

Date of Hearing: May 13, 2020

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

AB 2884 (Berman) – As Amended May 4, 2020

SUBJECT: California State Lottery: revenue allocation

SUMMARY: Enables California Community College (CCC) districts to utilize restricted public education funds from the California Lottery for instructional materials and for housing and food assistance for students. Specifically, **this bill:**

- 1) Requires that 50% of any increase in the amount of California State Lottery revenues for public education, above the recorded 1997-1998 amount, specified, be allocated to school districts and CCC districts for the purchase of instructional materials and for direct aid to community college students in the form of housing assistance and food assistance. Requires that the funds distributed to the districts are based on average daily attendance and distributed equitably across all grade levels.
- 2) States Legislative findings and declaration relating to:
 - a) The California Community College is the nation’s largest system of higher education and a critical entry point for higher education and upward mobility.
 - b) Since 2017, the California Community College Chancellor’s Office has worked on implementing its “Vision for Success”. The vision represents a set of system-wide goals aimed at increasing student transfers to four-year universities, increasing the number of students earning a degree or certificates, reducing unnecessary units, reducing the number of unnecessary units student may take on the pathway to a degree, and eliminating the achievement gap once and for all.
 - c) The CCC’s ability to meet the goals set forth in the Vision for Success would benefit from the system’s ability to provide direct aid to its students in the form of housing and food assistance.
 - d) The bulk of CCC funding comes from Proposition 98 general funds and property taxes, CCC districts also receive restricted and unrestricted California lottery fund. Restricted funds are permitted to be used only for instructional materials.
 - e) CCC classroom supply needs differ from those of K-12 classrooms and therefore have a surplus of restricted lottery funds.
 - f) Utilizing restricted funds allocated for educational purpose to aid CCC students in the form of housing and food assistance does not change the scope of the effect of the California State Lottery Act of 1984 as providing this aid would directly and positively impact community college students’ academic success. By enabling students to stay in class and achieve their educational goals, providing aid directly to students in the form of housing and food assistance would in fact serve an instructional purpose.

- g) The purpose of this bill is to ensure that restricted funds allocated to CCC can be spent to benefit students.
 - h) The act furthers the purpose of the California Lottery Act of 1984, enacted by Proposition 37 at the November 6, 1984, general election.
- 3) Makes clarifying and technical changes to existing law.

EXISTING LAW:

- 1) Stipulates that total revenues of the California State Lottery (Lottery) be allotted so as to maximize the amount of funding allocated to public education as follows:
- a) No less than 87% of the amount of total revenues from the sale of lottery tickets or shares shall be returned to public with:
 - i) No less than 50% of annual revenues being returned to the public in the form of lottery prizes;
 - ii) The percentage of total revenues allocated for public education shall be established by the California State Lottery Commission at a level designated to maximize the total net revenues for public education; however,
 - (1) 50% of an increase in funds for public education above the 1997-1998 fiscal amount will be provided to school districts and CCC colleges for the purchase of instructional materials. The distribution of the funds will be in a manner that is equal to the amount per unit of average daily attendance and will be fairly and equitably distributed across all grade levels; and,
 - iii) All unclaimed prize money from the California State Lottery will be given to benefit public education in the State of California, as specified;
 - iv) All interest earned from the State Lottery Fund will be allocated to the benefit of public education as specified in Government Code section 8880.5. The interest shall not be included in the calculation of the total revenues when determining the amount allocated for the benefit of public instruction as listed in (ii); and,
 - v) No more than 13% of the total annual revenues for the administrative costs of calculating and dispersing the funds allocated to public education. Should the administrative costs be less than 13%, any surplus funds will be given to public education as defined in Government Code Section 8880.5.
 - b) California State Lottery Funds provided to public instruction per this section are to supplement funds provided to public instruction per the annual budget act. Stipulates that no program will have their funding reduced as a result of receiving State Lottery funds.
 - c) Defines for the purpose of the section what revenues will not be counted towards the annual revenues of the California State Lottery when the Commission calculates the total allocation of funds for public instruction.

