

AMENDED IN ASSEMBLY MAY 23, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2377

Introduced by Assembly Member John A. Pérez

February 21, 2014

An act to add Article ~~7.5 (commencing with Section 94200)~~ *4.1 (commencing with Section 94157)* to Chapter 2 of Part 59 of Division 10 of Title 3 of the Education Code, relating to student loans, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2377, as amended, John A. Pérez. Student loans: California Student Loan Refinancing Program.

Under existing law, the California Educational Facilities Authority Act, the California Educational Facilities Authority is, among other things, authorized to borrow money and issue bonds, notes, and other obligations. The authority is also authorized to hold or invest in student loans, create pools of student loans, and sell bonds bearing interest on a taxable or tax-exempt basis or other interests backed by the pools of student loans.

This bill would establish the California Student Loan Refinancing Program ~~within~~ *under the administration of* the authority, ~~and provide for its administration by the Treasurer's office,~~ with the ~~goals~~ *goal* of helping eligible ~~students and college~~ graduates to refinance *student* loan debt at favorable rates ~~and by creating a revolving fund so that additional refinancing may occur to help more students and graduates qualified borrowers, as defined, through the creation of a loss reserve account, as defined.~~ The bill would authorize the authority to ~~issue bonds for purposes of providing student loan refinancing options, including loan~~

~~consolidation, interest rate buy-down, debt restructuring, establishing a loan contract with any financial institution, as defined, for the purpose of allowing the financial institution to participate in the program. The bill would require the authority to establish a loss reserve account, and alignment with various federal student loan alternative repayment programs. The consisting of moneys deposited by the authority, as specified, for each financial institution with which the authority enters into a contract. The bill would specify the conditions under which a qualified loan, as defined, may be enrolled in the program in order to obtain the protection against loss provided by its loss reserve account.~~

The bill would establish eligibility requirements for ~~students and graduates~~ qualified borrowers to participate in the program. The bill would require the authority to submit an annual report to the Governor and the Legislature describing the program’s financial condition and results, as specified. The bill would authorize the board of the authority to ~~develop and adopt regulations and procedures~~ adopt emergency regulations for the implementation of the program established by the bill.

Because this bill would authorize the authority to raise and expend funds for new purposes, the bill would make an appropriation.

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

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Over the last decade, tuition within the California higher
- 4 education system increased 145 percent at the University of
- 5 California and 191 percent at the California State University.
- 6 (b) ~~Recently, the Legislature, through the~~ The Middle Class
- 7 Scholarship Act, ~~has pursued efforts to~~ will lower the costs of
- 8 tuition for prospective students, ~~but little has been done for those~~
- 9 *students; however, more needs to be done to assist those students*
- 10 *who have already graduated and suffered the worst of the*
- 11 *affordability squeeze, and have had causing them to incur more*
- 12 *student loan debt in order to achieve complete their college degrees.*
- 13 (c) Student loan debt is a drag on our economy, preventing
- 14 graduates from entering graduate schools, achieving financial

1 independence, buying property, *and* starting ~~businesses, or~~
2 ~~otherwise reinvesting in the state businesses.~~

3 (d) In the United States today, there is more than \$1.2 trillion
4 in outstanding student loan debt, which works out to an average
5 of more than \$26,000 per graduate. ~~These debts lead~~ *This level of*
6 *debt translates* to more than \$200,000 per graduate in lost savings
7 and home equity, which in total accounts for \$4 trillion in lost
8 national wealth.

9 (e) As of 2013, California residents ~~have had~~ an average of just
10 over \$20,000 in student loan debt upon graduation. Of the
11 approximately 250,000 California residents who received
12 bachelor's degrees both in and out of the state in 2012, 52 percent
13 had some level of student loan debt.

