

Date of Hearing: April 16, 2024

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Mike Fong, Chair

AB 3158 (Berman) – As Introduced February 16, 2024

**SUBJECT:** Community colleges: West Valley-Mission Community College District

**SUMMARY:** Permits the governing board of West Valley-Mission Community College District (CCD) to use their unrestricted general funds to establish a tuition fee waiver and to provide financial assistance for the total cost of attendance for qualifying students, as defined.

Specifically, **this bill:**

- 1) Permits the governing board of the West Valley-Mission CCD to adopt a policy to use local unrestricted general funds to provide fee waivers for students who have the greatest financial need, are living within the geographical attendance boundary for the district, and do not qualify for any other existing fee waivers provided by the California Community College (CCC) system. As part of the policy, West Valley-Mission CCD is required to prepare a fiscal impact statement including how the fee waiver will financially impact the district over a three year period. The fiscal impact report will be presented at a public meeting of the governing board and will be made available to the public.
- 2) Permits West Valley-Mission CCD to use existing funds, in addition to funds received for the California College Promise (AB 19) established in Education Code Section 76396, for the purpose of assisting students with the total cost of attendance, if the student resides within the geographical attendance boundary of the district.
- 3) Requires the governing board of the West Valley-Mission CCD, by March 1, 2028, to submit to the Chancellor's Office of the California Community Colleges (CCC), the Department of Finance, and the appropriate committees of the Legislature, a report of the following information:
  - a) How West Valley-Mission CCD determined the use of local unrestricted general funds to support the implementation of the California College Promise;
  - b) How West Valley-Mission CCD determined the use of local unrestricted general funds to assist students with the total cost of attendance;
  - c) How West Valley CCD determined to use the California College Promise funds to assist students with the total cost of attendance;
  - d) A copy of the policy adopted by the governing board of the district pursuant to (1) of this analysis;
  - e) A copy of the fiscal impact statement prepared pursuant to (1) of this analysis;
  - f) The number and percentage of students receiving the fee waiver established pursuant to (1) of this analysis, disaggregated by age, race and ethnicity, unit load, and income level;

- g) The number and percentage of students receiving other forms of institutional aid, including scholarships, and grants, disaggregated by age, race and ethnicity, unit load, and income level; and,
  - h) The services and programs that were limited or eliminated due to the implementation of the fee waiver.
- 4) Defines total cost of attendance as a student's tuition and fees, books and supplies, living expenses, transportation expenses, and other student expenses used to calculate a student's financial need for purposes of federal Title IV student aid programs.
  - 5) Establishes a sunset and repeal date for the aforementioned provisions. Sunsets the above provisions on July 1, 2028, and repeals the provisions on January 1, 2029.
  - 6) States the Legislature finds and declares the above provisions require a special statute and a general statute cannot be used, as determined by Section 16 of Article IV of the California Constitution because of the unique circumstances of the district's need for greater flexibility in the use of their local unrestricted general funds in order to support students' basic needs and to remove financial barriers for students living in a high cost region of the State.

**EXISTING LAW:** *Federal law.*

- 1) Defines for full-time and part-time students, the cost of attendance to include tuition and fees, cost of books, supplies, transportation, and miscellaneous personal expenses and the cost of room and board (20 U.S. Code Section 1087II).

*State law.*

- 1) Defines "cost of attendance" as the monetary costs of attending college or university for the purpose of determining financial aid eligibility. Includes the cost of mandatory systemwide tuition and fees, books and supplies, room and board, transportation, and miscellaneous personal expenses (Education Code (EDC) Section 66028.1 (b)).
- 2) Establishes the CCC under the administration of the Board of Governors of the CCC, as one of the segments of public postsecondary education in this state. The CCC shall be comprised of community college districts (EDC Section 70900).
- 3) Establishes that CCC districts are under the control of a board of trustees, known as the governing board, who has the authority to establish, maintain, operate, and govern one or more community colleges, within its district as specified (EDC Section 70902).
- 4) Authorizes the governing board of each community college district to charge each student \$46 per unit per semester. Exempts the following from paying the prescribed fee:
  - a) Students enrolled in specified non-credit courses;
  - b) California State University or University of California student enrolled in remedial courses, as defined;
  - c) A student who meets a minimum academic and progress standards, as defined, and is either:

