Date of Hearing: April 9, 2019

ASSEMBLY COMMITTEE ON HIGHER EDUCATION
Jose Medina, Chair
AB 1346 (Medina) – As Amended April 1, 2019

**SUBJECT**: Postsecondary education: California Private Postsecondary Education Act of 2009: Student Tuition Recovery Fund

**SUMMARY**: Expands the definition of economic loss, as it pertains to the Student Tuition Recovery Fund (STRF) to include all amounts paid by a student to the institution, any amounts paid in connection with attending the institution, and all principal, interest, and charges of any kind for any loan incurred by the student to pay these amounts. Specifically, **this bill**:

1) Defines "economic loss" to include, but not necessarily limited to, pecuniary loss, which is the sum of all amounts paid by the student to the institution, any amounts paid in connection with attending the institution, and all principal, interest, and charges of any kind for a loan incurred by a student to pay these amounts. Economic loss shall also include the amount the institution collected from and failed to refund to third parties on behalf of the student.

   a) Economic loss does not include STRF assessments, unless the student is entitled to a full refund, as specified, or nonpecuniary damages such as inconvenience, aggravation, emotional distress, or punitive damages.

   b) Economic loss does not include legal fees, attorney fees, court costs, or arbitration fees unless awarded to the student pursuant to a court or arbitrator award and the student is eligible for payment from the STRF pursuant to as specified.

   c) Specifies the subdivision shall not prevent the Bureau for Private Postsecondary Education (BPPE) from further defining economic loss to include loss of educational opportunity.

2) Specifies that a student who was enrolled at a California campus of a Corinthian Colleges, Inc. (CCI), institution or was a California student enrolled in an online program offered by an out-of-state campus of a CCI institution, who also meets all of the other eligibility requirements, if the student was residing in California and attending a campus of a CCI institution on or after January 1, 2010, is eligible for payment from the STRF.

**EXISTING LAW**:

1) Establishes the California Private Postsecondary Education Act of 2009 (Act) until January 1, 2021, and requires BPPE, within the Department of Consumer Affairs (DCA) to, in part, review, investigate and approve private postsecondary institutions (or institutions), programs and courses of instruction pursuant to the Act and authorizes BPPE to take formal actions against an institution/school to ensure compliance with the Act and even seek closure of an institution/school if determined necessary. The Act requires unaccredited degree-granting institutions to be accredited by an accrediting agency recognized by the U.S. Department of Education by 2020. The Act also provides for specified disclosures and enrollment agreements for students, requirements for cancellations, withdrawals and refunds, and that

the BPPE shall administer the STRF to provide refunds to students affected by the possible closure of an institution/school. (Education Code (EDC) Section 94800 et. seq.)

2) Authorizes a California student of a CCI institution who meets all of the other eligibility requirements, including that the student was enrolled as of June 20, 2014, or withdrew within 120 days of that date, to receive payment from the fund. (EDC Section 94923)

3) Defines economic loss, for the purposes of a student's loss that may be relieved or mitigated through the STRF, to include but not necessarily be limited to, pecuniary loss, which is the sum of the student's tuition, all other institutional charges, the cost of equipment and materials required for the educational program, and interest on any student loan used to pay for such charges. (EDC Section 94923)

4) Establishes that the amount in the STRF shall not exceed 25 million dollars at any time, and that, if the bureau has temporarily stopped collecting the Student Tuition Recovery Fund assessments because the fund has approached the 25 million dollar limit, the bureau shall resume collecting STRF assessments when the fund falls below 20 million dollars. (EDC Section 94925)

5) Sets the current assessment fee at zero dollars per 1,000 dollars of institutional costs. (California Code of Regulations Section 76120)

**FISCAL EFFECT**: Unknown.

**COMMENTS**: *Need for the bill*. According to the author, "STRF's definition of "economic loss" is unjustly narrow and prevents students from recovering the true cost of their loss. Currently, the definition of "economic loss" is limited to tuition, books, and other charges paid directly to the school."

"However, the costs of attending college far exceed the costs of tuition and books alone. Many students give up their jobs and take out private loans to cover other associated expenses, including housing, child care, and transportation."

"As many of these students are first-generation and/or low-income college students, the additional losses suffered by these students can be catastrophic, additionally due to the fact that the private student loans often used to cover these expenses are not included in federal closed school discharges."

"AB 1346 will expand the definition of "economic loss" to allow students to recover losses beyond tuition expenses, including housing, transportation, and childcare, as well as any expenses incurred by the student as a result of the closed school, such as transcript fees or the cost of services related to debt relief. This way, these students won't be subject to demoralizing debt collection and lawsuits from private student loan collectors for a worthless education. To recover these losses, AB 1346 will require the student to show that the non-tuition expenses were related to attendance at the private for-profit school that closed, by providing documentation of such expenses."

*Background on BPPE*. The BPPE is responsible for oversight of private postsecondary educational institutions operating with a physical presence in California. Established by AB 48

(Portantino, Chapter 310, Statutes of 2009) after numerous legislative attempts to remedy the laws and structure governing regulation of private postsecondary institutions, the bill took effect January 1, 2010, to make many substantive changes that created a foundation for oversight and gave the BPPE enforcement tools to ensure schools comply with the law.

