

AMENDED IN ASSEMBLY MAY 29, 2008

AMENDED IN SENATE JANUARY 7, 2008

SENATE BILL

No. 361

Introduced by Senator Scott

February 20, 2007

~~An act to amend Section 66903 of, to repeal Sections 69563 and 99155 of, and to repeal Chapter 4.5 (commencing with Section 99180) of Part 65 of Division 14 of Title 3 of, the Education Code. An act to amend Section 473.3 of the Business and Professions Code, to amend Section 67380 of, to add Section 66903.1 to, and to repeal Sections 69563 and 99155 of, the Education Code, relating to postsecondary education.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 361, as amended, Scott. Postsecondary education: California Postsecondary Education Commission.

(1) Existing law creates various boards, bureaus, and programs to license and regulate professions and vocations and other matters. Existing law establishes the Joint Committee on Boards, Commissions, and Consumer Protection and requires the committee, in cooperation with the California Postsecondary Education Commission, to hold public hearings to evaluate the Bureau for Private Postsecondary and Vocational Education and determine whether the bureau has demonstrated a need for its continued existence.

This bill would delete the requirement that the committee complete this work in cooperation with the California Postsecondary Education Commission.

(1)

(2) Existing law establishes the California Postsecondary Education Commission (CPEC) as the statewide postsecondary education coordinating and planning agency and provides for its functions and responsibilities. ~~Among other things, the CPEC is required to periodically review and make recommendations concerning the need for, and availability of, postsecondary programs for adult and continuing education. The CPEC is also required to report periodically to the Legislature and the Governor regarding the financial conditions of independent institutions, their enrollment and application figures, the number of student spaces available, and the respective cost of utilizing those spaces as compared to providing additional public spaces.~~

This bill would delete these review and reporting requirements of the CPEC, when full funding is not provided in the annual budget act, require the commission to prioritize its workload to ensure, at a minimum, that specified responsibilities are completed in a timely manner.

(3) Existing law requires the governing board of each community college district, the Trustees of the California State University, the Board of Directors of the Hastings College of the Law, the Regents of the University of California, and the governing board of any postsecondary institution receiving public funds for student financial assistance to compile records and safety plans relating to campus security, submit a report of this information to the Legislature and the Governor, and establish guidelines for identifying and reporting occurrences of hate violence.

This bill would require the commission to make these reports available to the Legislature and the general public on its Internet Web site and would delete the requirements that the guidelines be developed in consultation with the commission and that it include specified elements.

~~(2)~~

(4) Existing law establishes the Student Opportunity and Access Program, administered by the Student Aid Commission, to increase postsecondary educational opportunities, improve students' access to higher education, and reduce the duplication of services by coordinating outreach efforts. The CPEC is required to periodically review and evaluate the program as part of its regular assessment of student academic development programs in the state.

This bill would delete the requirement that the CPEC review and evaluate the program.

~~(3)~~

(5) Existing law requires the CPEC to prepare and submit a biennial report regarding standardized tests of the state’s test subjects to the Governor, the Legislature, the Regents of the University of California, the Board of Governors of the California Community Colleges, the Trustees of the California State University, and the Superintendent of Public Instruction.

This bill would delete this requirement.

~~(4) Existing law establishes a higher education accountability program under which the University of California, the California State University, and the California Community Colleges are required to prepare a list of reports on a regular basis to the Legislature and to state agencies. Under the program the CPEC is required to submit annually a higher education report to the Legislature and the Governor that provides information on significant indicators of the performance of the public colleges and universities.~~

This bill would repeal this program.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 473.3 of the Business and Professions
2 Code is amended to read:

3 473.3. (a) Prior to the termination, continuation, or
4 reestablishment of any board or any of the board’s functions, the
5 Joint Committee on Boards, Commissions, and Consumer
6 Protection shall, during the interim recess preceding the date upon
7 which a board becomes inoperative, hold public hearings to receive
8 testimony from the Director of Consumer Affairs, the board
9 involved, and the public and regulated industry. In that hearing,
10 each board shall have the burden of demonstrating a compelling
11 public need for the continued existence of the board or regulatory
12 program, and that its licensing function is the least restrictive
13 regulation consistent with the public health, safety, and welfare.

