

Date of Hearing: April 18, 2023

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Mike Fong, Chair

AB 811 (Mike Fong) – As Amended April 12, 2023

**SUBJECT:** Seymour-Campbell Student Success Act of 2012: repeating credit courses

**SUMMARY:** Require governing boards of each community college district to establish policies permitting students to retake a course up to five times, if the student received a substandard grade and to retake specified courses up to three times even if the student received a satisfactory grade. Specifically, **this bill:**

- 1) Authorizes the governing board of each community college district (CCD) to create and implement policies pertaining to the repetition of credit courses offered by the community colleges within the district. The policies will be consistent with regulations adopted by the Board of Governors of the California Community Colleges (CCC) and will, at a minimum, include the following:
  - a) Permit a student to repeat a credit course up to five times if the student has previously attempted the course and received a substandard grade. If the repeated course is a transfer-level mathematics or English course, as defined, the policies will include a requirement for the community college to inform the student of concurrent supports available to the student pursuant to subdivision (k) of Education Code Section 78213;
    - i) If a student repeats a course more than three times, the policies adopted per (a) will require the community college to do the following:
      - (1) Refer the student to support services offered by the community college for academic support;
      - (2) Identify emergency financial assistance to help the student overcome unforeseen financial challenges that would directly impact the student's ability to persist in the student's course of study; and,
      - (3) Maximize available resources to address the student's basic needs, through the provision of basic needs services and resources, as defined by Education Code Section 66023.5.
    - ii) Require a community colleges report to the Chancellor's office of the CCC by July 1, 2025, and annually thereafter, the following:
      - (1) The total number of community college courses disaggregated by course category and type, students elected to retake pursuant to (a); and,
      - (2) The total number of students, aggregated by gender and ethnicity, who repeated community college courses pursuant to (a).
  - b) Permit a student to repeat a credit course up to three times, if the course is in arts, humanities, kinesiology, foreign language, and ESL, for which the student previously

- received a satisfactory grade and for which the student is retaking for enrichment and skill-building purposes;
- c) Require community colleges to inform a student, who elects to repeat a credit course for either reason (a) or (b), whether the decision to repeat the course will impact the student's financial aid qualifications under Title IV of the Higher Education Act of 1965, as amended (20 U.S.C. Sec. 1070 et seq); and,
  - d) Require a community college to provide priority registration for college credit courses to students who require the course for their intended major and to students who have not previously taken the course.
- 2) Stipulates the Board of Governors of the CCC will adopt regulations regarding the repetition of courses and are consistent with the above provisions.
- 3) Clarifies the report CCDs provided in (a) on the repetition of courses for students with unsatisfactory grades, will be compiled by the Chancellor's Office and a summary of the information will be provided to the Legislature and the Director of Finance by December 1, 2025, and annually thereafter.
- 4) Defines for purposes of the measure the following:
- a) "Satisfactory grade" means that for the course in question, the student's academic record has been annotated with the symbol "A," "B," "C," or "P";
  - b) "Substandard academic work" means coursework for which the grading symbols "D," "F," "FW," or "NP" have been recorded; and,
  - c) "Support Services" means individual counseling and advising, technology-based strategies, corequisite courses, support-enhanced transfer-level mathematics or English courses, supervised tutoring, embedded tutoring, co-teaching courses, tutoring, or any other academic supports offered by a community college to ensure that students can successfully complete a course of study.
- 5) Renders the specified sections of the measure inoperative on July 1, 2029, and repealed on January 1, 2030, unless repealed or extended by a later statute. The provisions repealed include:
- a) Policies established by community colleges permitting to a student to retake a course up to five times for which the student has received a grade indicating substandard academic work or (a) of this analysis;
  - b) Reporting requirements for CCDs to report annually specified information on student's course retaking patterns pursuant to (b) of this analysis; and,
  - c) Reporting requirements for the Chancellor's Office to provide a summary report annually to the Legislature and the Director of Finance pursuant to (3).

**EXISTING LAW:** *Federal law.* Establishes the federal financial aid system for the purpose of assisting eligible students to access institutions of higher education by providing Federal Pell Grants, supplemental educational opportunity grants, payments to States to assist them in

providing financial aid to students, special programs and projects to benefit qualified youth with financial or cultural needs; and providing assistance to institutions of higher education (20 U.S.C. Sec. 1070 et seq).

