

Date of Hearing: May 12, 2015

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

AB 573 (Medina) – As Amended May 11, 2015

SUBJECT: Higher education: campus closures: Corinthian Colleges.

SUMMARY: Provides financial and other assistance to students impacted by recent closing of all Heald, Everest, and WyoTech campuses in California, which were owned by Corinthian Colleges, Inc. (CCI). Specifically, **this bill:**

- 1) Provides for the following with regards to California Community Colleges (CCC):
 - a) Declares legislative intent that the CCC provide matriculation services, including assessment, counseling, and academic planning to students enrolled at CCI institutions and harmed by the April 27, 2015 closure;
 - b) Appropriates \$100,000 from the General Fund (GF) to the CCC Chancellor, from GF revenues appropriated for community college districts (Prop 98), for the purposes of a CCC district conducting a statewide media campaign to inform students affected by the CCI closure of educational opportunities available at CCCs; and,
 - c) Provides a CCC Board of Governors (BOG) Fee Waiver, until July 1, 2018, to a student who was enrolled at a CCI campus on April 27, 2015, or withdrew within 120 days (or period determined) prior to the CCI closure on April 27, 2015, and did not complete their educational program.
- 2) Provides that Cal Grant recipient students enrolled at a CCI campus that were unable to complete their educational program due to the closure shall not have the award years utilized at a CCI campus included in the limitation on the number of award years of Cal Grant Awards eligibility.
- 3) Provides for the following regarding the Student Tuition Recovery Fund (STRF) administered by the Bureau for Private Postsecondary Education (BPPE):
 - a) Provides that a student enrolled at a California campus of a CCI institution, including Heald College, or a California student enrolled in an online program offered by an out-of-state CCI campus, who meets all other eligibility requirements, and was enrolled as of April 27, 2015, or withdrew within 120 days of that date (or period determined) is eligible for the STRF;
 - b) Increases the maximum allowable fund balance in the STRF from \$25 million to \$50 million, and requires the Bureau for Private Postsecondary Education (BPPE), if it stops collecting STRF assessments because the fund has approached the new maximum balance, to resume collecting assessments when the fund balance falls below \$45 million (instead of \$20 million currently); and,

- c) Establishes legislative intent that unencumbered restitution funds awarded to students of this state from a lawsuit involving CCI be used to repay any STRF funds provided to those students pursuant to this act.
- 4) Requires the BPPE to establish and coordinate a standing closed school task force:
- a) Requires the task force to respond to the closure of institutions that do not comply with the requirements, as applicable, of the law.
 - b) Requires the task force to ensure that students affected by a closed school receive accurate and timely information regarding the school closure process and the students' rights and responsibilities under federal and state law. Requires the task force to ensure students are provided assistance in all of the following:
 - i) Obtaining refunds, loan discharges, and tuition recovery for which the student is eligible;
 - ii) Obtaining information regarding the option to transfer credits that the student earned while attending the institution, including information necessary to help the student make an informed decision about whether to seek a loan discharge or to transfer credits; and,
 - iii) Other support deemed necessary by the task force in accordance with the bureau's consumer protection mission.
 - c) Provides that the members of the task force should include, but not necessarily be limited to, representatives on behalf of the California Student Aid Commission (CSAC), the Department of Justice (DOJ), the Office of the CCC Chancellor, the Department of Veterans Affairs (CalVet), and one or more legal aid organizations.
- 5) Provides for legal assistance for student loan related purposes for students affected by a school closure, as follows:
- a) Requires BPPE, upon the unanticipated closure of an institution, to provide timely (within 30 days) grant funds to local legal aid organizations, which may include organizations designed specifically to assist veteran students, to assist students, for no less than one year following the closure of the institution, with loan discharge and tuition recovery related claims;
 - b) Provides that the amount of grant funds shall be calculated by multiplying the number of students affected by the school closure by one hundred dollars (\$100);
 - c) Provides that legal aid organizations that receive grants should be located in the areas of the state affected by the institutions closure and that legal aid organizations that receive grants may give priority to low income students if demand exceeds available grant funds;
 - d) Requires legal aid organizations that receive grants to report to the BPPE at the end of the grant on the number of students served from the date of the institution's closure; and,

- e) Appropriates one million three-hundred thousand dollars (\$1,300,000) from the BPPE Administrative Fund to the BPPE for the aforementioned purposes to assist students affected by the closure of CCI.
- 6) Extends the suspension of the requirement that the BPPE Administrative Fund reserve not exceed six months of operating expenses for an additional year (to July 1, 2016).
- 7) Declares this bill an urgency statute to take effect immediately.

