

Date of Hearing: April 22, 2021

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

AB 1216 (Salas) – As Amended April 5, 2021

SUBJECT: California Community Colleges: governing board membership: student members

SUMMARY: Authorizes each governing board of the California Community College (CCC) district to provide each student an opportunity to cast an advisory vote and entitles each student member of the governing board to make and second motions, receive the same compensation as a regular board member, and attend closed session, as specified. Specifically, **this bill:**

- 1) Authorizes a student member of a CCC governing board to cast an advisory vote immediately prior to votes being cast by regular members of the governing board.
- 2) Entitles a student member to the compensation provided to a regular member of the board, as described in Education Code Section 72024.
- 3) Removes certain governing boards' discretionary privileges and authorizes a student member to the following:
 - a) Make and second motions; and
 - b) Attend closed session, unless the closed session is on personnel matters or collective bargaining matters.
- 4) Removes the requirement for a governing board of a CCC district to adopt rules and regulations by May 15th stipulating the privileges it affords its student members.
- 5) Requires the CCC governing board to notify a student member of their powers and rights as provided above and requires student to be orientated in their role as a student member of the board.
- 6) Encourages the Chancellor and Board of Governors of the CCC to establish a workgroup to examine methods of providing a full vote to student members in order to encourage the active participation of students on CCC district governing boards and to ensure student voices are included in decisions at the local level. Encourages the workgroup to include in its membership representatives from the CCC Chancellor's office, the Secretary of State's office, and the Community College League of California.
- 7) Establishes that if the Commission on State Mandates determines that this act contains costs mandated by the state, the state shall reimburse the applicable entities.
- 8) Makes clarifying and technical changes to existing law.

EXISTING LAW:

- 1) Establishes the California Community College (CCC) system 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 CCC districts (Education Code (EDC) Section 70900)

- 2) Creates for each CCC district a board of trustees, known as the governing board, and authorizes the governing board to establish, maintain, operate, and govern each CCC within their district in accordance with state and federal law, as specified. The governing board may initiate and carry on any program, activity, or may otherwise act in any manner that is not in conflict or inconsistent with any law and that is not in conflict with the purpose of a CCC district, as specified. (EDC Section 70902).
- 3) Requires the County committee on school district organization, upon the petition of the CCC governing board to establish, rearrange, or abolish trustee areas in the CCC district or increase or decrease the number of members of the governing board, as specified. Governing board members are elected for four-year terms, and board is comprised of five or seven members. The number of trustee areas will not be less than two nor more than seven. The terms of the trustees will be staggered so that half of the members are elected in each odd-numbered year. Any resident and registered elector of the district not disqualified by the Constitution or any other laws of the state is eligible for candidacy to the governing board and will be elected by either the registered voters living in a trustee area or by the registered voters in the community college (EDC Section 72022).
- 4) Establishes that if a community college district does not have trustee areas, the governing board will consist of five or seven members elected from the district to serve a term of four years. If trustee areas have been established one member from each area will be represented on the board. The terms of the members shall be staggered in order, so that only half of the seats are eligible for election in each odd-number year. Exceptions pertain to Peralta Community College District and the Redwood College District, as specified (EDC Section 72023).
- 5) Requires the governing board of each community district to include in their membership one or more nonvoting students. Each student member has the right to attend and participate in meetings of the governing board, except for executive sessions, and must attend a CCC within the governing board's district. Students selected to serve on the governing board are chosen and subject to recall by the CCC district's student population. If a student member seat becomes vacant, the governing board may authorize the officers of the student body association at each college in the district to appoint a student to serve the remainder of the term according to procedures established by the governing board. Each nonvoting student member will be provided the same mileage allowance as other sitting board members of the governing board. Each governing board may determine and adopt conforming regulations each year as to whether any student member of the board may vote, make or second motions, attend closed sessions as specified, serve a term of one year, and receive compensation up to the amount received by other members of the board. (EDC Section 72023.5)
- 6) Regulates the compensation of a board of trustee of a CCC district, by their attendance and by the population of students they serve. Each year, the governing board may vote to have their compensation increased by up to 5%; however, this action may be rejected by a majority of voters in the district, as specified. Initial monthly compensation for each board of trustee member is based on the population of students they serve and ranges from \$120 a

month for districts with less than 10,000 full-time equivalent students to \$1,500 a month for districts with 60,000 full-time equivalent students, as specified (EDC Section 72024).

