

Date of Hearing: April 19, 2022

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

AB 2359 (Gipson) – As Introduced February 16, 2022

SUBJECT: Compton Community College District: personnel commission

SUMMARY: Eliminates existing law preventing the Compton Community College District (CCCD) Personnel Commission from assuming operational duties of management of the personnel function of the CCCD; thereby, permitting the CCCD personnel commission to resume its operational duties and responsibilities. Specifically, **this bill:**

- 1) Limits the pool of candidates for special trustee of Compton Community College District (CCCD) that the Chancellor of the California Community Colleges (chancellor) may select from to those who have served as special trustee CCCD or another community college district before September 26, 2011.
- 2) Deletes the provision authorizing the chancellor to assume and delegate to the special trustee those powers and duties of the Compton Community College District Personnel Commission (CCCD commission) that the chancellor has determined are necessary for the management of personnel functions at CCCD.
- 3) Reinstates the powers and duties of the CCCD commission back to the CCCD commission.
- 4) Deletes from the SB 85 (Budget Committee), Chapter 23, Statutes of 2017, the provision requiring the board of trustees of the CCCD to assume responsibilities of the CCCD commission necessary for the management of the personnel functions of the CCCD until July 1, 2029. Effectively reinstating the CCCD commission upon passage of the act.
- 5) Makes technical and clarifying changes to existing law.

EXISTING LAW:

- 1) Enables the California Community College (CCC) Board of Governors (BOG) to authorize the chancellor to suspend the authority of the local board of trustees of the CCCD, as defined for up to five years from the effective date of AB 318 (Dymally), Chapter 50, Statutes of 2006, plus a period of time until the chancellor, the Fiscal Crisis and Management Assistance Team (FCMAT), the Director of Finance, and the Governor concur with the special trustee that the district has for two consecutive academic years, met the requirements of the comprehensive assessment conducted and the recovery plan prepared pursuant to Section 41329.59. Endows the chancellor to appoint a special trustee and authorizes the special trustee to assume the powers and duties of the local board of trustees of the CCCD, as determined by the chancellor. Permits the chancellor to select a special trustee from a pool of candidates who have served in a similar capacity prior to 2004 and the special trustee is selected to serve at the pleasure of the chancellor. In the event of a vacancy in the post of special trustee, the chancellor may assume the duties of the special trustee until a new special trustee is appointed (Education Code (EDC) Section 71093 (a, c, and g)).

- 2) Authorizes the chancellor and by delegation of authority by the chancellor, the special trustee to assume the powers and duties of the Compton Community College District Personnel Commission. The powers and duties assumed by the chancellor or special trustee are those the chancellor deems necessary to fulfill the management of the personnel functions of the CCCD (EDC Section 71093 (d)).
- 3) Authorizes the special trustee to complete the following:
 - a) Implement substantial changes in the fiscal policies and practices of the CCCD;
 - b) Revise the academic program of the CCCD to reflect realistic income projections in response to the dramatic effect of the changes in fiscal policies and practices upon program quality.
 - c) Encourage all members of the college community to accept a fair burden of the full recovery of the CCCD in the five operational areas of finance, academics, personnel facilities, and governance.
 - d) Enter into agreement on behalf of CCCD, as defined and subject to any contractual and statutory obligation of the Compton Community College District, change any existing district rules, regulations, policies, or practices as necessary for the effective implementation of the recovery plan.
 - e) Appoint an advisory committee to advise the special trustee with respect to the management of the CCCD and the establishment and implementation of the arrangements for provision of services by a partner district pursuant to Section 74292 et. al. Permits the advisory committee to include residents of the communities served by CCCD and any outside experts, but clarifies no member of the advisory team may receive compensation for services rendered in their advisory role (EDC Section 71093 (f)).
- 4) Appropriates \$11,300,000 to the BOG of the CCC to support one-time costs associated with CCCD efforts to restore core operational and oversight function of Compton College to the CCCD and to achieve and maintain accreditation by an accrediting agency, as defined. The appropriation of these funds are provided only if CCCD agrees to implement the recommendations in FCMAT's report completed on May 16, 2017.

Bestows upon the Board of Trustees of CCCD, until July 1, 2029, the authority to assume the powers and duties of the CCCD personnel commission that the board of trustees deem are necessary for the management of personnel at the CCCD. Clarifies the CCCD personnel commission will not exercise any of the powers or duties assumed by the board of trustees (Section 29 of Chapter 23 of the Statutes of 2017).