- i) Students enrolled in or receiving benefits from Temporary Assistance for Needy Families program (TANF), the Supplemental Social Security Income/State Supplementary Payment Program (SSI), or a general assistance program;
  - ii) Students who demonstrate eligibility according to income standards established by regulations of the CCC Board of Governors; or,
  - iii) Students who demonstrates financial need according to the methodology set forth in federal law or by regulations for determining the exempted family contribution of students seeking financial aid;
- d) Homeless or formerly homeless youth, as defined;
  - e) Students who were the dependent or surviving spouse of any member of the California National Guard who died, or was permanently disabled, while in the line of duty or while in active service of the state;
  - f) Students who were the dependent or surviving spouse of a California firefighter or law enforcement officer killed in the performance of their duties or who died as a result of performing duties related to law enforcement or fire suppression;
  - g) Students who were the dependent of a California resident who killed, or who died as a result of injuries sustained in the September 11<sup>th</sup>, 2001 terrorist attacks;
  - h) Any child of any veteran of the United States military who has a service- connected disability, was killed in service, or has died of a service-connected disability; and,
  - i) The child of a recipient or the recipient of a Congressional Medal of Honor
  - j) The dependent or spouse of a person who was a nurse, physician, or first responder who died of COVID -19 during the state emergency (EDC Section 76300, 68120, 68120.3 and 66025.3).
- 5) Establishes the California College Promise (AB 19) to be administered by the Chancellor of the California Community Colleges for the purpose of authorizing community colleges to waive all or some of the tuition fees for first-time students who enroll in a 12 units or more at a community college and complete the Free Application for Federal Student Aid (FASFA) or the California Dream Act Application (CADAA). Provides an exemption to the 12 unit rule for those who have been certified as full-time by a staff person in the disabled student services program, as defined (EDC Section 76396 and 76396.3).
- 6) Authorizes San Mateo Community College District (Sab Mateo CCCD) to use their unrestricted general funds to establish a tuition fee waiver and to provide financial assistance for the total cost of attendance for qualifying students, as defined (EDC Section 76302).

**FISCAL EFFECT:** Unknown

**COMMENTS:** *Purpose.* As elucidated by the author, “the soaring costs of living, particularly in the Bay Area, is challenging for students. Students are struggling to meet their basic needs, such as food and housing. Tuition has become cost prohibitive as students are deciding between paying tuition for classes, buying groceries, or paying for rent. Students are being priced out of

an education, which is unacceptable. AB 3158 would build upon the successes of the West Valley-Mission County Community College District's free college program and similarly give West Valley-Mission Community College District the authority to put significant financial resources back into students' pockets, ensuring they do not have to choose between taking the extra class they need or affording groceries or rent. This bill would allow, until July 1, 2030, West Valley-Mission Community College District to provide free college to their students by waiving tuition fees, which the District is ready and able to do with their existing local funding. It is important to note that West Valley-Mission Community College District has consistently maintained compliance with the Fifty Percent Law throughout its history, and this bill would not change that."

*Tuition waivers at the CCC.* The CCC serves over 1.9 million students, who attend 116 colleges throughout the state. As an open access institution, CCCs are often the first steps in a student's higher education journey. Providing support for the whole student and delivering access to financial aid that covers the full cost of attendance is part of the *Vision 2030*, as implemented by CCC Chancellor Christian, and, therefore, offering an array of tuition fee waivers is a tool used by CCC districts to accomplish this objective.

In total the CCC offers 10 different fee waivers to qualifying students who meet the codified requirements. For a comprehensive list of all the fee waivers, please see the aforementioned existing law section of this analysis. In the 2022-2023 academic year the CCC offered 734,432 students some form of financial aid, equating to \$624,260,117 in financial aid.

The two most common fee waivers are the California College Promise (AB 19 (Santiago), Chapter 735, Statutes of 2017), and the California College Promise Grant (formerly the Board of Governors' fee waiver). The California College Promise established in 2017, enables all students, regardless of income or financial aid status, to qualify for a fee waiver if they are 1) first-time college students, 2) enroll in at least 12 units or qualify for an exemption to the 12 unit requirement, and 3) complete either the FASFA or the CADAA. In the 2022-2023 academic year, 38,605 students qualified for a fee waiver under the California College Promise (AB 19) for a total of \$26,995,509 in financial aid.

The California College Promise Grant ((CCPG) formerly the Board of Governors Fee Waiver)) was established in 1984 to provide an exemption to the state-mandated enrollment fee that was implemented in the same year. The goal of the waiver was to eliminate the cost of attendance as a barrier to accessing higher education for low-income and underrepresented students. There are multiple pathways to qualifying for a CCPG including being a TANF recipient, an SSI recipient, or demonstrating financial need on either the FASFA or the CADAA. Additionally, a student must maintain a grade point average of 2.0 or higher in more than 50% of the coursework they attempt. The waiver provides a fee exemption for every unit the student takes at their chosen CCC. In the 2020-2021 academic year, 695,818 students qualified for the CCPG, which equates to \$597,264,608 in financial aid.