14 (b) In addition to subdivision (a), in 2002 and every four years
15 thereafter, the committee, ~~in cooperation with the California~~
16 ~~Postsecondary Education Commission,~~ shall hold a public hearing
17 to receive testimony from the Director of Consumer Affairs, the
18 Bureau for Private Postsecondary and Vocational Education,
19 private postsecondary educational institutions regulated by the

1 bureau, and students of those institutions. In those hearings, the
2 bureau shall have the burden of demonstrating a compelling public
3 need for the continued existence of the bureau and its regulatory
4 program, and that its function is the least restrictive regulation
5 consistent with the public health, safety, and welfare.

6 (c) The committee, ~~in cooperation with the California~~
7 ~~Postsecondary Education Commission~~, shall evaluate and review
8 the effectiveness and efficiency of the Bureau for Private
9 Postsecondary and Vocational Education, based on factors and
10 minimum standards of performance that are specified in Section
11 473.4. The committee shall report its findings and
12 recommendations as specified in Section 473.5. The bureau shall
13 prepare an analysis and submit a report to the committee as
14 specified in Section 473.2.

15 (d) In addition to subdivision (a), in 2003 and every four years
16 thereafter, the committee shall hold a public hearing to receive
17 testimony from the Director of Consumer Affairs and the Bureau
18 of Automotive Repair. In those hearings, the bureau shall have the
19 burden of demonstrating a compelling public need for the continued
20 existence of the bureau and its regulatory program, and that its
21 function is the least restrictive regulation consistent with the public
22 health, safety, and welfare.

23 (e) The committee shall evaluate and review the effectiveness
24 and efficiency of the Bureau of Automotive Repair based on factors
25 and minimum standards of performance that are specified in
26 Section 473.4. The committee shall report its findings and
27 recommendations as specified in Section 473.5. The bureau shall
28 prepare an analysis and submit a report to the committee as
29 specified in Section 473.2.

30 *SEC. 2. Section 66903.1 is added to the Education Code, to*
31 *read:*

32 *66903.1. (a) To the extent that the functions and tasks assigned*
33 *to the California Postsecondary Education Commission by state*
34 *law cannot all be performed with the funding provided in the*
35 *annual Budget Act, it is the intent of the Legislature that the*
36 *commission prioritize its workload to ensure, at a minimum, that*
37 *the following responsibilities are completed in a timely manner:*

38 *(1) All reviews and recommendations of the need for new*
39 *institutions for the public higher education segments, inclusive of*
40 *community colleges, pursuant to subdivision (e) of Section 66903.*

1 (2) All reviews and recommendations of the need for new
2 programs for the public higher education segments, inclusive of
3 community colleges, pursuant to subdivision (f) of Section 66903.

4 (3) Consistent with the role of the commission pursuant to
5 Section 67002, serve as the designated state educational agency
6 to carry out federal education programs, pursuant to subdivision
7 (o) of Section 66903.

8 (4) All data management responsibilities pursuant to subdivision
9 (m) of Section 66903 and data reporting pursuant to the adoption
10 of legislation that establishes a higher education accountability
11 framework.

12 SEC. 3. Section 67380 of the Education Code is amended to
13 read:

14 67380. (a) The governing board of each community college
15 district, the Trustees of the California State University, the Board
16 of Directors of the Hastings College of the Law, the Regents of
17 the University of California, and the governing board of any
18 postsecondary institution receiving public funds for student
19 financial assistance shall do all of the following:

20 (1) Require the appropriate officials at each campus within their
21 respective jurisdictions to compile records of both of the following:

22 (A) All occurrences reported to campus police, campus security
23 personnel, or campus safety authorities of, and arrests for, crimes
24 that are committed on campus and that involve violence, hate
25 violence, theft or destruction of property, illegal drugs, or alcohol
26 intoxication.

27 (B) All occurrences of noncriminal acts of hate violence reported
28 to, and for which a written report is prepared by, designated campus
29 authorities.

30 (2) Require any written record of a noncriminal act of hate
31 violence to include, but not be limited to, the following:

32 (A) A description of the act of hate violence.

33 (B) Victim characteristics.

34 (C) Offender characteristics, if known.

35 (3) Make the information concerning the crimes compiled
36 pursuant to subparagraph (A) of paragraph (1) available within
37 two business days following the request of any student or employee
38 of, or applicant for admission to, any campus within their respective
39 jurisdictions, or to the media, unless the information is the type of
40 information exempt from disclosure pursuant to subdivision (f) of

1 Section 6254 of the Government Code, in which case the
2 information is not required to be disclosed. Notwithstanding
3 paragraph (2) of subdivision (f) of Section 6254 of the Government
4 Code, the name of a victim of any crime defined by Section 261,
5 262, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6,
6 422.7, or 422.75 of the Penal Code shall not be disclosed without
7 the permission of the victim, or the victim's parent or guardian if
8 the victim is a minor.