14 (f) ~~In the 1980s, the California State Treasurer administered a~~
15 ~~\$75 million student loan program that provided borrowers with~~
16 ~~access to low-interest loans through the issuance of tax-exempt~~
17 ~~revenue bonds. In 1995, Through the California Educational~~
18 ~~Facilities Authority (CEFA) took over administration of the loan~~
19 ~~program. Authority, the state has the ability to develop a student~~
20 ~~loan refinancing and consolidation program to assist college~~
21 ~~graduates carrying student loan debt to meet their payment~~
22 ~~obligations.~~

23 (g) ~~The CEFA retains the bond authority for this program, and~~
24 ~~has the authority to use proceeds from the sale of bonds for, among~~
25 ~~other things, "the refinancing of existing debt."~~

26 SEC. 2. Article ~~7.5~~ 4.1 (commencing with Section ~~94200~~)
27 ~~94157~~) is added to Chapter 2 of Part 59 of Division 10 of Title 3
28 of the Education Code, to read:

29

30 Article ~~7.5.~~ 4.1. California Student Loan Refinancing Program

31

32 ~~94200.~~ (a) ~~The California Student Loan Refinancing Program~~
33 ~~is hereby established, to be administered by the Treasurer's office~~
34 ~~with policy guidance from the authority. The goals of the program~~
35 ~~are to help eligible students and graduates to refinance loan debt~~
36 ~~at favorable rates and to create a revolving fund so that additional~~
37 ~~refinancing may occur to help more students and graduates.~~

38 (b) ~~The program may use the authority's power to issue bonds~~
39 ~~pursuant to Article 4 (commencing with Section 94140) for~~
40 ~~purposes of providing student loan refinancing options that shall~~

1 include, but are not necessarily limited to, loan consolidation,
2 interest rate buy-down, debt restructuring, establishing a loan loss
3 reserve account, and alignment with various federal student loan
4 alternative repayment programs.

5 94201. Eligibility for the program shall be limited to persons
6 meeting all of the following requirements:

- 7 (a) Residency in California.
- 8 (b) Completion of a bachelor’s degree.
- 9 (c) Employment in a public service program or by a nonprofit
10 organization.
- 11 (d) Ability to repay, as determined by the authority.
- 12 (e) Any additional qualification imposed by the Treasurer.

13 94202. The board of the authority is authorized to develop and
14 adopt regulations and procedures for the implementation of this
15 article, including program administration requirements and
16 provisions to ensure the solvency of the financing.

17 94157. As used in this article, unless the context requires
18 otherwise, the following terms have the following meanings:

19 (a) “Executive director” means the Executive Director of the
20 California Educational Facilities Authority.

21 (b) “Financial institution” means a bank as defined under
22 paragraph (4) of subdivision (b) of Section 1201 of the Commercial
23 Code, including a federal- or state-chartered bank, that has been
24 approved by the authority to enroll qualified loans in the program
25 and has agreed to all terms and conditions set forth in this article
26 and as may be required by the authority. A financial institution
27 shall have a branch or office, or be otherwise present for
28 jurisdictional purposes, in California.

29 (c) “Loss reserve account” means an account in the State
30 Treasury or in any financial institution that is established and
31 maintained by the authority for the benefit of a financial institution
32 participating in the program for the purposes of any of the
33 following:

- 34 (1) Depositing all required fees paid by the financial institution
35 and the qualified borrower.
- 36 (2) Depositing contributions made by the state and, if applicable,
37 the federal government or other sources.
- 38 (3) Covering losses on enrolled qualified loans sustained by the
39 financial institution by disbursing funds accumulated in the loss
40 reserve account.

1 (d) “Private student loan” means a loan issued by a private
2 lending institution for the costs of attendance at any public or
3 private nonprofit college or university in the United States,
4 notwithstanding the definitions in subdivisions (i), (k), and (l) of
5 Section 94110.

6 (e) “Program” means the California Student Loan Refinancing
7 Program created pursuant to this article.

8 (f) “Qualified borrower” means an individual meeting all of
9 the following requirements:

10 (1) Residency in California.

11 (2) Completion of a bachelor’s degree.

12 (3) Employment in a public service program or by a nonprofit
13 organization located in California.

14 (4) Able to repay, as determined by the authority.

15 (5) Meeting the criteria established by the financial institution
16 and the authority.

