Date of Hearing: April 21, 2015

ASSEMBLY COMMITTEE ON HIGHER EDUCATION
Jose Medina, Chair
AB 1317 (Salas) – As Introduced February 27, 2015

SUBJECT: Public postsecondary education: executive officer compensation

SUMMARY: Establishes requirements regarding executive compensation increases at the California State University (CSU), and requests compliance by the University of California (UC). Specifically, **this bill**:

1) Finds and declares all of the following:

   a) On November 19, 2014, the UC Regents voted on a "five-year stability plan," which establishes annual tuition and student fee increases of up to 5 percent per year for both undergraduate and graduate students, with increase levels contingent on state funding;

   b) While increasing tuition costs for students, the regents also approved compensation increases of up to 20 percent for several chancellors and executives;

   c) Twelve CSU campuses have imposed "student success fees" of up to nearly eight hundred dollars ($800) per student, charged in addition to tuition, to augment academic services and hire faculty;

   d) On November 13, 2014, the CSU Trustees approved a 3-percent compensation increase for top executives;

   e) As public institutions designed to serve students, state universities have a responsibility to keep education accessible and affordable and to prioritize student needs over executive pay; and,

   f) The State of California has an interest in holding state universities accountable and maintaining affordability in higher education.

2) Prohibits the CSU trustees from increasing the compensation of any executive officer when the amount of mandatory systemwide student fees and tuition of the university has been increased at any time in the immediately preceding four years.

3) Defines "executive officer" to include, but not be limited to, the CSU Chancellor, a vice chancellor, an executive vice chancellor, the general counsel, the trustees' secretary, or a president of a campus.

4) Applies the aforementioned restriction only to executive officers that enter into or renew contracts for employment with CSU on or after January 1, 2016.

5) Requests the UC Regents to comply with the aforementioned prohibitions.

EXISTING LAW:

1) Establishes UC as a public trust and confers the full powers of the UC upon the UC Regents. The Constitution establishes that the UC is subject to legislative control only to the degree necessary to ensure the security of its funds and compliance with the terms of its endowments. Judicial decisions have held that there are three additional areas in which there may be limited legislative intrusion into university operations: authority over the appropriation of state moneys; exercise of the general police power to provide for the public health, safety and welfare; and, legislation on matters of general statewide concern not involving internal university affairs. (Constitution of California, Article IX, Section 9)

2) Declares the Legislature's intent that no proposal relating to the salary, benefits, perquisite, severance payments (except in the case of a dismissal or litigation settlement), retirement benefits or any other form of compensation paid to an officer of the UC become effective unless specified notice requirements have been met and action taken in an open session meeting of the regents. (Education Code Section 92032.5)

3) Establishes the CSU Trustees to administer the CSU and provides the Trustees authority and directives regarding personnel matters. (EDC Section 66600 and 89500 et.seq.)

4) Requires proposals for the compensation package of specified CSU executive officers (the Chancellor, president of an individual campus, vice chancellor, treasurer, general counsel and the trustee's secretary) occur in open sessions of a committee of the trustees and the full board of trustees, as specified. (EDC Section 66602.7)

FISCAL EFFECT: Unknown

COMMENTS: *Purpose of this bill.* According to the author, during the last decade, both the CSU and UC systems have increased tuition while also increasing executive pay for some executive officers. The author argues that "at a time when access, affordability, and diversity are in question, we need to ensure our institutions are utilizing the limited public resources appropriately." The author argues this measure will "help foster the transparency in our educational systems so that the public continues to have confidence in our institutions while allowing the CSU and UC to provide high quality education."

Background on CSU Executive Compensation. In November of 2007, the Bureau of State Audits (BSA) released an audit (Report 2007-102.1) reviewing the CSU compensation practices. The BSA revealed, among other findings, that CSU had not developed a system to adequately monitor adherence to compensation policies, concerns had been raised about the methodology used to justify salary increases for some executives, and some Management Personnel Plan employees received questionable compensation after they were no longer providing services to the university or were transitioning to faculty positions. The BSA made a number of recommendations to improve CSU compensation policies, including, improving systemwide data collection, working with interested parties to adjust methodology for determining salary increases, and establishing clear expectations for transitioning executives.