9 For purposes of this paragraph and subparagraph (A) of
10 paragraph (1), the campus police, campus security personnel, and
11 campus safety authorities described in subparagraph (A) of
12 paragraph (1) shall be included within the meaning of "state or
13 local police agency" and "state and local law enforcement agency,"
14 as those terms are used in subdivision (f) of Section 6254 of the
15 Government Code.

16 (4) Require the appropriate officials at each campus within their
17 respective jurisdictions to prepare, prominently post, and copy for
18 distribution on request a campus safety plan that sets forth all of
19 the following: the availability and location of security personnel,
20 methods for summoning assistance of security personnel, any
21 special safeguards that have been established for particular facilities
22 or activities, any actions taken in the preceding 18 months to
23 increase safety, and any changes in safety precautions expected to
24 be made during the next 24 months. For the purposes of this
25 section, posting and distribution may be accomplished by including
26 relevant safety information in a student handbook or brochure that
27 is made generally available to students.

28 (5) Require the appropriate officials at each campus within their
29 respective jurisdictions to report information compiled pursuant
30 to paragraph (1) relating to hate violence to the governing board,
31 trustees, board of directors, or regents, as the case may be. The
32 governing board, trustees, board of directors, or regents, as the
33 case may be, shall, upon collection of that information from all of
34 the campuses within their jurisdiction, transmit a report containing
35 a compilation of that information to the California Postsecondary
36 Education Commission no later than January 1 of each year,
37 commencing January 1, 1993. The commission shall ~~submit a~~
38 ~~report to the Legislature and the Governor on July 1, 1993, and~~
39 ~~every two years thereafter, on the type and number of incidents of~~
40 ~~hate violence occurring in institutions of public higher education~~

1 ~~in California~~ make these reports available to the Legislature and
2 the general public on its Internet Web site. It is the intent of the
3 Legislature that the governing board of each community college
4 district, the Trustees of the California State University, the Board
5 of Directors of the Hastings College of the Law, the Regents of
6 the University of California, and the governing board of any
7 postsecondary institution receiving public funds for student
8 financial assistance establish guidelines for identifying and
9 reporting occurrences of hate violence. It is the intent of the
10 Legislature that the guidelines established by these institutions of
11 higher education be as consistent with each other as possible. These
12 guidelines shall be developed in consultation with ~~the California~~
13 ~~Postsecondary Education Commission~~, the Department of Fair
14 Employment and Housing; and the California Association of
15 Human Rights Organizations. ~~The report shall include, but not be~~
16 ~~limited to, the following:~~

17 (A) ~~A comparison of incidents occurring in the year being~~
18 ~~reported to previous years for which there is hate violence data.~~

19 (B) ~~To the extent possible, a comparison of incidents of hate~~
20 ~~violence occurring at community colleges, the California State~~
21 ~~University, the Hastings College of the Law, the University of~~
22 ~~California, and postsecondary institutions receiving funds for~~
23 ~~student financial assistance with incidents occurring at colleges~~
24 ~~and universities in other states and private universities in California.~~

25 (C) ~~Findings and recommendations to the Legislature on the~~
26 ~~means of addressing hate violence at community colleges, the~~
27 ~~California State University, the Hastings College of the Law, the~~
28 ~~University of California, and postsecondary institutions receiving~~
29 ~~public funds for student financial assistance.~~

30 (b) Any person who is refused information required to be made
31 available pursuant to subparagraph (A) of paragraph (1) of
32 subdivision (a) may maintain a civil action for damages against
33 any institution that refuses to provide the information, and the
34 court shall award that person an amount not to exceed one thousand
35 dollars (\$1,000) if the court finds that the institution refused to
36 provide the information.

37 (c) For purposes of this section, “hate violence” means any act
38 of physical intimidation or physical harassment, physical force or
39 physical violence, or the threat of physical force or physical
40 violence, that is directed against any person or group of persons,

1 or the property of any person or group of persons because of the
2 ethnicity, race, national origin, religion, sex, sexual orientation,
3 disability, or political or religious beliefs of that person or group.

4 (d) This section does not apply to the governing board of any
5 private postsecondary institution receiving funds for student
6 financial assistance with a full-time enrollment of less than 1,000
7 students.

8 (e) This section shall apply to a campus of one of the public
9 postsecondary educational systems identified in subdivision (a)
10 only if that campus has a full-time equivalent enrollment of more
11 than 1,000 students.

