

Date of Hearing: April 25, 2023

ASSEMBLY COMMITTEE ON HIGHER EDUCATION
Mike Fong, Chair
AB 266 (Boerner) – As Introduced January 19, 2023

SUBJECT: Legislative Internship Program

SUMMARY: Establishes the Legislative Internship Program under the jurisdiction and administration of the California State University’s Center for California Studies for the purpose of providing interns in the offices of elected officials of the California State Assembly and Senate. Specifically, **this bill:**

- 1) Defines the following:
 - a) “Center” means the California State University’s Center for California Studies;
 - b) “Fund” means the Legislative Internship Program Fund;
 - c) “Office” means an office of a Member of the Legislature participating in the program; and,
 - d) “Program” means the Legislative Internship program.
- 2) Establishes the Legislative Internship Program under the administration of the Center. Requires the Center to collaborate with the University of California (UC), the California Community Colleges (CCC), and the Association of Independent California Colleges and Universities (AICCU) to ensure access to the internship program for all students enrolled in a variety of programs throughout the state.
- 3) Authorizes the Center, upon the annual appropriation of \$2,000,000 from either the annual Budget Act or another statute, to do the following:
 - a) Use up to \$40,000 of each annual appropriation for the administration and solicitation of program applications; and,
 - b) Provide two paid internship positions per year to each office, with each paid internship position receiving a weekly stipend of \$340 each week for the 20 hours of work performed by the student intern each week.
- 4) Stipulates that each paid internship position will last for at least three months, but will not exceed six months. The student interns will perform duties that serve a legislative purpose and will not engage in political activity as part of their internship.
- 5) Endows the center with the following responsibilities:
 - a) Develop an application process by which students, who attend any accredited postsecondary education institution, in the state can apply to participate in the program;
 - b) Develop a broad and effective outreach effort to promote the program;

- c) Conduct a selection process for applicants who apply to participate in the program;
- d) Enter into a memorandum of understanding with the Legislature to accomplish the following:
 - i) The development of a system for placing qualified candidates into offices as interns under the program;
 - ii) The development of a system for monitoring interns during their internship;
 - iii) The development of an internship supervisor in each office with an intern;
 - iv) Providing a written description to interns of tasks and responsibilities they are to complete while interning in the offices; and,
 - v) Providing interns with appropriate training and materials including mandatory employee training; and,
- e) Determine criteria for selecting qualified candidates. The criteria will include, but is not limited to:
 - i) Requiring the applicant to be at least 18 years of age, a resident of the state, and enrolled at an accredited postsecondary educational institution in the state;
 - ii) A process for receiving and reviewing an applicant's academic and employment records and letters of recommendation. This will be implemented in a manner that protects the privacy of the applicant; and,
 - iii) Internship interviews for qualified applicants with offices for the program.
- 6) Stipulates when an intern is placed in an office, they are an hourly employee of the center and it is the intention of the Legislature that interns are paid a weekly stipend of \$340 a week. Does not stipulate an assumption of an employment relationship between the intern and any office of the Legislature.
- 7) Clarifies that the creation of the Legislative Internship Program does not preclude any office from having volunteers, including unpaid interns.
- 8) Establishes the Legislative Internship Program Fund for the depository of funds either appropriated or donated to the program. The Center will administer the fund. The funds will be paid to interns as part of the program, and funds expended for the purpose of paying interns are not expenditures of the Legislature for operating expenses and equipment, as defined.
- 9) Authorizes the Center to develop rules governing the administration of the program and the fund.
- 10) Removes the ability for funds allocated for the Legislature, as defined, to be used for paid internship positions in an office of a member of the Senate or Assembly, as defined. Clarifies this does not remove the authority for an office of a member of the Senate or the Assembly to have unpaid volunteers including unpaid interns.

EXISTING LAW: *Below are the laws pertaining to AB 266 (Boerner) within the jurisdiction of the Higher Education Committee; however Committee staff note labor and government laws could also pertain to the provision.*

- 1) Establishes the CCC under the administration of the BOG of the CCC, as one of the segments of public postsecondary education in California. The CCC shall be comprised of community college districts (Education Code (EDC) Section 70900).
- 2) Establishes the CSU system, comprised of 23 campuses, and bestows upon the CSU Trustees, through the BOT, the power, duties, and functions with respect to the management, administration, and control of the CSU system (EDC Sections 66606 and 89000 et. Seq.).
- 3) Establishes the UC as a public trust to be administered by the Regents and grants the Regents full powers of organization and governance subject only to legislative control as necessary to ensure the security of funds, compliance with terms of its endowments, and the 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).