*State law.*

- 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 that CCC districts are under the control of a board of trustees, known as the governing board, who has the authority to establish, maintain, operate, and govern one or more community colleges, within its district as specified. Permits districts to establish policies for and the approval of courses of instruction and educational programs (EDC Section 70902).
- 3) Requires, among other things, for a community college district to offer access to tutoring, support-enhanced transfer-level mathematics and English courses, concurrent low-unit credit or similar contact hour noncredit corequisite coursework for transfer-level mathematics and English, or other academic supports. Permits, but does not require a community college to enroll students in additional concurrent supports if it is determined the support will increase the student's likelihood of passing the transfer-level English or mathematics course. Clarifies nothing in this provision is meant to be construed as limiting a student's access to additional concurrent supports nor does it imply a student will be required to enroll in additional concurrent supports (EDC Section 78213 subdivision (k)).

**FISCAL EFFECT:** Unknown

**COMMENTS:** *Need for the measure.* As expounded by the author, "AB 811 lifts the cap on the number of times a community college student may retake a course, whether because they had hardships and failed a class or because they are taking a class for enrichment or professional development purposes. The bill has guardrails to ensure that students who have failed or dropped a course three times are offered academic and financial support. Currently, no data exists on the number of students repeating a course and the types of courses that are repeated. This bill will provide data to help identify and develop future policies to assist students in successfully completing a course the first time. With an enrollment decline of 20% over the last few years, allowing students to retake a dance or language class multiple times could help bring students back to the community colleges."

*History of course repetition at the CCC.* The CCC system encompasses 116 campuses and is the largest university system in the United States. The 116 campuses are divided into 73 districts that provide academic services to 1.8 million students in California. The community colleges are entirely state or county-tax supported through Proposition 98, and are funded annually through the state budget. Community colleges are partially funded based on students who are enrolled full-time. At the height of the Great Recession, the California State Legislature passed the 2010-2011 Budget Act which included a provision that permitted community colleges the ability to reduce the number of students served in 2011-2012 in proportion to the reduction in overall state funding to the CCC or roughly by \$290 million. The Legislature provided the safeguard by stipulating the reduction should be limited to courses and programs outside of those needed by students to achieve their basic skills, workforce training, or transfer goals.

In response to the reduction in funds, the Board of Governors in the summer of 2012, adopted regulations on the type of courses students could retake and the circumstance which could lead to a student receiving permission to retake a course. The regulations were adopted and students were no longer permitted agency in the courses they wished to retake. On March 19, 2022, the California Teacher Federation State Council, adopted a resolution expressing the desire to re-introduce permission for students to retake certain types of courses. The resolution explained not all students who attend community colleges have the educational goal of obtaining a degree or certificate. Some students of the community college choose to attend out of a desire to take courses for the purpose of enrichment. “Enrichment” courses are often characterized as courses in arts, humanities, kinesiology, foreign languages, or English as a second language (ESL).

*Course repetition and repeatability.* Provisions restricting the ability for students to retake courses are divided into two categories “repetition” and “repeatability”. Repetition is when a student receives a substandard grade (does not receive a passing grade), and is provided an opportunity to retake the course. The California Code of Regulations (CRC) Title 5, Section 55042, provides community college districts (CCD) permission to allow a student to enroll in a course three times for substandard academic work. After the third attempt, the student must petition the CCD to repeat the course and the CCD will not claim apportionment for any attempts after the third enrollment. Apportionment means even if the student is full-time, the course will not count when calculating funding from the State. In other words, students are already permitted up to four attempts in order to pass a course; however, after the third attempt the CCD must provide permission for the student to retake the course and is unable to collect state money for the student taking the course.

Repeatability is when a student has passed a course or received a satisfactory grade and wishes to retake the course for skill-building or enrichment purposes. In 2012, the Board of Governors adopted regulations that severely limited the conditions where a CCD could grant repeatability of a course. The regulations permit eleven exemptions to the moratorium on the repeatability of courses as listed below:

<b>California Code of Regulations Section:</b>	<b>Type of Course</b>	<b>Student Enrollment Limit</b>	<b>Number of times a CCD may collect apportionment</b>
CRC Section 55040(b)(1) and 55041  Repeatable Course	Courses for which repetition is necessary to meet the major requirements of a California State University (CSU) or University of California (UC) for completion of a bachelor’s degree.	Student enrollment is limited to the number of retakes necessary to meet the lower division major requirements of CSU or UC for completion of a bachelor’s degree.	CCDs may only claim apportionment for four semesters or six quarterly enrollments per student.
CRC Section 55041 (a)(2)	Courses that a student-athlete must enroll in to participate in an organized competitive	Regulations do not specify the maximum number of times a student may enroll; however, a student is	CCDs may only claim apportionment for four semesters or six quarterly