EXISTING LAW:

- 1) Establishes the CCC with oversight and coordination provided by the CCC BOG and Chancellor, and provides that the mission of CCC is to offer lower-division academic and vocational instruction to younger and older students, including those returning to school. (Education Code Section 66010.4)
- 2) Requires the forty-six dollars per unit per semester fee to be waived for CCC students who meet specified income requirements. The BOG is required to establish minimum academic and progress standards for students receiving a BOG Fee Waiver. (EDC Sec. 76300)
- 3) Establishes the Cal Grant Program, administered by CSAC, to provide tuition and access cost assistance to eligible students attending qualified institution. Institutions are required to meet a series of performance standards; including, a three-year Cohort Default Rate (CDR) of less than 15.5% and a Graduation Rate (GR) of no less than 20% (this rate increases to 30% in 2016-17). (EDC Sec. 69430 et seq.)
- 4) Establishes the BPPE within the Department of Consumer Affairs with the primary function of providing protection of students/consumers through the regulation and oversight of private postsecondary educational institutions. BPPE oversight activities are funded by licensing fees paid by regulated institutions. Existing law also provides for a variety of exemptions from oversight by the Bureau for specific types of institutions, including institutions accredited by the Western Association of Schools and Colleges (WASC). However, pursuant to SB 1247 (Lieu, Statutes of 2014), all for-profit institutions serving veterans and receiving federal Title 38 funds, regardless of accreditation status, are required to obtain BPPE approval by January 1, 2016. (EDC Sec. 94800 et seq.)
- 5) Establishes the STRF, administered by the BPPE, to relieve or mitigate economic loss suffered by students enrolled at a non-exempt private postsecondary education institution 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 Private Postsecondary Education Act. STRF is capped in statute at \$25 million. Institutions are required to assess students an amount established in regulation by the BPPE and remit fund to the BPPE for STRF. In 2010, that amount was established at \$2.50 per \$1000 of tuition charged. In 2013, that amount was reduced to \$0.50 per \$1000. In 2015, this amount was reduced to \$0.00, as the STRF had exceeded the statutory cap (STRF is currently at approximately \$28 million). (EDC Sec. 94923 – 94925)
- 6) Establishes the California State Approving Agency for Veterans Education within CalVet and requires minimum requirements for postsecondary institutions approved to participate in

federal veteran's education benefits (Title 38), including requiring for-profit institutions to obtain BPPE approval by January 1, 2016. (EDC 67100 et seq.)

- 7) Title IV of the Federal Higher Education Act of 1965 (HEA), as amended, establishes the federal student aid program, administered by the United States Department of Education (USDE) to provide grants, loans and work-study funds from the federal government to eligible students enrolled in eligible colleges or career schools. (20 U.S.C. Sec. 1070 et seq.)

Recent federal regulations to improve integrity of the programs authorized under Title IV of the HEA established new institutional eligibility requirements for financial aid, including that institutions be "authorized" by each state in which they operate, and have an independent state-level student complaint process. (34 CFR Sec. 600.9)

- 8) Federal law establishes Legal Services Corporation (LSC) as a 501(c)(3) nonprofit that provides grants for legal assistance to low-income Americans. LSC distributes funding to 134 independent nonprofit legal aid programs with nearly 800 offices nationwide. LSC is headed by a bipartisan board of directors whose 11 members are appointed by the President and confirmed by the Senate. (42 U.S.C. 2996 et seq.)

FISCAL EFFECT: According to the Assembly Appropriations Committee it has been estimated that approximately 16,000 students have been impacted by the school closures, including almost 12,000 from Heald.

