

Date of Hearing: April 2, 2019

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

AB 130 (Low and Eggman) – As Amended March 14, 2019

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

SUMMARY: Establishes the Higher Education Performance and Accountability Commission (HEPAC). Specifically, **this bill:**

- 1) Specifies that HEPAC is the statewide postsecondary education coordination and planning agency and is an independent state agency.
- 2) Requires HEPAC to serve as an advisory to the Governor, Legislature, other appropriate government officials, and institutions of postsecondary education.
- 3) Requires HEPAC be composed of six public members with experience in postsecondary education, appointed as follows:
 - a) Two members appointed by the Senate Committee on Rules;
 - b) Two members appointed by the Speaker of the Assembly; and,
 - c) Two members appointed by the Governor.
- 4) Specifies a member of HEPAC shall serve a term of four years, and may be removed by the appointing authority only for cause.
- 5) Requires HEPAC members to select a chairperson from among the membership.
- 6) Stipulates that HEPAC members shall serve without compensation, but shall receive reimbursement for actual and necessary expenses incurred in connection with the performance of their duties.
- 7) Requires HEPAC appoint an executive director, who shall perform all duties, exercise all powers, assume and discharge all responsibilities, and carry out and effect all purposes vested by law in HEPAC, including contracting for professional or consulting services in connection with the work of the HEPAC.
- 8) Authorizes the executive director to appoint persons to any staff positions the HEPAC may authorize.
- 9) Specifies that HEPAC meetings are subject to the Bagley-Keene Open Meeting Act and that HEPAC materials must be posted on the internet.
- 10) Requires HEPAC to meet at least quarterly, and to appoint one of its members as the liaison for purposes of communicating with the Legislature.

- 11) Tasks HEPAC with developing an independent annual report on the condition of higher education in California.
- 12) Requires the report, per (11), to be transmitted to the chairpersons of the Assembly Committee on Higher Education and the Senate Committee on Education and to the Governor on or before July 1 annually.
- 13) Requires HEPAC to hold at least one special meeting to consult with stakeholders before issuing its annual report. These stakeholders shall include, but are not necessarily limited to, all of the following:
 - a) The California Community Colleges (CCC) Chancellor, or the chancellor's designee;
 - b) The California State University (CSU) Chancellor, or the chancellor's designee;
 - c) The University of California (UC) President, or the president's designee;
 - d) The president of the Association of Independent California Colleges and Universities, or the president's designee;
 - e) The Superintendent of Public Instruction, or the Superintendent's designee;
 - f) The chairperson of the Intersegmental Committee of the Academic Senates, or the chairperson's designee;
 - g) The executive director of the California Workforce Development Board, or the executive director's designee;
 - h) The executive director of the Student Aid Commission, or the executive director's designee; and,
 - i) The president of the Cal State Student Association, the president of the University of California Student Association, or the president of the Student Senate for California Community Colleges, or the designee of one of those individuals.
- 14) Requires HEPAC to consult with the higher education segments and stakeholders, as appropriate, in the conduct of its duties and responsibilities.
- 15) Specifies that HEPAC exists for the purpose of advising the Governor, Legislature, and other appropriate governmental officials and institutions of postsecondary education.
- 16) Stipulates HEPAC's functions and responsibilities in its capacity as the statewide postsecondary education coordination and planning agency and adviser to the Legislature and the Governor:
 - a) It shall, 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 specified goals and takes into consideration the specified metrics;
 - b) It shall, biennially, interpret and evaluate both statewide and institutional performance in relation to these goals and priorities;