Repeatable Course	<p>sport sponsored by the district or a course is a conditioning course that supports the organized competitive campus sports team the student plays on.</p> <p>For example weight lifting and wrestling.</p>	required to enroll in a minimum number of degree-applicable units.	enrollments per student.
CRC Section 55041(a)(3)  Repeatable Course	<p>Courses that are designed specifically for participation in non-athletic competitive events.</p> <p>For example American College Theater Festival, music competitions, student government, or Model United Nations.</p>	Students are permitted to enroll up to four times for semesters and up to six times for quarters.	CCDs may only claim apportionment for four semesters or six quarterly enrollments per student.
CRC Section 55040(b)(3) and 55043  Significant Lapse of Time	<p>There has been a minimum of 36 months between the time student previously took the course and their current request to enroll course AND the course is required as a prerequisite or another CCC-transfer accepting institution requires the student to have taken the course more recently than the student's previous enrollment.</p>	Students can use this circumstance one time for an additional enrollment in any course.	CCDs may receive apportionment for a course a student takes for this circumstance.
CRC Section 55040(b)(4) and 55044  Variable Unit Open-Entry/Open-Exit Courses	<p>Open-entry/open-exit classes are self-paced classes, without regular class meetings. The academic work is submitted when the student wishes to complete the work. For example, the course could be four units but is</p>	If the course is an open-entry/open-exist course, the student may enroll in the course as many times as necessary to complete the entire curriculum of the course (exceptions include legally mandated training, courses offered to students with disabilities, extenuating	The apportionment limit is the same as the enrollment limit for students.

	broken down into one unit “open-entry/open exit” courses that the student can retake.	circumstances, or alleviation of substandard work.	
CRC Section 55040 (b)(5) and 55045  Extenuating Circumstance	If there is an extenuating circumstance, the student has been in a verifiable accident, had an illness, or experienced something outside their control that prevented them from obtaining the grade desired by the student.	Permits the CCD to allow the student to re-enroll in a course if the student achieved a grade in the course, the student files a petition, and the CCD finds the previous grade was the result of the extenuating circumstance.	The CCD may receive apportionment for one additional enrollment of the course.
CCR Section 55040 (b)(6)  Occupational Work Experience	The course is an occupational work experience course.	Students may enroll multiple times if the CCD only offers one occupational work experience course, the course is not open-entry/open-exit, the student’s enrollment does not exceed the maximum credit hours in cooperative work experience, and the student does not exceed a minimum of eight hours in occupational work experience education in one enrollment period.	CCDs may claim apportionment for students in occupational work experience courses without limitation.
CCR Section 55040 (b)(7)  Special Classes for Students with Disabilities	The course is a special class for students with disabilities and the student needs the course to be successful in other courses.	No limitation on enrollment if the student with disabilities, if the student’s success in other courses is dependent upon enrollment in the special class or the class, is part of their educational contract.	CCDs will receive apportionment for each enrollment for qualifying special class for students with disabilities.
CCR Section 55040 (b)(8)  Legally Mandated Courses	The course is a legally mandated course for purposes of employment that fulfills a specific skill requirement or certificate, such as an American Red Cross	As many times as the student needs to take the course to be compliant with the work requirement.	The CCD may receive apportionments without limitations.

	lifeguard certificate.		
CCR Section 55040 (b)(9)  Occupational Standard has changed	The course is required as part of the licensure standards for a specific industry.  There has been a significant change in the industry or licensure standards since the student took the course AND the student must retake the course for employment or licensure.	No limits for enrollment	No limits for apportionment.
CCR Section 55040(c)  Active Participation Courses – Limitations	An Active Participation Course is a course where individual study or group assignments are the basic means by which learning objectives are obtained.	Students are permitted to enroll up to four times for semesters and up to six times for quarters.	Same as the student limit.

Source: California Code of Regulations and Credit Course Repetition Guidelines – CCC Chancellor’s Office, November 2013.