FISCAL EFFECT: Unknown

COMMENTS: *History of CCCD.* In January 2003, the Chancellor's Office of the CCC (CCCCO) received a fiscal audit of CCCD which made various findings as to the fiscal instability of the district. After failing to receive additional fiscal information in May 2004, the Chancellor determined CCCD was no longer acting responsibly to manage the district in a sound fiscal manner. The Chancellor appointed a special trustee to assume the duties and powers of the local governing board. Additionally, the Chancellor requested FCMAT to conduct a fiscal health

analysis of the district. In June 2004, FCMAT determined the district did not have sufficient funds to cover its expenses. At the same time as the FCMAT report, the local governing board of CCCD sued the chancellor for overstepping their perceived role and the Supreme Court of Los Angeles issued a temporary restraining order prohibiting the Chancellor or his agents from assuming the powers of the district governing board. Realizing the fiscal crisis and the possibility of insolvency, the Legislature on an urgency clause enacted AB 61 (Dymally) Chapter 139, Statutes of 2004 to amend the EDC to endow the chancellor with the authority to assume the powers of the CCCD governing board and to assign those powers to a special trustee.

Due to growing concerns with the fiscal management and stability of Compton College (the only college within CCCD), the Accrediting Commission for Community and Junior Colleges (ACCJC) issued a show of cause in January of 2005, and required the College to correct the fiscal deficiencies. However, Compton College could not address the fiscal concerns as provided by the ACCJC and would lose accreditation on August 19, 2005. CCCD filed a formal appeal; however, by June 2006 it became apparent Compton College would lose their accreditation. The Legislature once again took action citing the loss of accreditation by a college of the CCC presented a severe burden for the students of that college and for the residents the community college served. On June 30, 2006, Governor Schwarzenegger signed AB 318 (Dymally), Chapter 50, Statutes of 2006 to provide a \$30 million loan for CCCD for the purpose of continuing to provide accredited instructional programs to students residing in CCCD and to accomplish the task of collaborating with FCMAT and the special trustee to regain fiscal solvency. In August 21, 2006, the El Camino Community College District Board of Trustees approved a partnership agreement with the CCCD to continue offering educational programs at Compton College which became Compton Center.

Additionally, AB 318 (Dymally) authorized a path by which the duties and authority of governing the district could be returned to the local governing board. If the special trustee, FCMAT, Department of Finance, the Governor, and chancellor all agree that the district had for two consecutive academic years met the requirements of the FCMAT comprehensive assessment and the statutory recovery plan then the authority of the governing board could be restored. In June 2016, the process to return authority to the CCCD governing board began and on February 14, 2017, Chancellor Eloy Oakley announced the governance authority had been restored to the district's elected governing board. The special trustee would remain with the district in a stay and resend capacity over decisions made by the governing board, until the state loan from 2006 is repaid. This marked an important milestone in the district and subsequently, Compton College returning to an independent college within the CCC.

To demonstrate Legislative support of Compton College's path towards re-accreditation, the State appropriated \$11.3 million for the purpose of restoring core operation and oversight function to the CCCD and to achieve and maintain accreditation for Compton College. As part of the budget negotiations for the dispersal of the \$11.3 million, the State agreed with FCMAT's conclusion that the CCCD personnel commission should remain offline and the duties and responsibilities normally carried out by the CCCD personnel commission would be bestowed upon the CCCD governing board. Between 2006 and 2017 the special trustee had assumed the duties and responsibilities of the personnel commission. Just as the Legislature had provided a pathway for the CCCD governing board to reassume its duties and responsibilities, the Legislature authorized that the CCCD personnel commission would resume its duties and responsibilities on July 1, 2029. Effectively, the Legislature tied the restart of the personnel commission to the payoff of the \$30 million loan from 2006.

On June 7, 2017, the ACCJC granted initial accreditation status to Compton College, and on August 24, 2018, local control of Compton College was returned to the CCCD governing board. The partnership between El Camino Community College District and CCCD was terminated on June 7, 2019. Therefore, on June 7, 2019, Compton College became the 114th California Community College operating under the authority of the CCCD governing board.

Need for the measure. According to the author, “Classified school employees provide the backbone of every operation of a college district. Ranging from transportation to security, food services to clerical, these employees keep districts functioning day to day, year after year. In some cases, classified employees have utilized rights provided by the education code, by electing to convert their college to utilize the merit system.

Due to the loss of accreditation in 2006, classified school employees of the Compton Community College District have been unable to utilize their merit system as intended. This bill rectifies this by clarifying the powers and duties of the Compton College Personnel Commission and restores the commission to its full functionality.”