17 (g) “Qualified loan” means a loan or a portion of a loan made
18 by a financial institution to a qualified borrower to refinance a
19 private student loan under the program. A qualified loan made
20 under the program may be made with the interest rates, fees, and
21 other terms and conditions agreed upon by the financial institution
22 and the qualified borrower.

23 94158. (a) The California Student Loan Refinancing Program
24 is hereby established under the administration of the authority.
25 The goal of the program is to help college graduates who meet the
26 eligibility criteria of the program, who are defined as qualified
27 borrowers under Section 94157, to refinance student loan debt at
28 favorable rates. This goal would be achieved through the creation
29 of a revolving fund so that additional refinancing may occur to
30 help more qualified borrowers, and through the creation of a loan
31 loss reserve that can be leveraged by private lenders in the private
32 student loan market.

33 (b) The authority may contract with any financial institution
34 for the purpose of allowing the financial institution to participate
35 in the program.

36 (c) A credit union operating pursuant to a certificate issued
37 under the California Credit Union Law (Division 5 (commencing
38 with Section 14000) of the Financial Code) may participate in the
39 program only to the extent participation is in compliance with the
40 California Credit Union Law. Nothing in this article shall be

1 construed to limit the authority of the Commissioner of Business
2 Oversight to regulate credit unions subject to the commissioner's
3 jurisdiction under the California Credit Union Law.

4 94159. (a) The authority shall establish a loss reserve account
5 for each financial institution with which the authority enters into
6 a contract.

7 (b) The loss reserve account for a financial institution shall
8 consist of moneys deposited by the authority and, as applicable,
9 deposited by the qualified borrowers, the financial institution, or
10 any other source.

11 (c) Notwithstanding any other law, the authority may establish
12 and maintain loss reserve accounts, as provided in subdivision (c)
13 of Section 94157, with any financial institution under any policies
14 the authority may adopt.

15 (d) All moneys in a loss reserve account established pursuant
16 to this article are the exclusive property of, and solely controlled
17 by, the authority. Interest or income earned on moneys credited
18 to the loss reserve account shall be deemed to be part of the loss
19 reserve account. The authority may withdraw from the loss reserve
20 account all, or a portion of, the interest or other income that has
21 been credited to the loss reserve account. Any withdrawal made
22 pursuant to this subdivision shall be used for the sole purpose of
23 offsetting costs associated with carrying out the program, including
24 administrative costs and loss reserve account contributions.

25 (e) The combined amount to be deposited by the financial
26 institution into any individual loss reserve account over a
27 three-year period, in connection with any single qualified
28 borrower, shall be not more than seventy-five thousand dollars
29 (\$75,000).

30 94160. (a) If a financial institution seeks to enroll a qualified
31 loan in the program in order to obtain the protection against loss
32 provided by its loss reserve account, after disclosing relevant
33 qualified loan financial information to the qualified borrower, it
34 shall notify the authority in writing on a form prescribed by the
35 authority, within 15 calendar days after the date on which the
36 qualified loan is made, of all of the following:

37 (1) The disbursement of the qualified loan.

38 (2) The dollar amount of the qualified loan enrolled.

39 (3) The interest rate applicable to, and the term of, the qualified
40 loan.

1 (4) *The amount of any administrative fee related to the*
2 *processing of an existing loan or the issuance of a new loan.*

3 (b) *The executive director may authorize an additional five days*
4 *for a financial institution to submit the written notification*
5 *described in subdivision (a) to the authority on a loan-by-loan*
6 *basis for a reason limited to conditions beyond the reasonable*
7 *control of the financial institution.*

8 (c) *When making a qualified loan that will be enrolled under*
9 *the program, the financial institution shall require the qualified*
10 *borrower to whom the qualified loan is made to pay an*
11 *administration fee as determined by the authority. The financial*
12 *institution shall also pay an administration fee in an amount equal*
13 *to the fee paid by the qualified borrower. The financial institution*
14 *shall deliver the fees collected under this subdivision to the*
15 *authority for deposit in the loss reserve account for the financial*
16 *institution.*

17 94161. (a) *The authority shall establish procedures under*
18 *which financial institutions may submit claims for reimbursement*
19 *for losses incurred as a result of qualified loan defaults. A financial*
20 *institution that charges off all or part of a qualified loan to the*
21 *loss reserve account may file a claim for reimbursement with the*
22 *authority if all of the following conditions are met:*