- d) Stipulates that the section will become inoperative on April 1 of the year following the notification from the Controller to the Legislature and the Governor should funding for public education be less than previously allocated, as specified. Unless otherwise specified the statute will be repealed the following January. (Government Code (GOV) Section 8880.4 Section 1)
- 2) Stipulates that on April 1 in a year Government Code Section 8880.4 (1) is rendered inoperative, the revenues from the California State Lottery will be allocated for public education as follows:
 - a) No less than 84% of the amount of total revenues from the sale of lottery tickets or shares shall be returned to public in the form of prizes and funding to benefit public education with:
 - i) 50% of the total annual revenues being returned to the public in the form of prizes;
 - ii) At least 35% of the total annual revenues will be allocated to the benefit of public education as defined in Government Code Section 8880.5; however,
 - (1) 50% of an increase in funds for public education above the 1997-1998 fiscal amount will be provided to school districts and CCC colleges for the purchase of instructional materials. The distribution of the funds will be in a manner that is equal to the amount per unit of average daily attendance and will be fairly and equitably distributed across all grade levels; and,
 - iii) All unclaimed prize money from the California State Lottery will be given to benefit public education in the State of California, as specified;
 - iv) All interest earned from the State Lottery Fund will be allocated to the benefit of public education as specified in Government Code section 8880.5. The interest shall not be included in the calculation of the total revenues when determining the amount allocated for the benefit of public instruction as listed in (ii); and,
 - v) No more than 16% of the total annual revenues for the administrative costs of calculating and dispersing the funds allocated to public education. Should the administrative costs be less than 13%, any surplus funds will be given to public education as defined in Government Code Section 8880.5.
 - b) California State Lottery Funds provided to public instruction per this section are to supplement funds provided to public instruction per the annual budget act. Stipulates that no program will have their funding reduced as a result of receiving State Lottery funds.
 - c) Defines for the purpose of the section what revenues will not be counted towards the annual revenues of the California State Lottery when the Commission calculates the total allocation of funds for public instruction. (GOV Section 8880.4 Section 2)
 - 3) Establishes the California State Lottery Fund within the State Treasury and stipulates its purpose is to continuously provide funding to public education institutions. The California State Controller will provide funding quarterly to various public education institutions.

- a) Payments to local education agencies including county superintendent schools, will be distributed to the districts by the average daily attendance of students within the district; including,
 - i) From 2008-2015, the average daily attendance will include adults and regional centers and programs.
- b) Payments to the California Community Colleges will be distributed to each district pursuant to the average daily attendance of students within each district.
- c) Payments to the Board of Trustees of the California State University will be based on the total number of students, who are enrolled full-time. The funds provided to the CSU will be placed in the California State University Trust Fund and will be distributed to campuses per the discretion of the Trustees.
- d) Payments to the Regents of the University of California will be based on the total number of students who are enrolled full-time.
- e) Payments made to the Board of Directors of the Hasting College of Law will be based on the total number of students who are enrolled full-time.
- f) Payments made to the Department of Youth Authority for educational programs will be based on the average daily attendance of students within the programs.
- g) Payments made to the two California Schools for the Deaf, the California School for the Blind, and the three Diagnostic Schools for Neurologically Handicapped Children will be based on the average daily attendance of students within the schools.
- h) Payments made to the State Department of Developmental Services and the State Department of State Hospitals will be based on the average daily attendance of students who are enrolled in hospital education programs.
- i) Prohibits any Budget Act from directing State Lottery Funds allocated to public instructions segments from being used for specific purposes or specific programs. However, this does not prohibit any local education agency or institution specified above from using the funds for a specific purpose or for a specific program, per their discretion.
- j) Require local education agencies and the CCC to establish a separate account within their budgets for lottery funds in order to clearly delineate the receipt and use of the funds from other funds provided by the State.
- k) Requires that the average daily attendance rate, for local education agencies, be increased by the statewide average rate of excused absences for the 1996-1997 fiscal year, as defined. Specifies that the Superintendent of Public Instruction will provide to the State Controller the statewide average excused absences rate and the corresponding adjustment factor.
- l) Declares it is the intent of the funds allocated by the California State Lottery Education fund to be used exclusively for the education of pupils and students and that no funds

should be used for non-instructional purpose including the maintenance or acquisition of buildings. (GOV Section 8880.5)

- 4) Defines instructional materials as any materials printed or technology based that are designed to be used by students and their teachers as a source of academic learning. (Education Code (EDC) Section 60010)
- 5) Establishes the California State Lottery Education Fund and declares the purpose of the California State Lottery Act of 1984 was to provide school districts, county offices of education, and community college districts with supplemental funds, free from state control. (EDC Section 14600)

FISCAL EFFECT: Unknown

COMMENTS: *Background.* In 1984, California voters approved Proposition 37 or *the California State Lottery Act of 1984*, which established the California State Lottery (State Lottery), whose sole mission is to provide supplemental funding for California's public schools and colleges. The State Lottery distributes and sells lottery tickets to the public for the purpose of generating revenue for operational and administrative costs, prize payouts, and ultimately funding for public education. In 2000, California voters approved Proposition 20, the *Cardena Textbook Act of 2000*, which restricts 50% of annual revenue increases above the amount allocated in 1997-1998 fiscal year to be provided to K-12 and California Community College (CCC) districts for instructional materials. This change in the State Lottery Act created a minimum level of funds that were restricted to be used for the purchase of textbooks or other instructional materials as defined by the Education Code.