12 (f) Notwithstanding any other provision of this section, this
13 section shall not apply to the California Community Colleges
14 unless and until the Legislature makes funds available to the
15 California Community Colleges for the purposes of this section.

16 SECTION 1. ~~Section 66903 of the Education Code is amended~~
17 ~~to read:~~

18 ~~66903. The commission has the following functions and~~
19 ~~responsibilities in its capacity as the statewide postsecondary~~
20 ~~education planning and coordinating agency and adviser to the~~
21 ~~Legislature and the Governor:~~

22 (a) ~~It shall require the governing boards of the segments of~~
23 ~~public postsecondary education to develop and submit to the~~
24 ~~commission institutional and systemwide long-range plans in a~~
25 ~~form determined by the commission after consultation with the~~
26 ~~segments.~~

27 (b) ~~It shall prepare a state plan for postsecondary education that~~
28 ~~shall integrate the planning efforts of the public segments with~~
29 ~~other pertinent plans. The commission shall seek to resolve~~
30 ~~conflicts or inconsistencies among segmental plans in consultation~~
31 ~~with the segments. If these consultations are unsuccessful, the~~
32 ~~commission shall report the unresolved issues to the Legislature~~
33 ~~with recommendations for resolution. In developing the plan, the~~
34 ~~commission shall consider at least the following factors:~~

35 (1) ~~The need for, and location of, new facilities.~~

36 (2) ~~The range and kinds of programs appropriate to each~~
37 ~~institution or system.~~

38 (3) ~~The budgetary priorities of the institutions and systems of~~
39 ~~postsecondary education.~~

- 1 ~~(4) The impact of various types and levels of student charges~~
2 ~~on students and on postsecondary education programs and~~
3 ~~institutions.~~
- 4 ~~(5) The appropriate levels of state-funded student financial aid.~~
- 5 ~~(6) The access and admission of students to postsecondary~~
6 ~~education.~~
- 7 ~~(7) The educational programs and resources of independent and~~
8 ~~private postsecondary institutions.~~
- 9 ~~(8) The provisions of this division differentiating the functions~~
10 ~~of the public systems of higher education.~~
- 11 ~~(e) It shall update the plan periodically, as appropriate.~~
- 12 ~~(d) It shall participate in appropriate stages of the executive and~~
13 ~~the legislative budget processes as requested by the executive and~~
14 ~~the legislative branches, and shall advise the executive and the~~
15 ~~legislative branches as to whether segmental programmatic~~
16 ~~budgetary requests are compatible with the state plan. It is not~~
17 ~~intended that the commission hold independent budget hearings.~~
- 18 ~~(e) It shall advise the Legislature and the Governor regarding~~
19 ~~the need for, and location of, new institutions and campuses of~~
20 ~~public higher education.~~
- 21 ~~(f) It shall review proposals by the public segments for new~~
22 ~~programs, the priorities that guide them, and the degree of~~
23 ~~coordination with nearby public, independent, and private~~
24 ~~postsecondary educational institutions, and shall make~~
25 ~~recommendations regarding those proposals to the Legislature and~~
26 ~~the Governor.~~
- 27 ~~(g) In consultation with the public segments, it shall establish~~
28 ~~a schedule for segmental review of selected educational programs,~~
29 ~~evaluate the program approval, review, and disestablishment~~
30 ~~processes of the segments, and report its findings and~~
31 ~~recommendations to the Legislature and the Governor.~~
- 32 ~~(h) It shall serve as a stimulus to the segments and institutions~~
33 ~~of postsecondary education by projecting and identifying societal~~
34 ~~and educational needs and encouraging adaptability to change.~~
- 35 ~~(i) It shall periodically collect or conduct, or both collect and~~
36 ~~conduct, studies of projected manpower supply and demand, in~~
37 ~~cooperation with appropriate state agencies, and disseminate the~~
38 ~~results of those studies to institutions of postsecondary education~~
39 ~~and to the public in order to improve the information base upon~~
40 ~~which student choices are made.~~