- 7) Permits a governing board of a CCC district to authorize the creation of a student body association, whose purpose is to encourage students to participate in the governance of the college and may conduct any activities including fundraising activities if approved by the college officials. Permits the association to utilize the CCC properties without charge, as specified. Clarifies if a local governing board determines the need for additional student body associations for specified circumstances that make having one student association impractical or inconvenient. Clarifies if a student body association should dissolve the CCC district will assume the responsibilities of the student body association and any staff hired to perform activities associated with the student body association will become a member of the classified staff within the district, as specified (EDC Section 76060).

FISCAL EFFECT: Unknown.

COMMENTS: *Need for the bill.* According to the author's office, "the CCC attract students from many different ages, backgrounds, and passions. These students have needs and concerns related to their college, and the student trustees that sit on a college's governing board are a vital source of student perspective. Student trustees, however, face a significant power imbalance when trying to represent the views of stakeholders who are most affected by board decisions. AB 1216 evens the playing field for student trustees by enshrining the rights to cast advisory votes, attend certain closed session meetings, and make and second motions and provide students with the compensation they deserve".

Background on CCC governing boards. The CCC system is the largest higher education system in the nation comprised of 116 colleges spanning from rural Northern California to the coastal region of San Diego. The CCC is governed by both a statewide Board of Governors and local board of trustees who govern a district comprised of one or more community colleges. The Board of Governors consists of 17 voting members, including community members, tenured faculty, classified staff, and a student representative, and one nonvoting student member all of whom are appointed by the Governor of the State. The Board of Governors sets policy and provides guidance to the 73 districts and the 116 colleges within the system.

With the exception of Calbright, whose local governing board is also the Board of Governors, the other 115 colleges are divided into 72 districts who are governed by local governing boards. Each local governing board has either five or seven voting members, known as trustees, who are elected in a state-run election either by 1) a smaller region within the district defined as a trustee area; or 2) the populous of the community college within the border of the district. In addition to the trustees, each governing board is required in accordance with state law to have at least one nonvoting student member who is elected by the student population of the district. The role of the local governing board is to establish, maintain, operate, and govern each community college within their district boundary. The number of colleges represented in a single district varies throughout the state; some districts represent a single district where as the largest, Los Angeles Community College District, represents nine colleges.

Student board members. As mentioned, local governing boards are required to have at least one nonvoting student board member (student member). In addition to being elected by the student population, a student member, must be enrolled for at least five semester units or its equivalent,

and must meet and maintain the minimum academic standards established by the district. A student member serves for one term beginning on June 2 of each year or per the local governing board's discretion on May 1 each year. Each student member has the right to attend all board meetings, sit with trustees, receive all materials presented to trustees, and participate in the questioning of witnesses and the discussion of an issue. A student member is entitled to the same mileage allowance provided to trustees. A student trustee is not permitted to attend executive sessions of the board nor are they endowed with the right to vote on any measure before the board. Any additional authority or compensation is provided to the student member by the discretion of the local governing board and determined by either a vote of the governing board or by regulations and procedures adopted by the governing board. Currently, the trustees can determine if a student member may make and second motions, attend specific closed sessions, provide an advisory vote, and receive a compensation which leads to a delineation in the authority provided to student members throughout the state.

The Community College League of California biennially surveys districts to determine the discretionary privileges the local governing boards delegate issued to their students, below is a summary of the 2017 survey results:

Student representation on local governing boards	<ul style="list-style-type: none"> • 62 districts had one student member; • 9 districts had 2 student members; • San Diego Community College district has three student members, which rotate attending board meetings.
Making and providing a second to motions	<ul style="list-style-type: none"> • 42 districts permit making a motion; • 18 district do not permit making a motion; • 4 district permit seconding a motion.
Attending closed sessions	<ul style="list-style-type: none"> • 8 districts the decision is made each year by the board; • 1 district by invitation only; • 61 districts do not permit.
Compensation for board service	<ul style="list-style-type: none"> • 18 districts provide parity in compensation between student and trustees • 12 districts provide some compensation to student members, but less than trustees • 19 district provide a monthly stipend; • 3 districts provide mileage only.

An additional privilege identified in the Community College League of California survey which is not explicitly detailed in existing law, is the ability for a student member to provide an advisory vote before the local governing board votes on a measure. Currently, 52 districts provide this authority to students, 14 districts do not permit the advisory vote, and 4 districts permit the board to decide annually.