CSU executive compensation reforms. In July 2011, the Trustees appointed a special committee to review the policy regarding the selection of presidents, as well as the policies and practices with respect to executive compensation. In January 2012, the Trustees adopted a new compensation policy for the CSU which, among other things, expressed intent to compensate in a manner that was fiscally prudent in respect to the system budget and state funding, to evaluate compensation based on periodic market comparison surveys, to have presidential compensation guided by the mean of the appropriate tier of comparison institutions, as well as other factors, and until otherwise determined by the Trustees, to cap the amount of the initial base salary paid to a new campus president from public funds at the previous incumbent's pay. Salary compensation above the incumbent's base pay deemed necessary to retain the best leader could be paid from foundations, but not in excess of 10% of the base salary. In addition, in November 2012 the new CSU Chancellor voluntarily took a 10 percent reduction in the compensation package he was offered by the CSU Trustees.

Background on UC Executive Compensation. In May of 2006, the Bureau of State Audits (BSA) released an audit (Report 2006-103) reviewing UC compensation practices and finding that stricter oversight and greater transparency were needed to improve practices. The BSA's recommendations included improving use of the Corporate Personnel System to track employee compensation, tracking approved exceptions to UC compensation policies and identifying unauthorized exceptions to policies, and requiring highly paid university employees to disclose all forms of compensation.

UC Compensation Reforms. In response to issues raised by audits and management reviews, legislative hearings, and media reports, UC enacted several reforms to improve transparency and accountability regarding compensation practices. These reforms include providing an annual report to the Legislature on senior management compensation and reform efforts, annually auditing senior management compensation, establishing new policies governing oversight and market appropriateness of senior management compensation, expanding public disclosure of salaries, and establishing comprehensive and ongoing review of compensation-related policies.

Issues to consider. This bill would place policies governing executive compensation in statute rather than leaving these decisions to the UC Regents and CSU Trustees. The committee may wish to consider the following:

1) Will eliminating pay increases for executives for four years after a fee increase affect California's ability to retain high quality professionals? Will this policy result in increased turnover in executive positions? *The committee may wish to amend this bill to specify that the limitation applies for two budget years, rather than four calendar years.*

2) The fee levels set by the institutions are historically tied to the funding decisions made in the annual Budget Act by the Legislature and the Governor. Should the discretion of CSU and UC to compensate leadership be tied to budget related decisions of the Legislature and the Governor? How do fee levels link to the management and leadership needs of the institutions?

3) In February 2015, the Joint Legislative Audit Committee approved a Bureau of State Audits (BSA) review of UC. The scope of the audit includes a review of compensation packages for top executives and management for the most recent five years. BSA is tasked with identifying trends and comparing compensation packages to other public and private universities. Is it appropriate to wait for the results of this audit, which is scheduled to begin in July, prior to enacting statutory changes?

4) As drafted, this bill would restrict the use of funds for compensation regardless of the source. Should the Legislature restrict the discretion of a foundation to use private funds to supplement public funding for executive salaries? ***The author has agreed to accept***

amendments to clarify that the limitation imposed by this bill does not impact the use of private funds to supplement executive salaries.

Related legislation.

AB 837 (Hernández) was approved by this committee on April 8, 2015. AB 837 would cap UC employee salaries at $500,000 annually, and require reporting on salaries and funding sources.

Prior legislation.

SB 8 (Yee) of 2013, held in the Senate Education Committee, would have established conditions, similar to those contained in this bill, on granting executive compensation increases by California State University (CSU) for any employment contract after January 1, 2014; UC was requested to comply with these provisions.

AB 1561 (Hernández) of 2012, held in the Assembly Appropriations Committee, would have limited compensation increases for certain executive-level positions at UC and CSU.

AB 1684 (Eng) of 2012, held in the Assembly Appropriations Committee, would have limited the pay of California Community College Chancellors to no more than twice the highest faculty member salary.

SB 952 (Alquist) of 2012, held in the Assembly Appropriations Committee, would have limited administrator salary increases using state fund to 10% above the predecessor's salary.

SB 967 (Yee) of 2012, which failed passage in the Senate Education Committee, capped compensation at 5% of the predecessor's total compensation.

SB 1368 (Anderson) of 2012, held in the Senate Governmental Organization Committee, would have limited the annual rate of salary of a state officer or employee to the annual salary authorized to be received by the Governor.

ABx1 39 (Hernández, 2011), which was not heard by the Legislature, was substantially similar to AB 837.

SBx1 26 (Lieu, 2011), which was not heard by the Legislature, established various limitations on executive compensation.

SB 217 and SB 86 (Yee) of 2009 were similar to SB 967. SB 217 was held in the Assembly Appropriations Committee and SB 86 was vetoed by Governor Schwarzenegger.

REGISTERED SUPPORT / OPPOSITION:

Support

None on File

Opposition

California State University
University of California

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