- 1) **BOG Fee Waiver.** The reduction in CCC fee revenues would depend on the number of impacted students who enroll at a CCC, how many CCC units these students take to complete their CCC educational goals, and how many of these students would not otherwise qualify for a BOG fee waiver. (About two-thirds of the entire CCC course load is taken by students currently receiving a BOG waiver.) For every 1,000 full-time equivalent students (FTES) from the impacted schools who would not otherwise obtain a fee waiver, the revenue loss to the community colleges would be \$1.4 million annually.
- 2) **Legal Assistance Grants.** Special fund costs to the BPPE of \$1.3 million dollars to legal aid organizations received grants from the BPPE for assisting impacted students. [BPPE Administrative Fund]
- 3) **STRF Payments.** STRF costs will depend on the number of impacted Heald students making STRF claims and the amounts of those claims eligible for reimbursement. If a Heald student transfers no credits to another educational institution and in turn receives forgiveness of their federal loans, the state will incur costs only to the extent that the loan forgiveness does not cover the student's economic loss. If a student transfers some or all of their credits to another institution, their federal loan will not be forgiven, and they may be eligible for a STRF payment equivalent to the value of the loan associated with those credits earned at Heald that are not accepted for transfer.

STRF payments could be in the low tens of millions of dollars. In the past, STRF payments have averaged around \$6,000 per student. If around one-half of the impacted Heald students received the average payment, costs would total \$36 million. According to the Governor's Budget, the STRF will have an estimated fund balance of \$28 million as of June 30, 2015.

- 4) Cal Grants. According to CSAC, almost 2,800 of the impacted Heald students were awarded and used their Cal Grants. Because Heald was ineligible to participate in the Cal Grant program for several years, virtually all of these students have used one year or less of their Cal Grant eligibility. Almost two-thirds of these students were awarded a Cal Grant C, 30% were awarded Cal Grant B, and the remaining 4% were awarded a Cal Grant A. Costs will depend on how many of these students continue their education and what type of institution they attend. One additional award year of eligibility for these students would equate to a General Fund cost of around \$10 million.
- 5) Costs for CCC counseling and the BPPE task force should be minor and absorbable.

COMMENTS: *Purpose of this bill.* According to the author, "this bill will provide economic relief and educational opportunity to the thousands of California students harmed by the closure of CCI. Current state and federal laws provide some relief to some students affected by the closure; this bill ensures all California students are protected. Specifically the bill will help these students' access community colleges, allow them to continue to utilize their Cal Grants, and assist them in obtaining forgiveness from Corinthian-associated student loans."

Background on CCI and allegations. CCI institutions offered a range of programs, including 8-12 month certificate programs, with tuition and fees that from \$13,100-\$21,338, 24-month associate's degree programs with tuition and fees that ranged from \$33,120 and \$42,820, and bachelor's degree programs that were between \$60,096 and \$75,384. According to a 2014 complaint filed by the Consumer Financial Protection Bureau (CFPB), most students attending CCI were low-income, or the first in their families to seek an education beyond high school. In 2012, CCI reported that 85% of its students had family incomes of less than \$45,000 a year. An estimated 57% of CCI students had household incomes of \$19,000 or less, and 35% of CCI students had a household income of less than \$10,000.

Most students attending CCI received federal financial aid; according to CCIs filing with the Securities and Exchange Commission, CCI received 84.8% of net revenue from federal financial aid (Title IV: Pell Grants and Federal Loans). Federal rules require that institutions receive at least 10% of revenues from non-Title IV sources ("90/10 rule"); however, this can include state aid, veteran's aid, and private loans (among other sources). According to the allegations in the CFPB complaint, in order to meet the 90/10 rule, CCI increased tuition in order to create "funding gaps" so that students would be required to take out private loans to pay for their education. CCI offered students their own "Genesis" loans to cover the funding gaps. According to CFPB, by 2014 the outstanding balance of Genesis loans totaled \$560 million.