Trustee compensation. Due to the variety of sizes of the 72 districts, the compensation rate for trustees differs across the state. Education Code Section 72024 regulates the compensation of a trustees by establishing a minimum amount based on attendance and the population of full-time

equivalent (FTE) students who attend the community colleges located in the district. The codified compensation ranges from \$120 a month for those who serve districts with less than 1,000 FTE students to \$1,500 a month for those who serve districts with more than 60,000 FTE students. Trustees are authorized to increase their compensation amounts by 5% each year and this raise can be rejected by the majority of voters within the district. Due to this caveat, the actual compensation of voting trustees runs the gamut from \$100 a month for trustees of the Sequoias Community College District to \$2,000 a month for trustees of the Los Angeles Community College District. The average compensation for CCC local governing board trustees is \$380 monthly. As mentioned previously, compensation for student trustees is provided per the discretion of the board. While some governing boards elect to not provide student compensation, the average monthly compensation to student members who receive compensation is \$209. Student members for Mt. San Antonio, San Santiago, and State Center CCC districts receive the highest compensation of \$750 a month and student members for Merced CCC district receive the least at \$20 per board meeting. The largest disparity in pay between trustees and student member is in the Los Angeles District with a pay disparity of \$18,000. The CCC Chancellor's office anticipates an annual cost of \$148,461 to close the compensation equity gap between trustees and student members.

Local control and governance. The governing structure of the CCC, unlike its higher education counterparts, is more akin to the K-12 governance structure, which prioritizes local control and governance over statewide control. The reason for this lies in the origins of the CCC, whose colleges were originally part of the K-12 school districts. According to the Little Hoover Commission February 2012 report, *Serving Students, Serving California: Updating the CCC to Meet Evolving Demands*, prior to 1960, community colleges were part of the state's public school system and fell under the jurisdiction of the State Board of Education. In 1967, after the implementation of the Master Plan for Higher Education, the Governor and the Legislature established the Board of Governors to oversee the CCC system and formally created the community college district system to govern the colleges. Statute reflects that community colleges would continue to be governed and controlled by locally elected boards who are endowed with the authority to make policy and fiscal decisions over the community college within the geographical boundaries of their district. The Little Hoover Commission in their February 2012 report highlights "the emphasis of the local orientation of community colleges has persisted despite subsequent changes that have slowly shifted authority away from local governing boards". The BOG develops statewide policy and long range planning but governance of the colleges is left entirely to the locally elected governing boards. AB 1216 by design removes some of the local control and governance currently provided to governing boards and instead ushers in Legislative oversight and regulation in terms of the privileges provided to students who sit on the CCC governing boards.

Committee comments. AB 1216 explores the policy premise of whether student members elected or selected by students are the equivalent of elected trustees on a community college governing board. In recent years, the Legislature has adopted the understanding that students who reside on boards deserve equitable representation and the same privileges as other elected or appointed board members. The desire is for boards to see students as equal partners and as contributors whose input has equal weight as other members of the board. By requiring student members to receive permission from trustees to attend close session, make or second motions, or receive compensation, the Education Code has created a two-tiered governing board with some student members receiving equitable authority from trustees and others receiving none. By removing the

discretion, student members across the state will have the same role and be afforded the same privileges as their student member colleagues in other CCC districts across the state.

However, by doing this the Legislature is stripping away local governance and local control from the governing board of CCC districts without a clear understanding or knowledge as to why governing boards are not currently providing these privileges to students.

Committee staff acknowledges a plethora of social, economic, and geographical changes have occurred since 1967 when the CCC governance structure was created. The Committee understands the role of student advocacy and involvement in local governance has expanded with students taking an active role in their community colleges; however, the Committee believes more research and input must be conducted before enacting a statewide policy that strips local elected officials of their governing authority. Therefore, the Committee has offered and the author has accepted the following amendments which will return discretionary privileges to the governing board of the CCC district and will require the formation of a workgroup to discuss and recommend policies regarding the role and privileges of student members on governing boards. Specifically the amendments would:

- Subdivision (a) (B) (3) - A student member appointed pursuant to this section shall be entitled to mileage allowance to the same extent as a regular member ~~and is entitled to the compensation prescribed by Section 72024.~~, *but is not entitled to the compensation prescribed by Section 72024.*
- Subdivision (b) - ~~Notwithstanding subdivision (a), a student member may do any of the following~~ Notwithstanding subdivision (a), the student member selected to serve on a governing board of a community college pursuant to subdivision (a) may do any of the following per the discretion of the board:
- Subdivision (d) - ~~The governing board of each community college district shall notify a student member of their powers and rights under this section.~~ The governing board of each community college district that affords the student member or members of the board any of the privileges enumerated in subdivision (b) shall, by May 15 of each year, adopt rules and regulations implementing this section. These rules and regulations shall be effective until May 15 of the following year.
- Subdivision (f) - Deletes language regarding the workgroup and replaces the language with:
 - (1) *The Chancellor of the California Community Colleges shall convene a workgroup to examine the active and equitable participation of student members on governing boards of community college districts. The workgroup shall include, but is not limited to, the following members:*
 - (A) *A representative from the California Community Colleges Chancellor's Office.*
 - (B) *A representative from the Community College League of California;*
 - (C) *A representative from the Student Senate for California Community Colleges;*
 - (D) *Four regular members from the following type of community college district's governing boards representing community college districts;*
 - a. *A district representing more than one college;*
 - b. *A district representing one college;*

- c. A governing board with one student member who receives compensation, making or seconding a motion, and attends closed session as enumerated in subdivision (b) ;*
- d. A governing board with more than one student member.*
- e. When determining representation of regular members consideration should be given to ensure representation from the various regions of California are part of the workgroup.*
- (E) Four student members from the following type of community college district's governing boards representing community college districts;*
 - a. A district representing more than one college;*
 - b. A district representing one college;*
 - c. A governing board with one student member who receives compensation, making or seconding a motion, and attends closed session as enumerated in subdivision (b) ;*
 - d. A governing board with more than one student member.*
 - e. When determining the representation of student members consideration should be given to ensure representation from the various regions of California are part of the workgroup and selected student members may include previous or current student members.*
- (2) The workgroup shall convene on or before June 1, 2022*
- (3) The workgroup shall do all of the following:*
 - (A) Review community college governing boards' policies and regulations and state and federal laws regarding the membership capacities of student members of governing boards including, but not limited to:*
 - a. Providing student members compensation;*
 - b. The scope of work required of student members on boards;*
 - c. The degree to which students are provided the ability to make and second motions, attend closed session, and whether these privileges reduce the role of democratically elected representatives.*
 - (B) Recommend pathways towards providing parity in the participation of student members in community college governing boards across the state pertaining to the provision of compensation, making and seconding a motion, and attending closed session.*
 - (C) Examine the capacity by which students can receive a full vote on the governing board.*
- (4) On or before June 1, 2023, the workgroup will submit a report to the Chancellor's office and the Legislature, pursuant to Section 9795 of the Government Code, containing its finding and policy recommendations in connection with its review pursuant to paragraph (2).*

In previous iterations of AB 1216, enabled trustees to delegate full voting privileges to student members. After deliberation and consultation with legal and election experts, the Committee determined providing a student a full vote outside of a state-run election process would be a violation of the 14th Amendments of the United States Constitution as articulated in Supreme Court Case, *Hadley v. Junior College District* (1970) 397 United States Supreme Court 50. The section requesting the workgroup to examine the capacity by which, a student can receive a full vote on the governing board of the workgroup is to determine how within the confines of a state run election future student members may obtain a legally binding vote without violating constitutional law.

Previous Legislation.

- 1) AB 2910 (Weber) of 2020, would have authorized each governing board of the CCC district to give each student member an advisory vote and per the discretion of the governing board, a full vote. Entitles each student member of the governing board to make and second motions and to receive the same compensation as a regular board member. Held in the Assembly Higher Education Committee due to the COVID-19,
- 2) AB 884 (Lara), Chapter 619, Statutes of 2011, permits any student, including those without lawful immigration status and a person who is exempt from nonresident tuition, attending a CCC and a California State University to participate in student government, receive compensation associated with service including but not grants, scholarships, and fee waivers. Requests the University of California to comply with the provision. Eliminates the requirement that a nonvoting student member of a governing board of a CCC district be a California resident.
- 3) AB 1030 (Cooley), Chapter 188, Statutes of 2013, provides that if a seat of a student member of a CCC district's governing board becomes vacant during the student's term, the governing board may authorize the officers of the student body associations at each CCC in the district to appoint a student to serve the remainder of the term in accordance with procedures established by the governing board.
- 4) AB 447 (Williams), as amended on March 21, 2003, would have permitted a nonvoting student member of a CCC district's governing board to attend closed session, as specified, to make and second motions, and to cast an advisory vote that is recorded in the board meeting's minutes. This bill was gutted and amended in the Senate Education Committee.

REGISTERED SUPPORT / OPPOSITION:**Support**

None on file.

Opposition

None on file.

Analysis Prepared by: Ellen Cesaretti-Monroy / HIGHER ED. / (916) 319-3960