*West Valley-Mission CCD.* Located in the Bay Area of California, is the West Valley-Mission CCCD. Established in January 1963, West Valley-Mission CCCD is comprised of two community colleges, West Valley Community College and Mission Community College. West Valley-Mission CCD is governed by a six member board of trustees who oversee the daily governing operations of the colleges within the district's borders. In fall 2023, West Valley-Mission CCD offered courses to 16,440 students (CCC Chancellor's Office Data Mart: Full-

time/Part-time Status). In fall 2023, West Valley-Mission CCCD employed 1,048 employees including 26 Educational Administrators, 266 tenure or tenure track faculty, 422 temporary faculty, and 334 classified faculty (CCC Chancellor's Office Data mart: faculty and staff demographics). As a community college in the Bay Area, West Valley-Mission CCCD students face financial barriers unique to their geographical location. Specifically, high cost of total attendance attributed to high property values. According to College Navigator, the National Center for Education Statistics, the cost of attending any college with the West Valley-Mission CCCD is more than \$23,000 per year, including tuition, books and supplies, food, and housing.

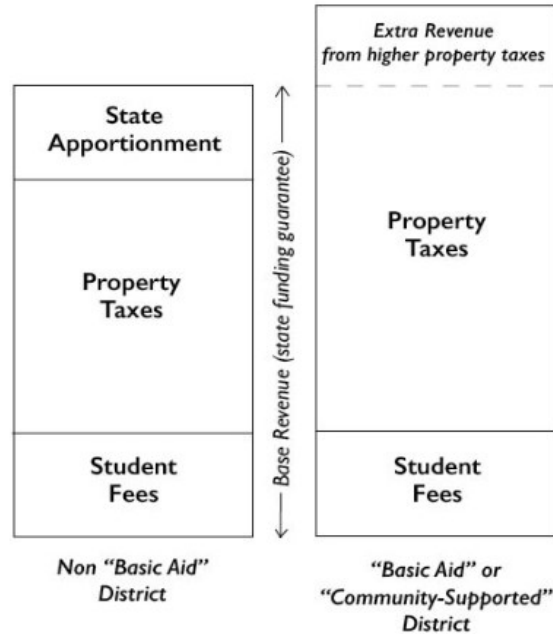
Despite having a large student population and a high cost of attendance, only 4,507 students who attended a college within West Valley-Mission CCCD qualified for the CCPG and 586 students qualified for the California College Promise (AB 19) (CCC Chancellor's Office Data Mart: financial aid). The low CCPG participation is attributed to a larger population of students who do not qualify for CCPG, Pell Grants, or any other form of financial aid based on need. The low California College Promise (AB 19) participation could be attributed to students not qualifying for the program.

As previously mentioned, to qualify for the California College Promise (AB 19) a student must have a course load of at least 12 units. The majority of students attending West Valley-Mission CCCD in the fall of 2023, took between 3 and 8.9 units per academic term (CCC Chancellor's Office Data Mart: part/full time unit load). Therefore, the majority of the student population attending West Valley-Mission CCCD do not currently qualify for an existing tuition fee waiver and, therefore, an exemption is warranted for the district.

*"Basic Aid" districts.* While the high cost of attendance due to property values bodes ill for students attending West Valley-Mission CCCD, the high property values equates to additional property tax revenues for the district. West Valley-Mission CCCD is one of eight basic aid districts with the CCC system.

The total funding any CCC district receives from the State is the total calculation of both 1) apportionment funds as determined by the Student Centered Funding Formula and 2) categorical programs such as the Student Equity and Achievement Program or the California College Promise (AB 19). Categorical programs are entirely funded by the State General Fund (Proposition 98) and often include codified requirements for how the funds are to be used by the district. Apportionment funds are compiled from three sources: local property taxes, student enrollment fees, and the State General Fund. Once it is determined how much the State owes a college in apportionment, based on the Student Centered Funding Formula, a mixture of the three sources is paid to the college.

As defined by the fiscal team at the CCC Chancellor's Office, a district is considered basic aid if the district's property tax and enrollment fee revenues cover the entirety of their general apportionment allocation as computed by the Student Centered Funding Formula. As a basic aid district, West Valley-Mission CCCD is locally funded and therefore has local authority over their apportionment funds, as all of their apportionment funds are considered unrestricted or not controlled by the State. The below diagram helps to further explain the difference between a basic aid districts and State supported district:



Source: San Mateo Community College Federation of Teachers<sup>1</sup>.