The aforementioned CFPB complaint sought, among other monetary penalties and student relief, the rescission of all CCI private loans originated since 2011. In addition to the CFPB complaint, CCI faced a series of legal actions and investigations into unlawful practices, including by 20 state attorneys general, several federal agencies, and the USDE. These complaints include allegations largely focused on misrepresenting career options (promising lifetime placement services and providing, at best, temporary assistance), falsifying job placements (including counting 1-day employments, paying employers to temporarily hire graduates, and falsifying "self-employment" statistics), and promoting student reliance on CCIs Genesis loans that required students to begin repaying loans while still in programs (staff members were provided bonuses for collecting Genesis loan payments, and were encouraged to publically remove students from class if they were behind on Genesis loan payments).

CCI financial troubles. On June 19, 2014, the USDE announced that it had placed CCI on an increased level of financial oversight. Financial stability is a requirement of participation in federal financial aid programs under Title IV of the HEA; CCI had failed to provide USDE with required financial disclosures. In response to the USDE decision to delay financial aid funds for 21-days, CCI, which was already facing a cash flow shortage, announced it would likely close. In the summer of 2014, a CCI bankruptcy would have impacted 72,000 students nationwide, with approximately \$1 billion in (potentially dischargeable) federal loans. On June 23, 2014, USDE and CCI signed a memorandum of understanding requiring the company to develop a plan to sell and teach-out programs over the next six months. As a part of the agreement, CCI was allowed to continue enrolling new students in programs.

CalVet action on Title 38. On June 26, 2014, CSAAVE suspended CCI institutions participation in Title 38 programs due to the SEC filing indicating CCI was fiscally unstable. In August of 2014, CSAAVE withdrew institutional approval at all institutions owned and operated in California by CCI. The 23 campuses (Heald, WyoTech and Everest) were prohibited from receiving GI bill benefits. In order to continue using Title 38 benefits, veteran students were required to transfer/enroll in a CSAAVE eligible school.

CCI sale to ECMC. On November 20, 2014, the ECMC Group, a nonprofit organization that operates a large student-loan guaranty agency, announced it would purchase 56 campuses from CCI. ECMC created a nonprofit subsidiary, called the Zenith Education Group, to manage the campuses. In December of 2014, USDE approved the sale, and as part of the agreement, CCI/ECMC discharged private student loans (approximately \$480 million dollars; 40% of the private student loans) for students whose campuses were sold. Earlier in the year, the federal Consumer Financial Protection Bureau (CFPB) had accused CCI of luring students into its “Genesis” loan program in order for the campus to meet the federal “90/10 rule” with false promises about career counseling and misrepresented job placement statistics.

A coalition of student, consumer, veterans and civil rights groups opposed the sale of the CCI campuses, noting that ECMC did not have experience running educational institutions. According to the coalition letter to the USDE, “in the field where ECMC does have experience, its actions have veered more than occasionally into dubious terrain, using ruthless tactics to hound debtors to the point where the company has been sanctioned and reprimanded by judges for abusing the bankruptcy process.” The coalition also noted that the terms of the sale would not give students the choice of having their federal loans discharged.

California CCI campuses. California campuses were not included in the sale to ECMC; press reports contributed ECMC’s decision largely to a lawsuit that had been filed in October of 2013, (which remains pending) by Attorney General Kamala Harris that contained a range of allegations about deceptive marketing and job-placement claims. CCI, which is based in Santa Ana, continued to operate and enroll new students at WyoTech (3 campuses), Everest (11 campuses), and Heald (10 campuses) campuses throughout California. On April 14, 2015, the USDE announced a \$30 million fine against Heald’s Salinas and Stockton campuses for fraudulent placement and other advertising (CCI has appealed this fine). The decision effectively barred all Heald campuses from receiving federal funds for new enrollments. On April 16, 2015, CSAC permanently terminated Heald’s eligibility for the Cal Grant program (Everest and WyoTech were already not eligible). On April 17, 2015, the DCA issued an

emergency decision prohibiting Everest and WyoTech campuses from enrolling new students. CCI closed all campuses on April 26, 2015, and filed bankruptcy on May 4, 2015.

