

Date of Hearing: April 26, 2022

**ASSEMBLY COMMITTEE ON HIGHER EDUCATION**

Jose Medina, Chair

AB 1815 (Nazarian) – As Amended April 21, 2022

**SUBJECT:** Cultural heritage destruction: California universities and museums

**SUMMARY:** Prohibits the California Community Colleges (CCC) and the California State University (CSU) from inviting, and would request the University of California (UC) to not invite, a sponsored professor, as defined, to any campus or facility if the professor is employed by a college or university that receives funding from a country that has received an adverse judgment regarding the destruction of cultural heritage artifacts or sites by the International Court of Justice (ICJ). Specifically, **this bill:**

- 1) Specifies that a museum in California that receives public funding will not display a country-funded item or artifact, including, but not limited to, a cultural artifact, if that country has received an adverse judgment by the ICJ regarding the country's destruction of cultural heritage artifacts or sites.
- 2) Specifies that a museum in California that receives public funding may prohibit the display of any item or artifact, including, but not limited to, a cultural artifact, that is suspiciously country-funded if that country has received an adverse judgment by the ICJ regarding the country's destruction of cultural heritage artifacts or sites.
- 3) A museum in California that receives public funding shall neither send to a country, nor receive from a country, any item or artifact, including, but not limited to, a cultural artifact, if that country has received an adverse judgment by the ICJ regarding the country's destruction of cultural heritage artifacts or cites.
- 4) The CCC and the CSU and each campus, branch, or function thereof must, and the University of California (UC) is requested to, not invite a sponsored professor to its campus or facility for the specified period if the sponsored professor is employed by a college or university that is funded by a country that has received an adverse judgment regarding the country's destruction of cultural heritage artifacts or sites by the International Court of Justice.
- 5) Defines "sponsored professor" to mean a person who participates in or observes teaching, research, or public service activities for more than 10 consecutive days, not including weekends or campus holidays, in collaboration with an employee or student of a California college or university, as defined.

**EXISTING LAW:**

- 1) Establishes the UC as a public trust to be administered by the Regents of the UC; and, grants the Regents full powers of organization and government, subject only to such legislative control as may be necessary to insure security of its funds, compliance with the terms of its endowments, statutory requirements around competitive bidding and contracts, sales of property and the purchase of materials, goods and services (Article IX, Section (9)(a) of the California Constitution).

- 2) Establishes the Donahoe Higher Education Act, setting forth the mission of the UC, CSU, and CCC (Education Code (EDC) Section 66010, et seq.).
- 3) Confers upon the CSU Trustees the powers, duties, and functions with respect to the management, administration, control of the CSU system and provides that the Trustees are responsible for the rule of government of their appointees and employees (EDC Sections 66606 and 89500, et seq.).
- 4) 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).
- 5) The California Cultural and Historical Endowment Act authorizes the endowment to make grants and loans on a competitive basis to public agencies and nonprofit organizations. (EDC Section 20050 et seq.)

**FISCAL EFFECT:** Unknown.

**COMMENTS:** *Double-referral.* AB 1815 was heard on April 19, 2022 in the Assembly Committee on Arts, Entertainment, Sports, Tourism, and Internet Media, where it passed with a vote of 6-0.

*Purpose of the bill.* According to the author, “As a global community, we have viewed cultural heritage destruction as a heinous act for over a century. Yet, it wasn’t until recently that we began to adjudicate cases that involved the destruction of cultural heritage—especially when states are involved. In 2021, the International Court of Justice (ICJ) issued a provisional order against Azerbaijan after Armenia brought a case against Azerbaijan. Through an adjudicated process, the court ordered Azerbaijan too, among other things, cease its destruction of Armenia’s cultural heritage. Unfortunately, the ICJ cannot enforce compliance leaving it to other nations to impose costs significant enough to dissuade Azerbaijan and future countries found to be committing cultural heritage destruction by the ICJ. Although California is limited in its ability to affect global actors, it does have a role to play that includes using its significant cultural influence to deter bad actors. California can play an essential part by refusing the privilege of our most sought-after cultural spaces to states found guilty of destroying the cultural heritage of another group.”