Personnel commission and Merit System. A personnel commission is an independent board separate from the governing board and the leadership of a college within a district. The purpose of the personnel commission is to maintain a merit system for classified employees of the district and campuses within the district and to oversee the work of the executive director and personnel commission staff. The personnel commission’s main directive is to ensure fair and objective treatment of all applicants and employees.

Established in Education Code Section 88060 through 88139, a personnel commission is comprised of three to five citizens who are appointed into staggering terms to oversee the work of the personnel commission staff. In some K-12 and community college districts the personnel commission staff are the human resources staff of either the district or a campus within the district. However, that is not always the case and for many the personnel commission staff are independent positions separate from the district. If the classified staff elect to have a merit system, the personnel commission is established to oversee and enforce the merit system.

A merit system is a set of rules and procedures to ensure the selection, promotion, and retention of classified staff is conducted in a manner without favoritism or prejudice. Specifically, a merit system are the rules and procedures by which a personnel commission provides oversight to ensure a community college district is hiring, placing, and retaining classified staff in a fair and equitable manner. As part of its role, the personnel commission is tasked with classifying and reclassifying positions and serve as an appeal body for disciplined classified staff. As of 2021, of the 73 community college districts, only five community college districts have a merit system and therefore have a personnel commission.

Status of Compton College. Compton College is currently accredited by the ACCJC and to maintain its accreditation, Compton College is entering its two year self-evaluation report which will conclude in June of 2024. To remain accredited, Compton College must meet the 21 requirements that cover college operations including, but not limited to: the conferral of degrees, standards for assessing student progress, providing academic freedom, student support services, and fiscal soundness.

On March 15, 2021, Compton College submitted its midterm report for the reaffirmation of accreditation which was supported by the President of the CCCD governing board, the President of Compton College, the Vice President of Academic Affairs of Compton, the Accrediting Liaison officer of Compton College, the Academic Senate President of Compton College and the ASB President of Compton College. The only signature left blank was the Classified Union President of Compton College. The Committee staff understands the Classified Union President declined to sign the midterm report because the union's request for information on how the governing board was acting as the personnel commission was not delineated to their satisfaction.

However, based on the public Midterm Report published on January 12, 2021, Compton College responded to a recommendation that the Center in transitioning towards a college/district status, give priority to staffing needs and to continuously access the staffing needs. Two paragraphs were dedicated to discussing how Compton College plans to meet and prioritize staffing needs of the college including how Compton College had partnered with the University of Southern California's Center for Urban Education to review job descriptions and create opportunity for diversity and inclusiveness at the College which aligns with the powers and duties of the Personnel Commission. Despite the lack of signature by the Classified Union President, the ACCJC accepted the Midterm Report and Compton College progressed to the next step in the accreditation process.

At the request of Compton College, in January 4, 2022, FCMAT published their latest analysis of CCCD fiscal health. FCMAT made the following observations and recommendations:

- Compton Colleges has declining enrollment, but due to a hold harmless this enrollment decline has not reduced the state apportionment to the college. The hold harmless will sunset in 2025-2026 and therefore, the college must prepare to increase enrollment or make spending cuts. The enrollment decline prior to the pandemic (2016-17 through 2019-20) was 18%. Enrollment declined an additional 14% during the pandemic (2019-20 and 2020-21). The district will need to consider increasing enrollment to prior FTES levels.
- Despite being one of the smallest districts, CCCD has more than 70 full-time contract faculty in excess of the State's required FON. CCCD staffing totals have increased by 3% since 2014 and expenses for employee benefits have dramatically increased over the same six-year period. FCMAT suggested reducing the number of full-time faculty as the rising costs in pension, benefits, and the requirement to collective bargain all contribute to the overall budget constraints CCCD will face in coming years.
- In addressing the overall budgetary constraints CCCD will face in coming years, FCMAT has suggested the Personnel Commission remain suspended until 2029-2030 since 2028-2029 will be the last year a payment will be necessary to fully satisfy the state \$30 million loan provided to CCCD in 2006. Specifically, the report cited "As mentioned in the May 16, 2017 FCMAT management letter to the California Community College Chancellor's Office regarding the district funding request to the California State Legislature, FCMAT continues to recommend that Compton CCCD not immediately transition to the Personnel Commission since the established classified personnel recruitment and selection process can continue until the district's loan payments end."

According to the latest Budget documents, from CCCD fiscal year 2021-2022, the district projected cost of the Personnel Commission will be roughly \$400,000 per year. This includes salaries and benefits of the staff of the Personnel Commission.

Arguments in support. According to the California School Employees Association, “merit systems were first enacted to prevent the corruption of the spoils system in public employment. This bill, by restoring the original powers and responsibilities of the Compton Community College District’s Personnel Commission, will ensure that the college honors the original intent of the classified employees who first voted to implement a merit system. Personnel commissions, which include representatives of the school district and classified employees, provide transparency and accountability in the hiring and promotion of school employees.”