AB 811 (M. Fong) would increase the repetition requirements from three to five for students who have received a substandard grade and would expand repeatability to include the ability for students to take courses in arts, humanities, kinesiology, foreign language, and ESL up to five times.

*California State University (CSU) and University of California (UC) repetition policies.* Both the CSU and the UC have systemwide regulations which govern whether a student is permitted to retake a course. The UC permits students to retake the University of California Entry Level Writing Requirement either twice on a semester schedule, or up three times on a quarter schedule. Additionally, UC permits the repetition of any other course if the following conditions are met:

- A student does not receive a satisfactory grade or a D, F, not passed, or unsatisfactory grade;
- Repetition of the course is approved by the appropriate dean; and,
- Degree credit for a course is only provided once and the grade assigned at each enrollment is part of the student’s permanent record.

The CSU has a systemwide repetition policy for undergraduate work. A student is permitted to repeat a course if they earned a grade lower than a C. Students may only repeat a course up to two times and may only complete a total of 16 semester units in grade forgiveness (changing an

unsatisfactory grade). The CSU systemwide policy permits campuses to designate certain courses as repeatable for credit (or repeatability) and those courses include marching band, intercollegiate athletics, or special topics classes.

The majority of students who attend the CCC seek to transfer to a four-year university. Transferring is already a convoluted process and by increasing permissions around when a student can retake a course at the CCC could add to the confusion. An unintended consequence of AB 811 (M. Fong) could result in what appears to be a greater misalignment of the policies regarding repetition amongst the public higher education segments and could result in additional confusion for students upon transferring.

*Implication on time-to-degree.* Since the adoption of the Vision for Success in 2017, the CCC has been on a journey to improve degree attainment and reduce time to degree. One of the founding pillars of the Vision for Success was to increase degree and certificate graduation rates by 20%. This has been achieved through a myriad of academic initiatives including academic support, program pathways, and providing nonacademic support for students. AB 705 (Irwin), Chapter 745, Statutes of 2017, and AB 1705 (Irwin) Chapter 925, Statutes of 2022 improved students' access to transfer-level math and English by ensuring that students are enrolled in the courses and are provided academic support to ensure completion within one year of enrollment in the given course.

One of the main concerns raised with reform efforts at the CCC is how to handle students that do not have the basic skills necessary to pass a course and continue to fail. One of the remedies was to implement the Guided Pathways Program, which included funding for early interventions for students who needed additional academic support. Additionally, in the 2022-2023 Budget Act, \$64 million was secured to provide funding to community colleges to increase the offerings of academic support services to students. A recent FAQ published by the Chancellor's Office on AB 1705 (Irwin), addressed the concern of students failing more courses with the reduction of remedial courses. The FAQ highlighted data that completion rates of transfer-level courses have increased from 49% to 67% in English and from 26% to 50% in math. A question was also raised regarding students who are unable to pass a transfer-level math course after three attempts. The FAQ stated that community colleges should have mechanisms in place to proactively support students who failed a gateway course and should actively intervene before the student has exhausted all of their opportunities to retake the course.

Based on the Student Success Dashboard by the Chancellor's Office, 16% of students who began their academic journey at the CCC in 2017-2018, had graduated with an associate degree or an associate degree for transfer by their third year of enrollment and 25% had graduated in their fourth year. While these percentages continue to rise due to a plethora of efforts, The Committee may wish to explore if AB 811 (M. Fong) undermines those efforts by 1) increasing the number of times a student can repeat a course after a failed attempt, and 2) permitting students to repeat courses that will not count towards graduation, but are simply extra units taken by the student.

By increasing the number of times a student can repeat a course, AB 811 (M. Fong) removes the financial disincentive associated with ensuring a student graduates after three attempts. While AB 811 (M. Fong) provides academic intervention after the third attempt, this could potentially undermine the efforts of the Legislature and the Chancellor's Office in providing early interventions for students to ensure academic success. Furthermore, by permitting students to take arts, humanities, foreign language, kinesiology, and ESL courses up to three times, AB 811