*International Court of Justice (ICJ).* The ICJ, also known as the World Court, is the main judicial organ of the United Nations. It was established in 1945 by the Charter of the United Nations and began work in April 1946. The seat of the Court is at the Peace Palace in The Hague (Netherlands). Of the six principal organs of the United Nations, it is the only one not located in New York.

The ICJ’s role is to settle, in accordance with international law, legal disputes submitted to it by countries and to give advisory opinions on legal questions referred to it by authorized United Nations organs and specialized agencies. If a country agrees to participate in a proceeding, it is obligated to comply with the ICJ’s decision.

The decision by the ICJ that likely triggered the introduction of this bill is a “provisional order” which some might analogize to a preliminary injunction in a U.S. Court, as opposed to a decision

or final judgment. Since international law typically moves very slowly, however, a provisional order is not typically issued lightly, especially in a case where a delay would result in even more irreparable harm, such as in the case of Armenia V. Azerbaijan, wherein Armenia claimed Azerbaijan was guilty of, among other things, destroying Armenian cultural heritage.

However, the author's concern has been raised by this "provisional order" and the bill seeks to leverage a form of sanctions against countries that have received an "adverse judgment" from the ICJ.

*Committee Comments.* The provisions of AB 1815 raise serious questions about the academic freedom provided to California's higher education segments. The UC, in communication with Committee staff, noted that "UC Subject Matter Experts, particularly the Academic Senate, are concerned that the bill may unintentionally chill academic freedom and research. For example, as currently drafted, the bill would seem to prohibit a professor from being invited to the University to speak against their country and educate others about the conflict or destruction occurring if their home institution received money from a country with an adverse judgment from ICJ."

The CSU noted in correspondence with Committee staff that AB 1815 "...is very broad, as it would limit scholars from visiting our campuses and harms student learning due to actions taken by countries which very likely have nothing to do with the individuals involved. It appears to make individuals responsible for [the] behavior of their governments and limits the abilities of our students to interact with and learn from these individuals. In practice, it would require the CSU to create a list and closely monitor the International Court of Justice to be certain that visitors, visiting faculty, and students and all museum displays do not interact with any person or object from a banned country..."

SR 45 (Min, 2022), a Resolution adopted by the California State Senate and supported by the Academic Senate of the California Community Colleges, notes "that the Senate recognizes that academic freedom, as defined by the American Association of University Professors, entitles teachers to 'full freedom in research and in the publication of the results, subject to the adequate performance of their other academic duties; but research for pecuniary return should be based upon an understanding with the authorities of the institution.'" Committee staff contends that the provisions of AB 1815 do not grant "full freedom in research," as it inherently restricts visiting faculty based on that faculty's employing university and country of origin.

The UC also noted in correspondence to Committee staff that AB 1815 "does not define "museum" for purposes of the restrictions it seeks to enact regarding publicly funded California museums. As such, the broad interpretation of the bill would be that the University as a whole could not display any item or artifact from one of the specified countries, or from sending/receiving items or artifacts to/from those countries. This would impact not just museums, but potentially affect UC displays, receipt, sending of items and artifacts from the affected countries in classrooms or departmental display cases, or sending and receipt by university researchers. This raises critical academic freedom and Constitutional autonomy concerns, even as the bill recognizes UC's Constitutional autonomy by 'requesting' rather than directing UC to comply with its provisions."

*Pending and prior legislation.* SB 1328 (McGuire, 2022), prohibits certain state and local entities from investing in and entering into contracts with entities in Russia and Belarus. This bill is pending in the Senate Committee on Appropriations.

SB 1231 (Corbett, 2010) sought to impose sanctions on companies that contract with entities in other countries where protections for workers were significantly less than the protections enjoyed by California workers. This bill was vetoed.

SB 1649 (Steinberg) of 2008 sought to require businesses to establish policies regarding slavery and human trafficking. It also sought to establish a commission on this subject. This bill was held in the Assembly Committee on Appropriations.

**REGISTERED SUPPORT / OPPOSITION:****Support**

None on file

**Opposition**

None on file

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