FISCAL EFFECT: Unknown

COMMENTS: *Purpose.* As expressed by the author, “AB 266 seeks to provide a path to public service for students interested in pursuing a career with the Legislature by providing eligible students with financial compensation as they perform their duties as legislative staff. For the Legislature, the Legislative Internship Program would provide a pipeline of diverse talent.”

In June 2022, the Biden Administration announced interns who participate in the White House Internship Program would now be paid. The announcement was seen as a progressive step and a significant milestone in providing equitable access to the Nation’s capital for interns regardless of their socioeconomic background. By providing paid internships, the Biden Administration was creating a workforce pipeline devoid of barriers for low-income and first-generation professionals at the beginning of their careers. After securing paid internships for students at the highest levels of the United States Government, the advocacy groups turned their sights to California and the genesis of this bill was due in part to their advocacy. This bill would provide paid internships in Legislative offices for all college students regardless of their income or their connections within the Legislature. An article in the Sacramento Bee by Kim Bojórquez, published in May 2021, stipulated 90% of California Capitol interns are unpaid by the Legislature. Specifically, in May 2021, there were 27 unpaid interns working in the California State Senate (Senate) and there were 65 unpaid interns working in the California State Assembly (Assembly). This bill would establish a pathway for paid internships for college students without disrupting the funding stream currently used for staff salaries.

In July 2020, the National Association of Colleges and Employers published results from their 2019 Student Survey and the results showed equity gaps in internship attainment among college students. Specifically, an analysis of the data found, Caucasian students are more likely to be paid interns, and Black, Latinx, and multi-race students are not only underrepresented in internship programs but are typically unpaid interns. This bill would provide greater access to Legislative Offices for students of all socioeconomic and demographic backgrounds by removing the need for students to have additional funds to participate in the internship and the

need to “know someone” to secure an internship and instead provide an equitable pathway for all students for paid internships.

California State Legislature. The California State Legislature, established in 1849, with the California State Constitution, is comprised of 120 members divided into a bicameral house of the Senate and Assembly. There are 80 elected member offices in the Assembly and 40 elected member offices in the Senate. Each house is governed by its own house rules and at the beginning of each two-year session, the houses agree to bicameral rules of governance.

Each house has a different manner of providing funding for the elected member’s office budgets. By extension, how the staff is paid and the pay scale for promotion are different for each house. For example, the Senate has salary schedules for staff and offers the opportunity for merit raises each year; whereas, the Assembly has salary ranges for staff and grants the opportunity for merit raises every two years. Budgets, expenditures, and salaries for both the Senate and Assembly are available on each house’s respective website in order to provide full transparency to the public as to how their tax dollars are used for legislative purposes.

In January 2023, the Secretary of the Senate announced to Senate Staff, the creation of a Senate Member Block Grant to provide paid internships in each Senator’s office. Each office received \$25,000 to be used for paid interns to be hired either in the Capitol or district offices. The interns would receive \$20 an hour, and would be required to attend sexual harassment prevention training and ethnic training within the first 30 days of their internship. Therefore, during the current year, each Senate Legislative Office has the opportunity to have paid interns in their offices.

The Assembly does not coordinate internships for each individual Member’s office. According to the Assembly Committee on Rules and the Human Resources Office of the Assembly, nothing prohibits each Member from having paid interns if the office has money in their office budget to pay the intern. As of February 28, 2023, the public Assembly Staff salaries documentation, there are 16 student interns either in a legislative office or in the Democratic Caucus being paid \$17 an hour and three student interns in the Clerk’s office being paid \$2,579 per month.

Additionally, in January 2023, Speaker Anthony Rendon of the Assembly announced a new Community College Corps Internship program. The program would provide students with a four-month paid internship designed to work around a student’s school schedule. The program was specifically geared towards community college students and participation was limited as Committee staff has learned not every Assembly member’s office received an intern.

In addition to these two programs, nothing precludes member offices from having unpaid interns or volunteers.