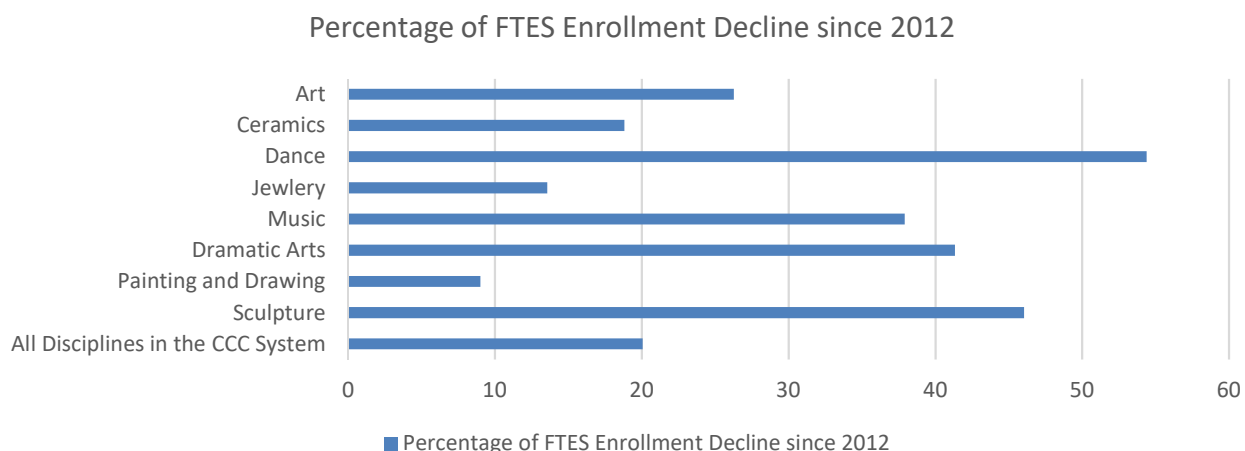


(M. Fong) could extend the length of time to degree, undoing years of progress in reducing credit accumulation by permitting students to retake courses that do not lead to a degree or certificate.

*Implication for financial aid.* According to the CCC Chancellor’s Office Management Information System DataMart, in the 2021-2022 academic year, 350,135 students received Pell Grants. Pell Grants is a federal financial aid grant, regulated by the U.S. Department of Education. One of the regulations includes the repetition of courses. Students are permitted to repeat courses as many times as they wish until the student receives a grade of a D. Once the student receives a D, the student only has one additional attempt to pass the course; at which point, the student’s enrollment in the course will no longer count for purposes of minimum course enrollment for financial aid eligibility. AB 811 (M. Fong) introduces a repetition standard for substandard grades which is in conflict with the federal regulations for financial aid eligibility.

While AB 811 (M. Fong) does require colleges to notify students of the impact of their enrollment choices on their financial aid, AB 811 (M. Fong) does place agency into the hands of students who may not understand the long-term implications of their enrollment choices. The Federal Regulations do not permit students to repeat a course for purposes of enrichment, and therefore, if a student were to repeat a course after receiving a satisfactory grade, the student would have two options: 1) take an additional course to maintain financial aid eligibility to fulfill the minimum number of enrolled course or, 2) lose their financial aid. Federal and State financial aid have lifetime eligibility limits which limit the number of academic years and the number of units the student can use the financial aid to cover. The Institute for College Access and Success highlighted accumulating additional units beyond what is required for graduation was associated with additional enrolment fees from \$410 to \$1,390 per student. AB 811 (M. Fong) could unintentionally increase the number of unfunded units students are taking at community colleges by increasing the number of times a student can take a course.

*Impact of course restrictions.* As previously mentioned by the author, data does not exist as to the number of students who have been turned away by the CCC as a result of exhausting their allotted repeatability enrollments. However, data does exist as to the impact on enrollment in the specified courses due to the restriction in repetition. In a presentation on “Ending Repeatability Restrictions to Improve Equitable Access and Enrollment”, the California Federation of Teachers found the following percentile drops in enrollment since 2012:



AB 811 (M. Fong) would increase enrollment in these disciplines by providing additional opportunities for students to participate in these courses even after receiving a satisfactory grade.

*Arguments in support.* As delineated by the California Teachers Federation, “these repeatability restrictions exacerbate the opportunity gap for students by limiting access for those students who would benefit from repeating courses for enrichment or to build job skills, leading to better job opportunities, improved wages, and improved quality of life. In many cases, arts, athletics, shop, and other vocational programs have been restricted or eliminated in middle schools and high schools resulting in students who have had little or no practice or training in these subjects and community college courses are the first time these students have adequate and consistent exposure to these opportunities. Expanded repeatability options provide students who are not concerned necessarily with transferring to another institution with more practice, and more engagement in their community to hone their skills and enjoy a life-long learning benefit by the community college system.”

