

AMENDED IN SENATE AUGUST 20, 2014

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 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 under the administration of the authority, with the goal of helping eligible college graduates to refinance student loan debt at favorable rates by creating a revolving fund so that additional refinancing may occur to help more qualified borrowers, as defined, through the creation of a loss reserve account, as defined. The bill would authorize the authority to 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, 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 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 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) The Middle Class Scholarship Act will lower the costs of
7 tuition for prospective students; however, more needs to be done
8 to assist those students who have already graduated and suffered
9 the worst of the affordability squeeze, causing them to incur more
10 student loan debt in order to complete their college degrees.
- 11 (c) Student loan debt is a drag on our economy, preventing
12 graduates from entering graduate schools, achieving financial
13 independence, buying property, and starting businesses.
- 14 (d) In the United States today, there is more than \$1.2 trillion
15 in outstanding student loan debt, which works out to an average
16 of more than \$26,000 per graduate. This level of debt translates
17 to more than \$200,000 per graduate in lost savings and home
18 equity, which in total accounts for \$4 trillion in lost national wealth.

1 (e) As of 2013, California residents had an average of just over
2 \$20,000 in student loan debt upon graduation. Of the approximately
3 250,000 California residents who received bachelor’s degrees both
4 in and out of the state in 2012, 52 percent had some level of student
5 loan debt.

6 (f) Through the California Educational Facilities Authority, the
7 state has the ability to develop a student loan refinancing and
8 consolidation program to assist college graduates carrying student
9 loan debt to meet their payment obligations.

10 SEC. 2. Article 4.1 (commencing with Section 94157) is added
11 to Chapter 2 of Part 59 of Division 10 of Title 3 of the Education
12 Code, to read:

13
14 Article 4.1. California Student Loan Refinancing Program
15

16 94157. As used in this article, unless the context requires
17 otherwise, the following terms have the following meanings:

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

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

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

33 (1) Depositing all required fees paid by the financial institution
34 and the qualified borrower.

35 (2) Depositing contributions made by the state and, if applicable,
36 the federal government or other sources.

37 (3) Covering losses on enrolled qualified loans sustained by the
38 financial institution by disbursing funds accumulated in the loss
39 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 the
9 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. *Only a loan determined by the authority*
23 *to be an educational loan nondischargeable in bankruptcy as set*
24 *forth in Section 523 of Title 11 of the United States Code as that*
25 *section existed on August 15, 2014, shall be a qualified loan*
26 *eligible for financing under this article.*

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

37 (b) The authority may contract with any financial institution for
38 the purpose of allowing the financial institution to participate in
39 the program.

1 (c) A credit union operating pursuant to a certificate issued
2 under the California Credit Union Law (Division 5 (commencing
3 with Section 14000) of the Financial Code) may participate in the
4 program only to the extent participation is in compliance with the
5 California Credit Union Law. Nothing in this article shall be
6 construed to limit the authority of the Commissioner of Business
7 Oversight to regulate credit unions subject to the commissioner's
8 jurisdiction under the California Credit Union Law.

9 94159. (a) The authority shall establish a loss reserve account
10 for each financial institution with which the authority enters into
11 a contract.

12 (b) The loss reserve account for a financial institution shall
13 consist of moneys deposited by the authority and, as applicable,
14 deposited by the qualified borrowers, the financial institution, or
15 any other source.

16 (c) Notwithstanding any other law, the authority may establish
17 and maintain loss reserve accounts, as provided in subdivision (c)
18 of Section 94157, with any financial institution under any policies
19 the authority may adopt.

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

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

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

- 1 (1) The disbursement of the qualified loan.
- 2 (2) The dollar amount of the qualified loan enrolled.
- 3 (3) The interest rate applicable to, and the term of, the qualified
- 4 loan.

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

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

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

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

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

29 (2) The charge off on a qualified loan is made in a manner that
30 is consistent with the financial institution's usual method for
31 making determinations on personal loans that are not qualified
32 loans.

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

36 (b) Costs for which a financial institution may be reimbursed
37 from its loss reserve account include the amount of qualified loan
38 principal charged off, accrued interest on the principal, reasonable
39 out-of-pocket expenses incurred in pursuing its collection efforts,
40 including preservation of collateral, and any other related costs.

1 Proper documentation of the expenses, to the satisfaction of the
2 authority, shall be presented at the time of the claim.

3 (c) If a financial institution files two or more claims
4 contemporaneously, and there are insufficient funds in the loss
5 reserve account at that time to cover the entire amount of such
6 claims, the financial institution may designate the order of priority
7 in which the claims shall be paid.

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

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

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

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

35 94164. Notwithstanding the other provisions of this article, the
36 authority may facilitate the development of a secondary market
37 for a qualified loan under the program by providing security for
38 that loan, thereby increasing participation in the program by
39 financial institutions and improving access to qualified borrowers
40 to refinance private student loans. For purposes of this section, the

1 actions that the authority may take include, but are not necessarily
2 limited to, assigning all or a portion of any loss reserve account
3 to any other entity in connection with providing security for a
4 qualified loan, including a trustee of a securitization trust,
5 transferring a qualified loan from a financial institution to a
6 securitization trust, and assisting underwriters in marketing a
7 qualified loan to the secondary market.
8 94165. The authority may adopt emergency regulations for the
9 implementation of the program. Any emergency regulations that
10 may be adopted by the authority under this section shall be adopted
11 in accordance with the Administrative Procedure Act (Chapter 3.5
12 (commencing with Section 11340) of Part 1 of Division 3 of Title
13 2 of the Government Code). The adoption of these regulations
14 shall be deemed to be an emergency and necessary for the
15 immediate preservation of the public peace, health and safety, or
16 general welfare.

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