Existing legislative internship programs. There are a myriad of programs providing paid and unpaid internships positions throughout the Capitol, and this analysis will highlight some paid internships for college students.

The CSU Center for California Studies administers two legislative internship programs for college students. Perhaps the most prominent and most widely known, is the Capital Fellows Program. The Capital Fellows Program accepts graduates from college who are placed in the highest levels of California State Government and assist State Legislators with policy-related activities in the member’s office. Applications for the program begin in the fall preceding the

internship year, which begins the following year in October and lasts for 11 months. To be eligible, a student must be 20 years of age and have earned at a minimum, a bachelor's degree prior to the fellowship. Students who participate in the fellowship receive the following:

- 11 months as a paid member of a legislative office (can be in a member's office or in a caucus) where they engage in activities such as advising members on policy issues, providing vote recommendations, and preparing speeches and press releases;
- A monthly stipend of \$3,253 and health and vision benefits with the employer of record as the CSU Center for California Studies; and,
- Weekly courses and seminars in graduate public policy work culminating in the conferral of a Graduate Certificate in applied policy and government at the end of the program.

The current cohort provided fellowships for 18 students in the Senate and 18 students in the Assembly.

Sacramento Semester Interns is the second program administered by the CSU Center for California Studies. Unlike the fellowship, the program is targeted towards providing existing college students internships in member's offices. Established in 1976, the Sacramento Semester Program provides an immersive internship program where students from throughout the state enroll in 12 units for the program: a 6-unit internship course requiring a commitment of 24 hours a week in their office of placement and an additional 6-unit course consisting of an evening seminar and Friday morning class. Applicants must have either a junior or a senior from a CSU campus and a preference of the program is for the student to have a 3.0 grade point average or higher. The Sacramento Semester Intern program was predominately unpaid until the 2022-2023 Budget Act provided an additional \$100,000 in ongoing funding to provide stipends to students.

In addition to the programs provided for CSU students, the UC also provides an internship program in Sacramento for its students. The UC Davis Sacramento Center provides an internship opportunity to all UC students from every UC campus who can enroll in the academic program offered every quarter, including the summer quarter. The program provides students with 15-quarter or 14-semester units while students gain first-hand policy knowledge as to how laws are formed. The UC has housing downtown for students should they elect to participate or there is an option to live on the UC Davis campus and commute in. Students are not paid for their participation in the program; however, financial aid is available for students who require assistance.

The internship program proposed by this bill is unique from the programs listed above, as it does not require students to complete an academic component to the program nor does it limit participation to graduate or UC/CSU students, but rather opens access to paid Legislative internships for all college students living in California.

Labor laws on internships. While labor law is outside the jurisdiction of the Assembly Committee on Higher Education, the below provides an explanation of how this bill complies with labor laws as it is understood by this Committee.

- How does this bill comply with AB 5 (Gonzalez), Chapter 296, Statute of 2019? Since paid internships are already possible through the California State Legislature with the employer of record as either the Senate or the Assembly, in order to comply with labor laws, AB 266

(Boerner Horvath) removes the ability for Legislative Offices to offer paid internships. By removing this ability, the internship program established by AB 266 (Boerner Horvath) would no longer be perceived as duplicating an existing job with a contracted job. Furthermore, AB 266 (Boerner Horvath) requires a memorandum of understanding to be drafted to ensure the job required of the “paid interns” is unique from other jobs already paid for by the Legislature. Paid interns are not exempt from AB 5 (Gonzalez) compliance according to the California Labor and Workforce Development Agency.

- Does this bill align with California State Law regarding paid internships? In California, there are no state statutes or regulations which expressly exempt a person who is participating in an internship from wage and hour laws. The Federal courts have noted, as well, that the federal Fair Labor Standards Act itself provides little guidance in distinguishing between trainees/interns and employees. The Federal Department of Labor (DOL) has articulated six criteria, derived from the Supreme Court’s ruling of *Walling v. Portland Terminal Co.* 330 U.S. 148 (1947), for the purpose of distinguishing an intern from an employee. The criteria includes the following:

(1) The training provided to the intern, even though it includes the actual operation of the employer’s facilities, is similar to that which would be given in a vocational school;

(2) The training provided to the intern is for the benefit of the trainees or students;

(3) The intern does not displace regular employees, but works under the employees’ close supervision;

(4) The employer derives no immediate advantage from the activities of the intern, and on occasion, the employer’s operations may be actually impeded;

(5) The intern is not necessarily entitled to a job at the conclusion of the training periods; and,

(6) The employer and student understand that the student is not entitled to wages for the time spent in training.