- c) It shall review and make recommendations, as necessary, regarding cross-segmental and interagency initiatives and programs in areas that may include, but are not necessarily limited to, efficiencies in instructional delivery, financial aid, transfer, and workforce coordination;
 - d) It shall advise the Legislature and the Governor regarding the need for, and the location of, new institutions and campuses of public higher education;
 - e) It shall review proposals by the public segments for new programs, the priorities that guide the public segments, and the degree of coordination between those segments and nearby public, independent, and private postsecondary educational institutions, and shall make recommendations regarding those proposals to the Legislature and the Governor; and,
 - f) It shall act as a clearinghouse for postsecondary education information and as a primary source of information for the Legislature, the Governor, and other agencies. It shall 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) Maintains compatibility 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 segments of higher education; and,
 - v) Provides each of the educational segments access to the data made available to the HEPAC for purposes of the database in order to support, most efficiently and effectively, statewide, segmental, and individual campus educational research information needs.
- 17) Requires HEPAC to comply with the federal Family Educational Rights and Privacy Act of 1974, as it relates to the disclosure of personally identifiable information concerning students, and stipulates that HEPAC shall not make available any personally identifiable information received from a postsecondary educational institution concerning students for any regulatory purpose.
- 18) Stipulates HEPAC, in consultation with the stakeholders, per (13), to provide 30-day notification to the chairpersons of the appropriate policy and budget committees of the Legislature, the Director of Finance, and the Governor before making any significant changes to the student information contained in the database.
- 19) Requires HEPAC to review all proposals for changes in eligibility pools for admission to public institutions and segments of postsecondary education, make recommendations regarding the proposals to the Legislature, Governor, institutions of postsecondary education.

- 20) Authorizes HEPAC to periodically conduct a study on the percentages of California public high school graduates estimated to be eligible for admission to the UC and the CSU.
- 21) Requires HEPAC to manage data systems and maintain programmatic, policy, and fiscal expertise to receive and aggregate information reported by institutions of postsecondary education in the state.
- 22) Authorizes HEPAC to require the governing boards and the institutions of postsecondary education to submit data to HEPAC on plans and programs, costs, selection and retention of students, enrollments, plant capacities, and other matters pertinent to effective planning, policy development, and articulation and coordination.
- 23) Authorizes HEPAC to provide information, per (22), to the Governor and the Legislature as requested.
- 24) Requires, on or before December 31 of each year, HEPAC to report to the Legislature and the Governor its progressing in achieving its the objectives and responsibilities.
- 25) Requires the Legislative Analyst's Office, on or before January 1, 2025, and every five years thereafter, to review and report to the Legislature regarding the performance of HEPAC in fulfilling its functions 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

COMMENTS: *Background on CPEC.* As specified in the "Existing Law" section of this analysis, 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. Currently no coordinating entity for higher education in California exists.

Post CPEC. 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 UC and CSU 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 and 2016-17 Budget Acts. The 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 the measure. According to the author, "AB 130 represents the next necessary step in establishing greater clarity and accountability for our higher education system's performance in meeting the statewide goals outlined in the Master Plan of equity, access, and success; alignment with workforce needs; and the effective and efficient use of resources".

This measure establishes the Higher Education Performance and Accountability Commission as the statewide postsecondary coordination and planning entity; outlines its responsibilities, functions and authorities; and, requires the Legislative Analyst's Office to report to the Legislature on the performance of the Commission.

Need for a statewide higher education coordinating body? According to the March 2019 California Competes report, *The Case for a Statewide Higher Education Coordinating Entity*, California is one of two states without a central organizing body to guide the unique challenges the postsecondary institutions higher education face. The report finds that in the absence of coordination, each of the state's public higher education segments (the CCC, CSU, and UC) function in siloes. Further, the report finds that the lack of a statewide coordinating body for higher education has resulted in no authority for statewide goal-setting, no comprehensive strategic planning, no longitudinal education data system, and inadequate mechanisms to assist students' progress as they matriculate through and between systems. Additionally, the report contends that, without a coordinating entity:

- 1) California will continue to lag in degree production;
- 2) Planning for the future will continue to be clumsy and inadequate;
- 3) Higher education data systems will remain fragmented and incomplete; and,
- 4) Students will continue to slip through the cracks.

Finally, the report finds that California needs an independent, statewide coordinating entity to uphold a public agenda for higher education that links the needs of the state's economy to experiences and outcomes of California's students.