Arguments in opposition. According to FCMAT, “the suspension of the personnel commission was neither arbitrary nor capricious, but was consistent with well-established practice and based on the expertise of those assigned responsibility to guide Compton through its recovery. The classified personnel at Compton are fully supported by the college’s human resources function. The recruitment, hiring, discipline, dismissal, and general personnel management functions that would otherwise be overseen by a personnel commission are fully functioning at Compton in compliance with the pertinent statutes directing a fair employment process.”

Furthermore, “it is highly unusual for FCMAT to take a public position on pending legislation. However AB 2359 is in direct contradiction to our general approach regarding educational institutions in state receivership. As such we respectfully ask the committee to oppose AB 2359 as written”.

Additionally, Compton Community College District has opposed AB 2359 as “Although we support the validity of a Personnel Commission, the legality and timing associated with Assembly Bill 2359, and most importantly, the substantial financial burden on the Compton CCD, forces us to oppose the bill as written.”

In their letter, CCCD expressed four overarching concerns with the bill in print. For brevity, Committee Staff has summarized their concerns as follows:

- 1) The Legislature provided \$11.3 million to assist Compton College in obtaining accreditation and operational autonomy under CCCD; however this funding was tied to CCCD implementing the recommendation of FCMAT which included suspending the Personnel Commission until 2029. If the Personnel Commission was reinstated before this date it would mean CCCD is not in compliance with FCMAT and could mean CCCD would have to return the \$11.3 million it received from the state.
- 2) CCCD is concerned with the timing of reinstating the Personnel Commission effective immediately given the urgency to address student success at Compton College and prepare for the upcoming accreditation review.
- 3) CCCD is grappling with various fiscal impacts and AB 2359 would compound the district’s fiscal concerns. Specifically, CCCD is grappling with fiscal impacts such as the 50% law, the hold-harmless enrollment sunset, and declining enrollment. Currently, Compton College is experiencing a hiring freeze effective on March 4, 2022 for all new positions to address and offset costs identified in the latest 2022 FMCAT fiscal health report.

- 4) CCCD is still currently paying off the \$30 million emergency loan and currently has an outstanding balance of \$6,792,364 which should be paid off before the Personnel Commission is reinstated.

Committee comments. FCMAT, is an independent agency authorized by the State Legislature to assist California's local K-14 education agencies in identifying, preventing, and resolving issues stemming from impending fiscal crisis. FCMAT fiscal and management assistance services are designed to come alongside K-12 and community college districts to promote fiscal solvency practices including implementing financial, operation and data structure to ensure the educational priorities of the community are met. Established in 1992, FCMAT primarily assisted and oversaw the restoration of fiscal solvency of K-12 districts. In 2006, FCMAT's jurisdiction was expanded to include charter schools and community colleges. FCMAT is seen as the primer agency for accessing and assisting in the recovery of the fiscal health of educational agencies in the state of California.

In 2017, it was concluded that CCCD had completed the necessary requirements for the return of local control to the local governing board, FCMAT had concerns regarding the fiscal health of the district. Therefore, as part of the 2017-2018 Budget negotiations between the Legislature and the Governor it was determined instead of returning local autonomy and authority to the governing board and therefore by default the Personnel Commission, the Legislature and the Governor heeded the recommendations of FCMAT and delegated the duties and authorities of the Personnel Commission from the special trustee to the local governing board. Furthermore, the State tied the funding provided to Compton College for the purpose of obtaining accreditation to the college completing and implementing the recommendations of FCMAT which included suspending the Personnel Commission until 2029-2030.

The year 2029-2030 is not a random date, it is in fact one year after the final loan payment CCCD will make on \$30 million state loan from 2006. Based on the January 2022, FCMAT report, CCD has roughly \$1.1 million in annual loan debt left and FCMAT has suggested the funding that would be relegated to paying the loan could be repurposed after the loan payment to fiscally support the Personnel Commission.

While it is completely within the purview of the Legislature to overrule decisions made in previous legislative sessions, the decision to retain the suspension on the Personnel Commission is directly tied to the \$11.3 million appropriated to Compton College in 2017-2018 Budget Act. Therefore, it would be within the purview of the Department of Finance to ask for the funding to be returned since Compton College did not implement ALL of the recommendation FCMAT made in the 2016 report. Therefore, AB 2359 not only overrules a negotiated agreement between the Legislature and the Governor, but it potentially risks the fiscal solvency of Compton College by potentially placing the college at risk of paying back the \$11.3 million apportionment. Furthermore, by rescinding the recommendations of FCMAT for Compton College and reinstating the Personnel Commission, the Legislature would be setting a precedence of questioning FCMAT's recommendations and FCMAT's ability to provide sound fiscal management could be jeopardized if districts know the Legislature will overturn FCMAT's recommendations.