By providing an employer of record as the California Center for California Studies, this bill is in compliance with these labor laws including minimum wage laws and requirements for health insurance for part-time workers since the interns are paid at a rate of \$16 dollars an hour and are exempt from the healthcare requirements due to the six-month employment.

Legislative authority. A question to postulate is why the Legislature of the largest economy in the United States is not providing paid internships for college students. In 1990, California voted to enact California Proposition 140 (Prop. 140) or the Political Reform Act of 1990. As highlighted by the *Washington Post*, in an article from October 1990, Prop. 140 was predominantly reported as a proposition to limit the number of terms certain elected officials could be in office; however, Prop. 140 did more than simply limit the number of years an elected official could serve. According to the original ballot, Prop. 140 did all of the following:

- 1) Limited to two terms the following elected officials: the Governor, Lieutenant Governor, Attorney General, Controller, Secretary of State, Treasurer, Superintendent of Public Instruction, Board of Equalization Members, and State Senators;

- 2) Limited to State Assembly members to three terms;
- 3) Required legislators elected or serving after November 1, 1990, to participate in the federal social security program; removed existing pensions for legislators; and,
- 4) Limited the expenditure of the Legislature for compensation and operating costs and equipment to specified amounts.

According to the Legislative Analyst Office's (LAO) estimate of net state and local government fiscal impacts on the 1990 ballot, the proposition would limit the Legislative expenditures in 1991-1992 to \$70 million. Prop. 140 passed with 52.17% of the vote, and while other propositions have changed term limit restrictions for Senate and Assembly Legislative members, the cap on Legislative spending has remained. According to the LAO, the Prop. 140 cap changes annually based on the growth of the state's economy and population or more specifically, the state's appropriations limit. Confined within the Legislative expenditures are staff and intern salaries. In years where there is a deficit and the state's appropriation limit does not increase, the Legislative budget does not increase. In other words, providing a line item in the budget for an internship would violate Prop. 140.

Arguments in support. Pay Our Interns Action elaborates on the benefits of AB 266 (Boerner), "on the grounds that the paradigm of unpaid internships at offices of the state legislature limit and exclude the pool of candidates from California's colleges and universities who lack the financial support and the wherewithal to meet cost-of-living expenses typically accrued during an internship, often disproportionately impacting historically underrepresented students."

Pay Our Interns Action further contends, "college internships are critical for providing educational and professional development for post-college success in a tight and competitive job market. The prestige of a legislative internship helps to improve student employment outcomes, ensure workforce needs are met while giving students a deeper understanding of the legislature's impact on communities throughout the state, and develop a pipeline of future leaders in public service."

Committee comments. This bill is a workaround for the budgetary constrictions on Legislative budgets and existing restrictions in labor laws, and enables a pathway for providing annual paid internships in members' offices. As previously highlighted in the analysis there are several existing pathways for paid internships for students who wish to engage in the civic process of the Legislature. In recent years the Governor has expanded programs offering additional funding to college students who participate in either, a volunteer program known as the #CaliforniaForAll College Corps or a program for students to have paid internships, the Learning-Aligned Employment Program. Nothing would preclude the Senate or the Assembly from partnering with either California State University, Sacramento, or UC Davis in offering college students either a paid-volunteer opportunity or a paid internship through either of these programs. Furthermore, nothing precludes the Legislature from authoring rules in the next legislative cycle requiring member offices to designate portions of their budgets or portions of the overall Legislative budget towards paid internships with the employer of record as either the Senate or the Assembly.

While AB 266 (Boerner) provides an exclusion to existing statutory constraints on paid interns in the Legislature, the Committee may wish to explore if creating a new program under the CSU

Center for California Studies is the most prudent approach or if expanding existing programs or adopting legislative rules may be a more viable option for students.

REGISTERED SUPPORT / OPPOSITION:

Support

Pay Our Interns Action
Young Invincibles

Opposition

None on file.

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