In April 2010, the Legislature amended the California State Lottery Act of 1984 to address concerns that due to declining revenues, the State Lottery had reduced funding for public education. During the Great Recession (2005 – 2009) the Lottery's revenues declined by \$630 million and the State Lottery's allocation to public education declined by \$240 million. To correct this downward trend of funding to public education the following changes were made:

- 1) Instead of strict percentages allocating the amount of funds divided between prizes, public education and operational costs, the Legislature permitted the California State Lottery Commission, consisting of five members appointed by the Governor, to determine the percentage of funds allocated for public education. The permission was granted with the caveat that allocation of funds maximize the contribution made to public education, at least 50% of annual revenues being provided in prize money, and at least 13% for operational costs; and,
- 2) When calculating the percentage the California State Lottery Commission will ensure:
 - a) The annual amount provided to education is increased proportionately to any increases in California State Lottery's net revenues (total revenues minus operational costs); and,
 - b) The annual amount provided to education does not drop below the average amount provided in the last five fiscal years.

To ensure compliance, the California State Lottery Commission would monitor and report on the State Lottery's performance for the five fiscal years after the 2010 amendments and if at any

time in those five years certain circumstances were met the strict percentages established prior to the 2010 amendments would be reinstated. The qualifying circumstances were as follows:

- 1) Total revenues allocated to public education were less than the amount the State Lottery provided in 2008-2009; and,
- 2) The annual average of total net revenues allocated to public education did not increase according to the rates specified in the Lottery Act.

In March of 2016, the 2010 amendments became permanent as neither of the conditions were met during the five-year timeframe the Lottery Funds were monitored.

Need for the bill. In comparison to their K-12 counterparts who require additional funding for instructional materials in the classroom, the CCC do not have the same instructional material needs; therefore a bulk of their restricted lottery funds for instruction materials goes unspent. According to the 2019 Lottery Expenditure Report produced by the CCC Chancellor's Office, the CCC received \$249.6 million in State Lottery Funds in 2017-2018 and spent \$231 million with a resulting surplus of \$87.9 million in June of 2018. Data from the 2018-2019 year shows, that 43 districts have a surplus of restricted State Lottery Funds for a total of \$81 million dollars of restricted funds systemwide.

In March 2019, the Hope Center for College, Community, and Justice, in collaboration with the CCC Chancellor's Office and the Institute for College Access and Success, released a report titled the *California Community Colleges # RealCollege Survey*. The report represented the first effort by the CCC to conduct a system-wide student survey to gauge the housing and food insecurities of community college students. The survey was conducted across 57 community college's representing the demographics of California with 40,000 students participating and was meant to capture college life on a CCC campus. The survey found that in a thirty-day period 50% of survey participants experienced food insecurity and 60% of survey participants experienced housing insecurity in the previous year. According to the Author, "AB 2884 would, without creating a mandate, expand the use of restricted lottery funds to provide housing assistance and food assistance to students which is especially critical in this challenging and unprecedented time".

What does the bill do? AB 2884 would enable CCC district's to use existing surplus of restricted State Lottery funds and any future allocations of restricted State Lottery funds to provide direct assistance to students in the form of housing and food. In accordance with existing law, the CCC districts would have complete authority as to the manner in which these funds are distributed to students; meaning they could allocate funding in the form of financial aid or by giving funding to programs to provide housing assistance and food assistance to students.

Recent California State Audit. In February of 2020, the California State Auditor published an audit on the California State Lottery, which focused on the State Lottery's approach in determining the maximum allocation of revenues for education funding. According to the Auditor, the audit was a result of concerns from the Legislature that the State Lottery had not directed enough of its revenues to education due to total revenues and education funding becoming increasingly divergent since the 2010 amendments. The audit concluded that the State Lottery had failed to provide required funding of \$26 million to education in the 2017-2018 fiscal year and it was further concluded that the State Lottery could not demonstrate that its current prize payout rates are optimal for maximizing funding to public education institutions. As

the Legislature and the State Lottery Commission weigh the findings and policy recommendations made by the State Auditor, AB 2884 would enable CCC districts to utilize existing and potentially additional restricted State Lottery Funds for the maximum benefit of students.

Vision for Success. In 2017, the Board of Governors of the CCC approved the *Visions for Success* and implemented ambitious goals for the system to achieve by 2022. The goals listed in the *Vision for Success* were the outcome of a collaborative report published by the Foundation for California Community Colleges in collaboration with stakeholders, experts, and leaders from inside and outside the CCC system. The goals include:

- 1) Increase by at least 20% the number of CCC students who annually acquire an associate degree, credential certificate, or specific skill set that prepares them for an in-demand job.
- 2) Increase by 35% the number of CCC students who transfer annually to a UC or CSU.
- 3) Decrease the average number of units accumulated by CCC students when earning an associate degree.
- 4) Increase the percentage of existing California Technical Education students who report being employed in their field of study.
- 5) Reduce equity gaps among traditionally underrepresented student groups
- 6) Reduce achievement gaps among colleges located in regions with lowest educational attainment of adults.