*Need for the measure?* Technically, West Valley-Mission CCCD has the authority to establish its own tuition fee waiver or financial assistance for the total cost of attendance if they used foundational or philanthropic dollars. West Valley-Mission CCD has a Foundation that accepts philanthropic dollars and has numerous scholarships available through the endowment for students. According to the West Valley-Mission Foundation, \$1.5 million has been distributed in program support and scholarships since 1978 and more than 25,000 students have received scholarships from the colleges. The Foundation already has a plethora of scholarships available to students, but just as with any funds that are donated, the donors can place restrictions on the scholarship such as for a specific demographic (student-parents) or for specific major. Through the Foundation, 45 scholarships were provided to students attending West Valley College and Mission College in 2024, and the scholarships typically ranged from \$1,000 to \$5,000.<sup>2</sup>

If West Valley-Mission CCCD were to use their apportionment funds for a tuition fee waiver or to assist in covering the total cost of attendance, two legal questions would arise as to whether the tuition waiver and financial assistance would constitute a gift of public funds and whether there is legal precedence for the establishment of a district – specific tuition fee waiver.

Confined within the California Constitution, specifically Article 16, Section 6, is the prohibition regarding the use of public funds for a gift. While the section does not specifically identify fee waivers or financial assistance towards the total cost of attendance, Section 6 does prohibit the use of public funds by a county, city, or community college for the purposes of a gift. In a presentation in 2018, the Fiscal Crisis and Management Assistance Team (FCMAT) provided context of the constitutional prohibition on gifts for K-12 districts. FCMAT noted if the K-12 district had a board policy that determined the expenditure serviced a public purpose, then perhaps the expenditure could be permissible. The public purpose must be authorized by statute; therefore, in order to comply with the California Constitution, West Valley-Mission CCCD

<sup>1</sup> [AFT1493 | Explaining “Basic Aid” or “Community-Supported” districts](#)

<sup>2</sup> <https://foundation.wvm.edu/the-impact-of-giving/current-scholarships.html>

would need authorization in Education Code to provide a tuition fee waiver or financial assistance for their students.

On March 11, 2011, the CCC Chancellor's Office issued a legal opinion which clearly stated that a community college could not decide to use apportionment funds to provide a cohort of students with a fee waiver; however the legal team did determine if the community college district received a grant or a gift from an outside source it could be used to pay for the fee waiver or financial assistance program. Specifically, the legal counsel of the CCC Chancellor's Office found that if a district were to simply provide the fee waiver, the district would be in violation of Education Code Section 76300. In order to meet the legal standard established by the CCC Chancellor's Office, West Valley-Mission CCD would need permission in Education Code to provide the tuition fee waiver to a student, despite being a basic aid district.

*Arguments in support.* The Student Senate for the Community Colleges, the official voice for all two million California community college students, states the need for the measure as, "AB 3158 aligns perfectly with SSCCC's priority of making community college more affordable and accessible to all students. The financial burden on students in this region is substantial, with the total enrollment cost, including tuition, books, and other expenses, often exceeding \$15,000 per year. This is particularly challenging in areas with high costs of living, such as the Bay Area and parts of Southern California. Furthermore, this bill is consistent with past bills SSCCC supported on the grounds of affordability, including SB 893 (Becker, 2022), which allowed San Mateo Community College District to use its local funds to provide tuition waivers to students. West Valley-Mission, like San Mateo, Santa Monica, and other districts in affluent areas, is a "Basic Aid" district. This means it is sufficiently funded through local property taxes, and their apportionment is not controlled by California."

*Related legislation.*

- 1) SB 893 (Becker), Chapter 937, Statutes of 2022, authorizes San Mateo County Community College District (San Mateo CCD) to use their unrestricted general funds to establish a tuition fee waiver and to provide financial assistance for the total cost of attendance for qualifying students, as defined until July 1, 2028.
- 2) SB 629 (Cortese) of 2023, would have extended the use of unrestricted general funds for the tuition fee waivers and financial assistance for the total cost of attendance for qualifying student, to all basic aid districts. This measure was held under submission in the Senate Appropriations Committee.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

Associated Students of Mission College  
Associated Students of West Valley College (ASWVC)  
Student Senate for California Community Colleges  
Successful Aging Solutions & Community Consulting (SASCC)  
West Valley-mission Community College District

### **Opposition**

None on file.

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