AB 48 established BPPE's authority to regulate private postsecondary institutions and enforce the provisions of the new Act and to respond to the major problems with the former laws governing the industry in California. The Act provides for prohibitions on false advertising and inappropriate recruiting and requires disclosure of critical information to students such as program outlines, graduation and job placement rates, and license examination information, and ensures colleges justify those figures. The Act also provides BPPE with enforcement powers necessary to protect consumers. The Act directs BPPE to:

1) Create a structure that provides an appropriate level of oversight, including approval of private postsecondary educational institutions and programs;

2) Establish minimum operating standards for California private postsecondary educational institutions to ensure quality education for students;

3) Provide students a meaningful opportunity to have their complaints resolved;

4) Ensure that private postsecondary educational institutions offer accurate information to prospective students on school and student performance; and,

5) Ensure that all stakeholders have a voice and are heard in the operations and rulemaking process of BPPE.

BPPE is also tasked with actively investigating and combatting unlicensed activity, administering the STRF, and conducting outreach and education activities for students and private postsecondary educational institutions within the state.

*STRF background*. The STRF is an important tool to assist harmed students. STRF, administered by the BPPE, exists to relieve or mitigate economic loss suffered by students enrolled at non-exempt private postsecondary education institutions due to the institutions' closure, the institutions' failure to pay refunds or reimburse loan proceeds, or the institutions' failure to pay students' restitution award for a violation of the Act. Students enrolled in institutions that are exempt from, or not covered by the Act are not eligible for STRF.

Due to broad exemptions in the Act, over 13,000 students enrolled in Heald College (owned by CCI) at the time of the institution's unlawful closure were not eligible for STRF. Further, as a result of the requirement in the Act that schools under BPPE oversight have a physical presence in the state, a number of California students enrolled in Everest Online (owned by CCI but housed outside of California) were not eligible for STRF.

SB 1192 (Hill, Chapter 593, Statutes of 2016) made several modifications to the STRF in response to lessons learned from the closure of CCI schools, and also provided that a student who was enrolled at a California campus of CCI, or was a California student enrolled in an online program offered by an out-of-state campus of a CCI institution, who also meets all of the other eligibility requirements, if the student was enrolled as of June 20, 2014, is eligible for STRF.

*Economic loss*. Under current law, the definition of "economic loss" excludes many elements that represent a student's total cost of attendance. As noted by the author, many students take on additional debt in order to cover expenses like rent and child care. The federal definition used while determining financial need includes tuition and fees; on-campus room and board (or a housing and food allowance for off-campus students); and allowances for books, supplies, transportation, loan fees, and, if applicable, dependent care. It can also include other expenses like an allowance for the rental or purchase of a personal computer, costs related to a disability, or costs for eligible study-abroad programs.

*Expansion of STRF eligibility*. In March 2016, the California Attorney General obtained a default judgment for illegal and deceptive business practices against CCI that provides for $820 million in restitution to all California residents who attended any CCI college on or after Jan. 1, 2010. The Attorney General, however, was not able to collect and pay this restitution to students, due to CCI's bankruptcy. As a result, all CCI students covered by this judgment are now eligible for relief under STRF, except for Heald College and distance education students who enrolled before June 20, 2014. AB 1356 expands the STRF eligibility for CCI students who were residing in California and attending a campus of a CCI institution on or after January 1, 2010.

*STRF fund status*. As of January 18$^{th}$, 2019, the balance of the STRF is $26,143,000 dollars.

*Arguments in support*. A coalition representing student, veteran, civil rights, and higher education advocates jointly wrote that, "Californians have been disproportionately affected by the sudden closure of schools including CCI, Westwood College, Marinello Schools of Beauty, ITT Technical Institute, and most recently Brightwood Colleges. California's STRF program is designed to protect and assist students who have been harmed in the event of a school closure. The intent of STRF is to allow the student to recover the economic losses they have suffered due to the negligence of the school, but the amount is currently limited to the cost of tuition and institutional costs."

"The true cost of attendance, as defined under federal law, far exceeds the cost of tuition and institutional costs. By limiting the definition of "economic loss" to tuition and other direct costs of enrollment, STRF fails to recognize much of the financial harm students have experienced. Many of the students targeted by for-profit colleges are first-generation college students, single parents, foster youth, and veterans – groups that are ill-positioned to absorb such a loss and that are particularly harmed by an insufficient safety net…Giving harmed Californians a fresher start would better position them to restart their college educations at a more reputable school, in order to earn the college credentials needed by them and the state."

**REGISTERED SUPPORT / OPPOSITION**:

**Support**

California Conference of the American Association of University Professors
California Low-Income Consumer Coalition
Center for Public Interest Law
Children's Advocacy Institute

Consumer Federation Of California
Consumer Reports Advocacy
Housing and Economic Rights Advocates
Public Advocates, Inc.
Public Counsel
Public Law Center
SEIU California
The Century Foundation
The Institute for College Access and Success
Veterans Education Success
Veterans Legal Clinic

**Opposition**

None on file.

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