- 1 ~~(j) It shall develop criteria for evaluating the effectiveness of~~
2 ~~all aspects of postsecondary education.~~
- 3 ~~(k) It shall maintain and update annually an inventory of all~~
4 ~~off-campus programs and facilities for education, research, and~~
5 ~~community services operated by public and independent institutions~~
6 ~~of postsecondary education.~~
- 7 ~~(l) (1) It shall act as a clearinghouse for postsecondary education~~
8 ~~information and as a primary source of information for the~~
9 ~~Legislature, the Governor, and other agencies. It shall develop and~~
10 ~~maintain a comprehensive data base that does all of the following:~~
- 11 ~~(A) Ensures comparability of data from diverse sources.~~
- 12 ~~(B) Supports longitudinal studies of individual students as they~~
13 ~~progress through the state's postsecondary educational institutions,~~
14 ~~based upon the commission's existing student data base through~~
15 ~~the use of a unique student identifier.~~
- 16 ~~(C) Is compatible with the California School Information System~~
17 ~~and the student information systems developed and maintained by~~
18 ~~the public segments of higher education, as appropriate.~~
- 19 ~~(D) Provides Internet access to data, as appropriate, to the sectors~~
20 ~~of higher education.~~
- 21 ~~(E) Provides each of the educational segments access to the data~~
22 ~~made available to the commission for the purposes of the data~~
23 ~~base, in order to support, most efficiently and effectively, statewide,~~
24 ~~segmental, and individual campus educational research information~~
25 ~~needs.~~
- 26 ~~(2) The commission, in implementing paragraph (1), shall~~
27 ~~comply with the federal Family Educational Rights and Privacy~~
28 ~~Act of 1974 (20 U.S.C. Sec. 1232g) relating to the disclosure of~~
29 ~~personally identifiable information concerning students.~~
- 30 ~~(3) The commission may not make available any personally~~
31 ~~identifiable information received from a postsecondary educational~~
32 ~~institution concerning students for any regulatory purpose unless~~
33 ~~the institution has authorized the commission to provide that~~
34 ~~information on behalf of the institution.~~
- 35 ~~(4) The commission shall provide 30-day notification to the~~
36 ~~chairpersons of the appropriate legislative policy and budget~~
37 ~~committees of the Legislature, to the Director of Finance, and to~~
38 ~~the Governor prior to making any significant changes to the student~~
39 ~~information contained in the data base.~~

1 (m) It shall establish criteria for state support of new and existing
2 programs, in consultation with the public segments, the Department
3 of Finance, and the Joint Legislative Budget Committee.

4 (n) It shall comply with the appropriate provisions of the federal
5 Education Amendments of 1972 (P.L. 92-318), as specified in
6 Section 67000.

7 (o) It shall consider the relationship among academic education
8 and vocational education and job training programs, and shall
9 actively consult with representatives of public and private
10 education.

11 (p) It shall review all proposals for changes in eligibility pools
12 for admission to public institutions and segments of postsecondary
13 education and shall make recommendations to the Legislature, the
14 Governor, and institutions of postsecondary education. In carrying
15 out this subdivision, the commission periodically shall conduct a
16 study of the percentages of California public high school graduates
17 estimated to be eligible for admission to the University of
18 California and the California State University. The changes made
19 to this subdivision during the 2001-02 Regular Session of the
20 Legislature shall be implemented only during those fiscal years
21 for which funding is provided for the purposes of those provisions
22 in the annual Budget Act or in another measure.

23 (q) Upon request of the Legislature or the Governor, it shall
24 submit to the Legislature and the Governor a report on all matters
25 so requested that are compatible with its role as the statewide
26 postsecondary education planning and coordinating agency. Upon
27 request of individual Members of the Legislature or personnel in
28 the executive branch, the commission shall submit information or
29 a report on any matter to the extent that sufficient resources are
30 available. From time to time, it also may submit to the Legislature
31 and the Governor a report that contains recommendations as to
32 necessary or desirable changes, if any, in the functions, policies,
33 and programs of the several segments of public, independent, and
34 private postsecondary education.

35 (r) In consultation with the public segments, it shall consider
36 the development of facilities to be used by more than one segment
37 of public higher education, commonly called "joint-use facilities."
38 It shall recommend to the Legislature criteria and processes for
39 different segments to utilize bond funds for these intersegmental,
40 joint-use facilities.

1 ~~(s) It may undertake other functions and responsibilities that~~
2 ~~are compatible with its role as the statewide postsecondary~~
3 ~~education planning and coordinating agency.~~

4 ~~SEC. 2.~~

5 ~~SEC. 4.~~ Section 69563 of the Education Code is repealed.

6 ~~SEC. 3.~~

7 ~~SEC. 5.~~ Section 99155 of the Education Code is repealed.

8 ~~SEC. 4.~~ Chapter 4.5 (commencing with Section 99180) of Part
9 ~~65 of Division 14 of Title 3 of the Education Code is repealed.~~