Committee Staff understands from documentation provided by CCCD from public board meetings, the district has a financial plan to pay off the loan by 2026. Therefore, it is possible for the Personnel Commission to be operational prior to July 2029. However, CCCD has expressed a

myriad of fiscal constraints and demands that currently require attention including compensation increases, rising benefit costs, and declining enrollment. These fiscal demands of the limited operational finances raises concern for how the district will pay for an independent Personnel Commission with independent staff in the future. CCCD has estimates the annual cost of funding the Personnel Commission is roughly \$400,000 because of the desire to keep the staff separate from the human resources staff. While this is a local concern which should be addressed by the local governing board, Committee staff would recommend CCCD use the next few years to negotiate with Classified Staff to see if there is a way to reduce the cost of the Personnel Commission by utilizing human resource staff to assist the Personnel Commission as modeled by other districts.

To preserve the integrity of FCMAT's recommendations, the negotiated budget agreement from the 2017-2018 Budget Act, and to provide an additional layer of transparency, the Committee has negotiated the following amendments to be accepted by the Author for AB 2359 (Gipson) to pass out of Committee:

1) Section 71093 (c) (1) strikes out bill language and returns the language to existing law while removing the time restraint of who the Chancellor may select as the special trustee. "(2) The chancellor may appoint as a special trustee under this section a person who has served in a similar capacity before September 26, 2011. A special trustee appointed under this section shall serve at the pleasure of the chancellor."

The chancellor may appoint as a special trustee under this section a person who served in a similar capacity. A special trustee appointed under this section shall serve at the pleasure of the chancellor.

2) Section 71093 (d) strikes out bill language and adds the following:

~~*Notwithstanding any other law, nothing in this section shall limit the powers and duties of the Compton Community College District Personnel Commission.*~~

Notwithstanding any other provision of law, at any time that this section is in effect, the chancellor is authorized to assume, and delegate to the special trustee, those powers and duties of the Compton Community College District Personnel Commission that the chancellor determines are necessary for the management of the personnel functions of the Compton Community College District. The personnel commission may not exercise any of the powers or duties assumed by the chancellor.

(1) Notwithstanding any other law, (1) If and when the suspension of the authority of the board of trustees of Compton Community College is lifted pursuant to subdivision (a), the board of trustees shall assume those powers and duties of the Compton Community College District Personnel Commission that the board of trustees determines are necessary for the management of the personnel functions of the Compton Community College District. The personnel commission shall not exercise any of the powers or duties assumed by the board of trustees. This provision will remain in effect until one calendar year after Compton Community College district has repaid to the state the emergency apportionment funding pursuant to Education Code Section 41329.58. Beginning one calendar year after Compton Community College district has made its final payment to the state the emergency apportionment funding pursuant to Education Code Section 41329.58, the Compton Community Colleges Personnel Commission will be reinstated to exercise the powers or

duties necessary for the management of the personnel functions of the Compton Community College District.

(2) Beginning in the year Compton Community College has repaid the emergency apportionment pursuant to Education Code Section 41329.58, the board of trustees of Compton Community College district shall establish the Compton Community College District Personnel Commission in an advisory capacity. The board of trustees shall appoint three members to advise the board of trustees on the powers and duties assumed by the board pursuant to (d).

(3) Beginning on or before September 15th the year after the board of trustees of Compton Community College District establishes the Compton Community College District Personnel Commission in an advisory capacity pursuant to subdivision (e) (1), the Compton Community College District Personnel Commission shall provide a report of duties fulfilled in its advisory role to the board of trustees of the Compton Community College district and shall make the report available to the public on the Compton Community College district website.

3) Section 71093 (e) – adds this following language: (e) Beginning on or before September 15th, 2023 and annually thereafter, Compton Community College district shall provide to the Department of Finance, the Assembly Budget Subcommittee on Educational Finance and the Senate Budget Subcommittee on Education an update on their repayment of the emergency apportionment funding pursuant to Education Code Section 41329.58. The update shall include the principal loan balance, annual loan payment, and the loan re-payment schedule.

REGISTERED SUPPORT / OPPOSITION:

Support

California School Employees Association

Oppose

Compton Community College District
Fiscal Crisis and Management Assistance Team (FCMAT)

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