According to the March 2019, Public Policy Institute of California (PPIC) report, *Coordinating California's Higher Education System*, receiving a postsecondary education continues to become increasingly important to California's economy and quality of life. The PPIC report suggests that in order to help state leaders determine how to best design a more effective coordinating body (to note, PPIC contends a coordinating body is definitely needed in this state), it is important to understand the struggles CPEC faced. The report finds that effective coordination must reflect the reality of higher education in the state – the governance challenges, campus and segment

incentives, and other factors that influence institutional decisions. Further, the report finds that, several factors reduced CPEC's ability to effectively coordinate the state's higher education system, in part:

- 1) A lack of clear state goals for higher education;
- 2) A lack of a clear mission in CPEC's statutory charter; and,
- 3) It was designed for consensus, not leadership.

Further, the report finds that an effective coordinating body needs to be a part of state government, subject to all state rules and procedures regarding transparency and accountability. Finally, the report finds that the best approach to a new higher education coordinating body is to have such a body that operates independently and advises both the Governor and the Legislature; this would strengthen the Legislature's capacity to address important higher education issues and having an independent entity could provide the Legislature an objective view on current issues and assist in developing solutions to resolving the issues.

Committee comments and considerations. As reflected in the "related legislation" portion of this analysis, AB 130 is yet another attempt of the Legislature in the past several years to authorize and create a new coordinating body.

As currently drafted, this measure requires HEPAC to hold at least one special meeting to consult with stakeholders before issuing a required independent annual report on the condition of higher education in the state. However, it is presently unclear how, aside from the stakeholders named in the measure, other stakeholders would be determined, and what types of stakeholders should be involved (students, faculty, higher education think tanks, etc.).

Further, as aforementioned, the measure requires HEPAC to submit an annual report. As the measure is currently drafted, it is presently unclear as to the full purpose of the report. That is to say, what specifically is HEPAC to report and how would the stakeholders assist in drafting the report, or would they assist?

Moving forward, the author may wish to address the various comments as the Legislature seeks to create a new independent higher education coordinating entity.

Related legislation. SB 3 (Allen), which is pending a hearing in the Senate Education Committee, establishes the Office of Higher Education Coordination, Accountability, and Performance under the administration of a governing board composed of five members.

Prior legislation. Over the course of the past several years, there have been numerous measures proposing to replace CPEC. As seen below, all but one have been held in of the Legislative fiscal committees:

- 1) AB 1936 (Low) of 2018, which was held on Suspense in Assembly Appropriations, is similar in nature to this measure.
- 2) AB 217 (Low) of 2017, which was held on Suspense in Assembly Appropriations, was virtually identical to AB 1936.

- 3) AB 1038 (Bonta) of 2017, which was held on Suspense in Assembly Appropriations, in part, established a Blue Ribbon Commission on Public Postsecondary Education to provide research and recommendations regarding California higher education.
- 4) AB 1837 (Low) 2016, which was held on Suspense in Senate Appropriations, was virtually identical to AB 1936.
- 5) AB 2434 (Bonta) of 2016, which was held on Suspense in Assembly Appropriations, was substantially similar to AB 1038.
- 6) SB 42 (Liu) of 2015, which was substantially similar to this measure, was vetoed, with Governor Brown stating, in part, "While there is much work to be done to improve higher education, I am not convinced we need a new office and an advisory board, especially of the kind this bill proposes, to get the job done."
- 7) AB 1348 (John A. Pérez) of 2014, which was held on Suspense in Senate Appropriations, established the California Higher Education Authority, its governing board, and its responsibilities.
- 8) AB 2190 (John A. Pérez) of 2012, which was held on Suspense in Assembly Appropriations, established a new state oversight and coordinating body for higher education.

REGISTERED SUPPORT / OPPOSITION:**Support**

California Competes
California Federation of Teachers
California School Employees Association

Opposition

None on file.

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