

Date of Hearing: July 7, 2015

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

SB 42 (Liu) – As Amended July 1, 2015

SENATE VOTE: 38-1

SUBJECT: Postsecondary education: California Commission on Higher Education Performance and Accountability.

SUMMARY: Establishes the Office of Higher Education Performance and Accountability (OHEPA) to provide statewide postsecondary education planning and coordination. Specifically, **this bill:**

- 1) Establishes OHEPA as the statewide postsecondary education coordination and planning entity within the Governor's office and under the direct control of an Executive Director (Director) appointed by the Governor and subject to Senate confirmation.
- 2) Provides that the Director is responsible for all duties, powers, and responsibilities vested in OHEPA, including contracting for relevant professional or consultant services. The Director is required to appoint any staff positions authorized by the Governor.
- 3) Establishes an Advisory Board to OHEPA for the purpose of reviewing and commenting on any recommendations made by OHEPA to the Governor and the Legislature. Establishes the Advisory Board membership as follows:
 - a) Three members with experience in postsecondary education appointed by the Senate Committee on Rules; and,
 - b) Three members with experience in postsecondary education appointed by the Speaker of the Assembly.
- 4) Authorizes OHEPA to consult with the higher education segments, as appropriate, in the conduct of its duties and responsibilities.
- 5) Establishes OHEPA for the purpose of advising the Governor, the Legislature and other appropriate government officials and institutions of postsecondary education, and specifically requires OHEPA to conduct all of the following:
 - a) Articulate and monitor state performance objectives for higher education;
 - b) Advise the Legislature and the Governor regarding the need for, and location of, new institutions and campuses of public higher education;
 - c) Review proposals by the public segments for new programs, the priorities that guide them, and the degree of coordination with nearby public, independent, and private

postsecondary educational institutions, and make recommendations regarding those proposals to the Legislature and the Governor;

- d) Act as a clearinghouse for postsecondary education information and as a primary source of information for the Legislature, the Governor, and other agencies, and develop and maintain a comprehensive database, that does all of the following:
 - i) Ensures comparability of data from diverse sources;
 - ii) Supports longitudinal studies of individual students as they progress through the state's postsecondary educational institutions through the use of a unique student identifier;
 - iii) Is compatible with California School Information Services and the student information systems developed and maintained by the public segments of higher education, as appropriate;
 - iv) Provides Internet access to data, as appropriate, to the sectors of higher education; and,
 - v) Provides each of the educational segments access to the data made available to the commission for purposes of the database, in order to support, most efficiently and effectively, statewide, segmental, and individual campus educational research information needs;
- e) Provides that, in implementing the data requirements of this bill, OHEPA shall comply with the federal Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g) relating to the disclosure of personally identifiable information concerning students, and prohibits OHEPA from making available any personally identifiable information received from a postsecondary educational institution concerning students for any regulatory purpose unless the institution has authorized the provision of that information. Requires OHEPA to provide a 30-day notification to the chairpersons of legislative policy and budget committees, the Director of Finance, and to the Governor before making any significant changes to the student information contained in the database;
- f) Review proposals for changes in eligibility pools for admission to public institutions and segments of postsecondary education, and make recommendations to the Legislature, the Governor, and institutions of postsecondary education. Provides that OHEPA shall periodically study the percentages of California public high school graduates estimated to be eligible for admission to the California State University (CSU) and the University of California (UC);
- g) Through its use of information and its analytic capacity, inform the identification and periodic revision of state goals and priorities for higher education in a manner that is consistent with the goals outlined in Education Code (EDC) Section 66010.91 and the metrics outlined in EDC Sections 89295 and 92675. Requires OHEPA to biennially

interpret and evaluate both statewide and institutional performance in relation to these goals and priorities;

- h) Submit reports to the Legislature, as specified; and,
 - i) Manage data systems and maintain programmatic, policy, and fiscal expertise to receive and aggregate information reported by the institutions of higher education in this state.
- 6) Provides that on or before December 31 of each year, OHEPA shall report to the Legislature and the Governor regarding its progress in achieving the aforementioned objectives and responsibilities.