Existing protections for CCI students. Federal and state laws provide for some protections for some students attending CCI at (or within a specified time prior to) the closure of the institution. The California Department of Justice (DOJ) has created a website to inform students of their rights and options; the website directs students to resources for assistance.

- 1) *Federal loan discharge.* Federal law allows students to seek a closed school loan discharge of their federal loans; however, students are only eligible for federal loan discharge if they do not transfer credits to another institution. CCI students with federal loan debt that were in attendance within 120 days of the CCI closure are eligible for a closed school loan discharge. The DOJ website directs students to local legal aid organizations to assist with the process; however, legal aid organizations are not provided funding explicitly for this purpose.
- 2) *STRF.* The STRF, administered by the BPPE, is funded by students enrolled in institutions regulated by the BPPE and provides for reimbursement to students for economic loss due to the closure or illegal activity of a regulated institution. California students enrolled in a California WyoTech and Everest campus are eligible for STRF. Unlike federal loan forgiveness, STRF provides for partial refunds if students transfer some of their credits to another institution.

Industry position. The California Association of Private Postsecondary Schools (CAPPS) has taken a "support if amended" position on this bill. CAPPS believes most school closings are carried out with little or no disruption to students. According to CAPPS, the sale of California's Corinthian campuses "would have minimized the negative educational and financial impact on students. According to CAPPS, the sale was "quashed due to the inability of Corinthian and the California Attorney General, to come to an understanding regarding buyer liability. This is a unique situation for our sector in California, and had a resolution been reached there likely would be no need for AB 573. This is important to note to ensure we keep the current situation in context and try not to overreach with a legislative solution." CAPPS has asked for numerous amendments, which are further outlined below.

Provisions of this bill. As previously noted, this bill contains several provisions intended to assist the students affected by the closure of CCI, including:

- 1) *Community college enrollment and fee waiver.* This bill would provide funds to support the CCC *I Can Afford College* media campaign to inform CCI students of CCC program availability. The bill would also provide, until July 1, 2018, a BOG Fee Waiver to CCI students enrolled at the time, or within 120 days, of the closure. Students will need to meet all other academic progress and performance standards associated with the BOG Fee Waiver program. For those students still enrolled after July 1, 2018, the vast majority (an estimated 85%) would continue to qualify for a BOG Fee Waiver under the income thresholds. The author notes that this provision is intended to encourage students to continue their educational aspirations at a CCC; and, will specifically assist those students who forgo transferring units in order to obtain federal loan discharge and must start over at a CCC.
- 2) *Cal Grants Restoration.* Everest and WyoTech students were ineligible for the Cal Grant Program because these institutions did not meet the CDR and GR performance standards.

Heald students were eligible in 2014-15 because the institution reported a compliant CDR and GR. According to CSAC, 2,772 students utilized some portion (less than a year) of Cal Grant eligibility at a Heald campus in 2014-15. According to CSAC, 116 students used a Cal Grant A, 863 students had a Cal Grant B, and 1,793 received a Cal Grant C. Cal Grant rules establish limits (4 years) on the number of awards that a student can receive. This bill would restore award year eligibility for students for the amount of time used at a Heald campus.

- 3) *STRF for California Heald and online students.* This bill would provide STRF eligibility for California students enrolled in Heald campuses and California students enrolled in an online program of a CCI institution housed out-of-state.

Heald students are not eligible for STRF because Heald was exempt from BPPE oversight due to an exemption provided in California law for WASC-accredited institutions. Prior to 2007, Heald was a non-profit institution that had operated in California since the 1963. CCI purchased Heald in November of 2009. Of note, Heald was required under federal law to become BPPE-approved by July 1, 2015; had Heald taken action to obtain BPPE-approval prior to closure, Heald students would be eligible for STRF. Online students may not currently be eligible for STRF because California law does not regulate online programs.

CAPPS has expressed concern that Heald was not regulated by the BPPE at the time of closure, and has requested an amendment to remove Heald students from STRF and instead require General Fund be used to pay Heald STRF claims.

