recommendations to the Legislature to improve CCC student success. This effort resulted in 22 specific recommendations, adopted unanimously by the CCC BOG in January 2012.

Central to these recommendations was the need to improve how CCCs assists students, early in their academic careers, to identify an educational goal and develop an education plan to achieve that goal. These recommendations have been implemented through regulatory changes, system-wide administrative policies, local best practices, and legislation (SB 1456, Lowenthal, Chapter 624, Statutes of 2012) that created the Student Success Act of 2012. Under SB 1456, students who identify an educational goal and develop an education plan receive improved support through counseling, advisement, orientation, assessment, and education planning.

Arguments in support. The Association of California Community College Administrators states that this bill would make some small but needed adjustments to keep the 50% rule in place but to modernize the definition of true costs directly associated to instruction and include them in the right side of the equation. College of the Canyons states that many services that enhance student success fall outside the allowable 50% law expenditures, particularly counselors, and while the Legislature recognized the importance of counseling activities by passing SB 1456, it will be very difficult to implement under the funding constraints created by the 50% law.

Arguments in opposition. The California Teachers Association argues this bill will dilute the funding spent on classroom instruction, thereby providing a net gain to the amount of monies spent outside the classroom on administration and other purposes. The Faculty Association of California Community Colleges (FACCC) states, "Additionally, passage of this measure could actually limit the hiring of this corps and/or decrease the percentage of full-time faculty in a district. This is because unless a counselor or librarian is teaching a class, they do not produce Full-Time Equivalent Students, a calculation used by the state to determine funding levels per student." FACCC suggests that instead of altering the 50% law, the Legislature increase funding for counselors and librarians, both of which are integral to student success.

Prior legislation. AB 906 (Eng) of 2007, which died in the Senate Education Committee, would have increased the 50% threshold to 53% and included the salaries of counselors and librarians.

REGISTERED SUPPORT / OPPOSITION:

Support

Association of California Community College Administrators
College of the Canyons

Opposition

California Federation of Teachers
California Teachers Association
Faculty Association of California Community Colleges

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