EXISTING LAW establishes the California Postsecondary Education Commission (CPEC) composed of 17 members representing the higher education segments, the State Board of Education, and nine representatives appointed by the Governor, Senate Rules Committee, and Assembly Speaker to coordinate public, independent, and private postsecondary education in California. (Education Code Section 66900 et. seq.)

FISCAL EFFECT: Unknown. This bill has been substantially amended since it was heard in the Senate Appropriations Committee.

COMMENTS: *Background on CPEC.* As previously outlined, CPEC was established to coordinate postsecondary education in California and to provide independent policy analyses and recommendations to the Legislature and the Governor on postsecondary education issues. However, CPEC's budget and responsibilities were reduced over time, casting doubt on its effectiveness and triggering calls for its restructuring. In the 2011-12 Budget Act, Governor Brown vetoed funding for CPEC citing the agency's ineffectiveness in higher education oversight. In his veto message, the Governor acknowledged the well-established need for coordinating and guiding state higher education policy and requested that stakeholders explore alternative ways these functions could be fulfilled. CPEC shut down in fall 2011, transferring its federal Teacher Quality Improvement grant program to the California Department of Education (CDE) and extensive data resources to the California Community Colleges (CCC) Chancellor's Office. There is currently no coordinating entity for higher education in California.

Establishing goals and accountability in the absence of CPEC. The National Commission on Accountability in Higher Education, in a report published in 2005, concluded that "real improvement in higher education will come when accountability in higher education provides for explicit shared goals, progress in achieving these goals is measured, and work to improve performance is motivated and guided." Statewide higher education goals and objectives have been considered by the Legislature for over a decade; in recent years, despite the absence of CPEC, some progress has been made on this front.

The 2013-14 Budget Act education trailer bill (AB 94, Chapter 50) required CSU and UC to report annually on specified performance measures, in order to inform budget and policy decisions and promote effective and efficient use of resources. SB 195 (Liu), Chapter 367, Statutes of 2013, established general statewide goals for higher education, and Legislative intent to identify specific metrics for measuring progress toward statewide goals. The 2014-15 Budget

Act (SB 852, Chapter 25) required UC and CSU to approve three-year "sustainability plans" that use funding projections to establish projections of enrollment and the university's goals for the performance measures that are required to be adopted pursuant to AB 94; this requirement was continued in the 2015-16 Budget Act. CCCs were required, pursuant to the 2014-15 Budget higher education trailer bill (SB 860, Chapter 34), to adopt goals and targets for student performance by June 30, 2015, and to establish and report on Student Equity Plans designed to ensure equal educational opportunities and to promote student success for all students.

Purpose of this bill. According to the author, this bill represents the next necessary step towards a higher education performance and accountability structure by creating the OHEPA to serve as the statewide postsecondary coordination and planning agency to steward the public higher education agenda. According to the author, there is no specific statewide entity charged with leading the conversation around the state's higher education goals and the performance and accountability of the public higher education segments. According to the author, in order for the state to improve student access and success, and to align degrees and credentials with workforce needs, an integrated and data-driven coordination structure is necessary.

Recommendations to reestablish coordination. A number of reports have been issued in recent years that recommend various approaches to reestablishing higher education oversight and coordination in California. In 2012, the Legislative Analyst's Office (LAO) recommended, in *Improving Higher Education Oversight*, the Legislature establish an oversight body and increase the body's independence from the public higher education segments, assign the body with limited and clear responsibilities, and develop a more unified governing board appointment process. In 2014, California Competes, in *Chartering a Course for California's Colleges: State Leadership in Higher Education*, also highlighted the importance of impartiality and independence from the higher education segments. The Institute for Higher Education Leadership and Policy, in March of 2014, issued *A New Vision for California Higher Education: A Model Public Agenda*, which noted that policy leadership could be best filled by regional consortia that set goals and targets working in coordination with an executive branch entity (such as a Higher Education Office) that reported to the Governor with respect to finance and accountability.