While CCC have implemented various policy changes, including implementing Guided Pathways to obtain the goals specified in the *Vision for Success*, additional funding for student basic needs services such as food and housing would assist the CCC in achieving their academic goals. AB 2884 authorizes CCC districts to utilize existing funds to address the academic goals in the *Vision of Success* by providing housing assistance and food assistance to students who may not matriculate nor obtain their educational and social mobility goals due to economic hardship.

Committee comments and amendments. When Proposition 37, the California Lottery Act of 1984, was introduced to the public, it was a controversial ballot item with an array of opposition and support. To ease the public's mind of introducing a state - run gambling operation, proponents of the bill contended the State Lottery would serve as a supplemental funding source for public educational institutions. Unlike state funds, which are often allocated for a specific purpose, the authority for how State Lottery funds are used resides with the California K-12 school districts and public universities. After Proposition 37 passed, the guidance placed into law stipulated that while public education institutions have full discretion over how the funds are spent, State Lottery funds were to be used for the sole purpose educating students and not for research, the construction or maintenance of facilities, nor other non- instructional purposes. In 2000, the voters approved The Cardenas Textbook Act of 2000, place further restrictions on how the funds were used by requiring 50% of the Lottery Funds allocated to K-12 and Community College districts be used to purchase instructional materials. Despite the restriction for a portion of the Lottery Funds to be used for instructional materials for students exists, the funds are still provided to the governing boards of the CCC and K-12 districts and not directly to students.

To ensure this bill adheres to the original intent of Proposition 37, which places the discretion of how the funds are spent with the governing board of the CCCs, the committee proposes, and the author has accepted the following amendments:

Section 2, (a) (2) (B)

*(B) However, for the 1998–99 fiscal year and each fiscal year thereafter, 50 percent of any increase in the amount calculated pursuant to this paragraph from the amount calculated in the 1997–98 fiscal year shall be allocated to school districts and community college districts for the purchase of instructional ~~materials~~, **materials and for housing assistance and food assistance to community college students** for direct aid to community college students in the form of ~~housing assistance and food assistance~~, on the basis of an equal amount per unit of average daily attendance, as defined by law, and through a fair and equitable distribution system across grade levels.*

Section 3, (a) (2) (B)

*((B) However, for the 1998–99 fiscal year and each fiscal year thereafter, 50 percent of any increase in the amount calculated pursuant to this paragraph from the amount calculated in the 1997–98 fiscal year shall be allocated to school districts and community college districts for the purchase of instructional ~~materials~~, **materials and for housing assistance and food assistance to community college students** for direct aid to community college students in the form of ~~housing assistance and food assistance~~, on the basis of an equal amount per unit of average daily attendance, as defined by law, and through a fair and equitable distribution system across grade levels.*

Argument in Support. According to the Faculty Association of the California Community Colleges, the sponsor of the bill, “AB 2884 does not mandate districts to spend restricted lottery funds on housing or food aid in lieu of instructional materials. Instead, it gives districts more flexibility to spend the money in the way that is most appropriate and beneficial for their students. With the spread of COVID-19 and its unforeseen economic impacts, it is more important than ever for the community colleges to have every tool at their disposal to help their students.”

Prior Legislation.

- 1) California State Proposition 37 of 1984, *The California State Lottery Act of 1984*, established the California State Lottery, for the purpose of providing supplemental funding for public education.
- 2) California State Proposition 20 of 2000, the Cardena Tetbook Act of 2000, provided that 50% of California State Lottery revenues, above the 1997-1998 recorded revenues, be provided to local education agencies and CCC for expenditure on instructional materials, as defined.
- 3) AB 142 (Hayashi), Chapter 13, Statutes of 2010, requires revenues of the state lottery to be allocated in a manner that maximizes the amount of funding allocated to public education, and would require that no less than 87% of total annual revenues of the state lottery be returned to the public, as defined, and no more than 13% to be used for lottery expenses.

REGISTERED SUPPORT / OPPOSITION:

Support

Alliance for A Better Community
Alliance for Children's Rights
California Community College Independents
California Federation of Teachers
California Yimby
Campaign for College Opportunity
Faculty Association of California Community Colleges
Kern Community College District
Mt. San Antonio College
National Association of Social Workers, California Chapter
North Orange County Community College District
Palo Verde Community College District
San Bernardino Community College District
San Diego Community College District
Silicon Valley Community Foundation
Student Senate for California Community Colleges
Young Invincibles

Opposition

None on File.

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