While Heald was not regulated by the BPPE at the time of closure, CCI, as the corporate owner of Everest and WyoTech, did provide funds to the BPPE and STRF. According to BPPE documents, CCI students paid just over \$2 million in funds to STRF, and CCI provided just over \$1.5 million in administrative fees to BPPE since 2010.

CAPPS opposes the provisions of this bill that would increase STRF, arguing that this would place an additional burden on students. Committee staff understands that the proposal to increase the STRF statutory cap from \$25 million to \$50 million, contained in this legislation, was requested by BPPE prior to the announcement of the CCI closure. Committee staff also notes that within the last week, according to press reports, two other large for-profit chains announced closing (teaching-out and selling) some campuses.

Moving forward, as STRF is assessed, the author may wish to consider whether newly approved institutions, or those with students that have not previously paid into STRF, should be required to assess STRF first.

- 4) *Legal assistance for student loan/recovery.* This bill would establish a grant program (through the BPPE Administrative Fund) to provide grants to legal aid organizations that assist students in federal loan discharge and STRF recovery claims. As previously outlined, legal aid organizations are non-profits that operate throughout the country to provide legal assistance to low-income individuals. The federal legal aid program, under LSC, dates back to the 1960's and current federal statutes and regulations establish an array of requirements on grant fund recipients. Currently, the DOJ, which is prohibited from assisting individuals with legal claims, is referring CCI students to their local legal aid organization for assistance with completing loan discharge/tuition recovery processes. Committee staff understands that, while legal aid organizations are working to assist these students, they are not currently funded sufficiently to support the number of students harmed by the CCI closure.

CAPPS has requested that this provision of the bill be removed, noting that it is "not only an inappropriate use of institutional fees, but unnecessary given the resources provided by the Attorney General, CA Student Aid Commission, BPPE staff, Department of Education, and others." Committee staff notes that, with the exception of BPPE, none of the CAPPS mentioned agencies are specifically funded for the purpose of assisting students with student loan/refund related issues.

The BPPE administrative fees are provided to the BPPE for the purpose of regulating institutions and protecting students/consumers. Among its various charges, BPPE is responsible for assisting students in obtaining restitution for institutional violations of law. Unfortunately, the BPPE has not been historically successful in this role. In 2000, the California State Auditor had found that the former-Bureau had consistently failed to fulfill oversight responsibilities. In March of 2014, the Auditor found that BPPE had failed to meet responsibilities to protect the public's interest. Due to ongoing staffing shortages and lack of oversight activities, BPPE has significant operating reserves in its Administrative Fund (over \$10 million). Additionally, BPPE has an outstanding \$3 million loan to the GF.

Committee staff understands that the author's intent is to establish a BPPE-Legal Aid grant program similar to that created to assist homeowners during the mortgage foreclosure crisis. In 2013, the DOJ issued approximately \$10 million in grants to non-profit organizations to assist consumers by providing or expanding access to free legal assistance and representation, foreclosure intervention aid, homeowner education and financial literacy clinics, blight remediation services, fraud prevention education, and employment services.

This bill would require grant recipients to assist students, including veteran students, for no less than one year following the closure of the institution, with loan discharge and tuition recovery related claims. Legal aid organizations would be required to be located in the areas of the state affected by the institution's closure. Legal aid organizations that received grants would be required to report to the BPPE at the end of the grant on the number of students served. The bill appropriates \$1,300,000 from the BPPE Administrative Fund for this purpose. Committee staff understands this estimate is based on the number of students potentially eligible for a federal loan discharge, assuming a cost of \$100 per student.

- 5) *Closed schools task force.* This bill would establish a standing closed school task force in order to respond to the unanticipated closure of institutions. The author intends this task force to ensure a prompt and coordinated response to a school closure. CAPPS and American Career College/West Coast have requested an amendment to add school representatives to the task force.

Moving forward, the author may wish to amend this bill to add two financial aid professionals, both representing Cal Grant eligible institutions, one from a CCC and one from a BPPE-approved institution, to the task force.

REGISTERED SUPPORT / OPPOSITION:

Support

None on File

Opposition

None on File

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