“Additionally, restrictions were placed on ‘course repetition’ rules as well. Course repetition rules restricted the number of attempts a student can try to complete a course to no more than three attempts. This means students that are not successful in completing a course in three attempts for whatever reason – illness, pregnancy, getting a new job or having the hours of their job change, struggling with the subject matter material, change in schedule or any other of the limitless life circumstances – are prohibited from taking that course again at any college in the entire district. Thus, students currently are required to seek arduous waivers for one more chance, or travel into a new college district to try again.”

“These course repetition restrictions place inequitable barriers to access to community college courses for many students. While every effort should be made to ensure students are successful the very first time they attempt a course, the policy”

*Arguments in opposition.* As expressed by the Education Trust-West, “despite the successful impact of equitable placement and completion policies on student success, we still see Black and Latinx students continue to be placed in remedial courses at higher rates at colleges that have not fully implemented these policies. Reimagining CCC remedial education AB 705 (Irwin, 2017) was needed due to overwhelming research that found it was an ineffective policy, driving over 75% of incoming college students into remediation, and with every remedial course required, reducing a student’s chance of completing English and math requirements. We are concerned that repetition of credit courses will lead to Black and Latinx students repeating credit courses they do not need for their degree OR not receiving the necessary academic supports to succeed on their first try.”

“While we understand it is not the intent of AB 811 to impact historic remedial education reforms in California, there is cause for concern that this bill will reverse evidence-based strategies and policy changes the state and CCC system have invested in over the last eight years to address structural barriers to student success. Extensive research has found that completion is maximized when students are enrolled in transfer-level coursework and provided with corequisite supports. Instead of broadening course repetition policies – and allowing colleges to draw down apportionment funding for additional repeat attempts without the proper wrap-around supports for students – we must focus our limited resources on ensuring that all colleges are fully implementing equitable placement and completion policies which aim to ensure every student is receiving the support they need upfront to be successful in their coursework.”

*Committee comments.* Unlike their CSU and UC counterparts, the CCC is an open-access college that seeks to provide educational enrichment to students of all ages. According to Education Code Section 66010.4, the primary mission of the CCC is to advance California’s economic growth and global competitiveness through education, training, and services that contribute to continuous workforce improvement. As mentioned by the proponents of the bill, AB 811 (M. Fong) aligns with the mission of the CCC by:

- 1) Removes barriers to course completion by expanding the opportunities for students to successfully complete a course they have previously failed, provides intervention supports to students after their third attempt in a course of study, and ensures the student has access to financial aid, academic, and nonacademic supports; and,
- 2) Reinstates the premise of the CCC as a “community college” for every person regardless of whether their educational goal is a degree or academic enrichment.

However, increasing the number of times a student may attempt to pass a course does undermine the goals of both the Board of Governors of the CCC and the Legislature in reducing the time to a degree, increase academic support, and make data-informed decisions on how to improve student success at the community colleges. Neither the proponents of the bill nor the Chancellor’s Office could provide data to demonstrate the need to increase the repetition rate from three to five. The Chancellor’s Office did provide that the average credit course success rate for the fall of 2021 was 71.2%. If one were to assume the pass rate for each attempt is 71.2% for each cohort then eventually one would end with 2.3% of students not passing after the third attempt. AB 811 (M. Fong) not only provides a pathway to increase the number of times a student can repeat a course they have previously failed, but the measure also provides:

- 1) Interventions to help the student progress in their educational plan;
- 2) Provides reporting to help inform the Legislature of why students are retaking the courses; and,
- 3) Includes a sunset to ensure AB 811 (M. Fong) is fulfilling its purpose to improve student success and reduce barriers to degree and certificate accumulation.

Furthermore, AB 811 (M.Fong) has multiple safeguards to ensure the collection of data on course repetition for substandard work and provides a sunset date to ensure future Legislatures can make data-informed decisions as to whether the extension should continue.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

Antelope Valley Community College District  
California Federation of Teachers Afl-cio  
California School Employees Association  
Contra Costa Community College District  
Faculty Association of California Community Colleges  
Individual  
Individual Letters (2)  
Los Angeles College Faculty Guild, Local 1521

Palo Verde Community College District  
Peralta Community College District  
San Diego Community College District  
Student Senate for California Community Colleges

**Oppose**

The Education Trust - West

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