Legislative involvement and accountability. OHEPA, as proposed by this bill, would be an office of the Governor. Legislative accountability and involvement is primarily through the Advisory Board and the Senate confirmation of the Executive Director. To strengthen Legislative involvement and accountability, the author and Committee may wish to consider:

- 1) *Clarify Advisory Board Role.* As currently drafted, the role of the Advisory Board is unclear; *Committee staff recommends the bill be amended to clarify that OHEPA shall routinely consult with the Advisory Board in performing its assigned duties and shall provide the Advisory Board adequate time to review and comment on reports and recommendations. Committee staff also recommends establishing terms for Advisory Board members of four-years (consistent with the terms of the Student Aid Commission members).*
- 2) *Clarify role of Segments and Stakeholders.* As currently drafted, this bill authorizes but does not require consultation with the higher education segments. Further, this bill does not address consultation with important higher education stakeholders including faculty, K-12,

employers, and students. *Committee staff recommends the bill be amended to require OHEPA consult with higher education segments and stakeholders.*

- 3) *OHEPA authority and segmental accountability.* As currently drafted, the role of OHEPA in ensuring accountability of postsecondary education segments is unclear. Committee staff understands it is the intent of the Author that this area of OHEPA responsibility be outlined and expanded in subsequent years. *Committee staff recommends at minimum authorizing OHEPA to require the governing boards and institutions of postsecondary education to submit data to OHEPA upon request.*
- 4) *Review of OHEPA Performance.* This bill requires OHEPA to report annually to the Legislature regarding progress toward achieving outlined objectives, but does not include a clear opportunity for the Legislature to independently review OHEPA's performance. *Committee staff recommends amending this bill to require the LAO to review the performance of OHEPA by January 1, 2020 and to sunset OHEPA on January 1, 2021.*

Outlining the Scope of the Eligibility Study. The 1960 Master Plan established goals that allowed for the top 12.5% of high school graduates to be admitted to a UC campus and the top 33.3% of high school graduates to be admitted to a CSU campus. These eligibility goals were a consistent factor in determining funding for the university segments. Prior to 2011, CPEC administered numerous studies to determine whether UC and CSU were meeting eligibility requirements established by the Master Plan. In February 2014, the LAO recommended the Legislature authorize an updated freshman eligibility study. The 2015-16 Budget Act provided funding to perform an eligibility study, noting that subsequent legislation would direct the scope and methodology of the study. This bill provides OHEPA with responsibility to study UC and CSU eligibility pools and admission practices. *Committee staff recommends amending this bill to require OHEPA to conduct the freshman eligibility study that was funded in the 2015-16 Budget Act, and to outline the scope and methodology of the study.*

Clarifying and technical changes. Committee staff recommends several clarifying and technical changes consistent with the Author's intent, including adding definitions for terms used in the bill and consolidating and clarifying the language surrounding the responsibilities of OHEPA.

Prior legislation. Several bills have been introduced in an effort to improve higher education performance and accountability, and to re-establish CPEC's most important functions. These include the following:

SB 1196 (Liu, 2014) would have established a process for setting specific educational attainment goals for the State. SB 1196 was held in the Assembly Appropriations Committee.

AB 1348 (John A. Pérez, 2014) would have established the California Higher Education Authority, its governing board and its responsibilities, as specified, phased-in over a three-year period. AB 1348 was held in the Senate Appropriations Committee.

AB 2190 (John A. Pérez, 2012) would have established a new state oversight and coordinating body for higher education. AB 2190 was held in the Assembly Appropriations Committee.

SB 721 (Lowenthal, 2012) would have established statewide goals for guiding budget and policy decisions. SB 721 was ultimately vetoed.

SB 1138 (Liu, 2011-12) would have established a central data management system for the higher education segments. SB 1138 was held in the Senate Appropriations Committee.

AB 2 (Portantino, 2011) and AB 218 (Portantino, 2009) essentially identical bills, required that the state to establish an accountability framework to biennially assess and report on the collective progress of the state's system of postsecondary education in meeting specified educational and economic goals. Both bills were heard and passed by this Committee and were subsequently held in the Senate Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

None on File (*As of July 1, 2015 Version*)

Opposition

None on File (*As of July 1, 2015 Version*)

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