23 (1) *The claim occurs contemporaneously with the action of the*
24 *financial institution to charge off all or part of the qualified loan.*

25 (2) *The charge off on a qualified loan is made in a manner that*
26 *is consistent with the financial institution's usual method for*
27 *making determinations on personal loans that are not qualified*
28 *loans.*

29 (3) *The financial institution has met all of the conditions*
30 *established by the authority to assist the borrower in making*
31 *payments prior to filing a claim for reimbursement.*

32 (b) *Costs for which a financial institution may be reimbursed*
33 *from its loss reserve account include the amount of qualified loan*
34 *principal charged off, accrued interest on the principal, reasonable*
35 *out-of-pocket expenses incurred in pursuing its collection efforts,*
36 *including preservation of collateral, and any other related costs.*
37 *Proper documentation of the expenses, to the satisfaction of the*
38 *authority, shall be presented at the time of the claim.*

39 (c) *If a financial institution files two or more claims*
40 *contemporaneously, and there are insufficient funds in the loss*

1 *reserve account at that time to cover the entire amount of such*
2 *claims, the financial institution may designate the order of priority*
3 *in which the claims shall be paid.*

4 *(d) A financial institution may seek reimbursement of qualified*
5 *loan losses prior to the liquidation of collateral, if any, from*
6 *defaulted qualified loans. The financial institution shall repay the*
7 *loss reserve account for any moneys received as reimbursement*
8 *under this section if the financial institution recovers moneys from*
9 *the qualified borrower or from the liquidation of collateral for the*
10 *defaulted qualified loan, less any reasonable out-of-pocket*
11 *expenses incurred in collection of this amount.*

12 *(e) In any case in which the payment of a claim under this*
13 *section has fully covered a financial institution's loss on a qualified*
14 *loan, the financial institution shall assign to the authority any right*
15 *or title to, or interest in, any collateral, security, or other right of*
16 *recovery in connection with a qualified loan made under the*
17 *program.*

18 *94162. Notwithstanding Section 10231.5 of the Government*
19 *Code, the authority shall annually submit a report to the Governor*
20 *and the Legislature that describes the program's financial*
21 *condition and its results. Programmatic results described in the*
22 *report shall include, but not necessarily be limited to, the total*
23 *number of qualified borrowers served and the dollar amount of*
24 *qualified loans issued for all new qualified loans issued since the*
25 *report for the prior year. The report required by this section shall*
26 *be submitted in accordance with Section 9795 of the Government*
27 *Code.*

28 *94163. The authority may enter into agreements with financial*
29 *institutions, or with other agencies of the state, to provide*
30 *necessary assistance in carrying out the program, including*
31 *origination and servicing of qualified loans.*

32 *94164. Notwithstanding the other provisions of this article,*
33 *the authority may facilitate the development of a secondary market*
34 *for a qualified loan under the program by providing security for*
35 *that loan, thereby increasing participation in the program by*
36 *financial institutions and improving access to qualified borrowers*
37 *to refinance private student loans. For purposes of this section,*
38 *the actions that the authority may take include, but are not*
39 *necessarily limited to, assigning all or a portion of any loss reserve*
40 *account to any other entity in connection with providing security*

1 *for a qualified loan, including a trustee of a securitization trust,*
2 *transferring a qualified loan from a financial institution to a*
3 *securitization trust, and assisting underwriters in marketing a*
4 *qualified loan to the secondary market.*

5 *94165. The authority may adopt emergency regulations for the*
6 *implementation of the program. Any emergency regulations that*
7 *may be adopted by the authority under this section shall be adopted*
8 *in accordance with the Administrative Procedure Act (Chapter*
9 *3.5 (commencing with Section 11340) of Part 1 of Division 3 of*
10 *Title 2 of the Government Code). The adoption of these regulations*
11 *shall be deemed to be an emergency and necessary for the*
12 *immediate preservation of the public peace, health and safety, or*
13 *general welfare.*

O