

AMENDED IN ASSEMBLY MARCH 17, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1837**

---

**Introduced by Assembly ~~Member~~ Members Low and Eggman**

February 9, 2016

---

~~An act relating to postsecondary education.~~ *An act to add and repeal Article 2.6 (commencing with Section 66010.96) of Chapter 2 of Part 40 of Division 5 of Title 3 of the Education Code, relating to postsecondary education.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1837, as amended, Low. Postsecondary education: Office of Higher Education Performance and Accountability.

*(1) Existing law establishes the University of California, under the administration of the Regents of the University of California, the California State University, under the administration of the Trustees of the California State University, the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, independent institutions of higher education, and private postsecondary educational institutions as the segments of postsecondary education in this state.*

*Existing law states the intent of the Legislature that budget and policy decisions regarding postsecondary education generally adhere to 3 specified goals and that appropriate metrics be identified, defined, and formally adopted to monitor progress toward the achievement of the goals.*

*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. Existing law also provides for the composition of CPEC's membership. The annual state Budget Acts from the 2011–12 fiscal year to the 2015–16 fiscal year, inclusive, have provided no funding for CPEC.

This bill would establish the Office of Higher Education Performance and Accountability as the statewide postsecondary education coordination and planning entity. The bill would provide for the appointment by the Governor, subject to confirmation by a majority of the membership of the Senate, of an executive director of the office. The bill would establish an 8-member advisory board for the purpose of examining, and making recommendations to, the office regarding the functions and operations of the office and reviewing and commenting on any recommendations made by the office to the Governor and the Legislature, among other specified duties.

The bill would specify the functions and responsibilities of the office, which would include, among other things, participation, as specified, in the identification and periodic revision of state goals and priorities for higher education, reviewing and making recommendations regarding cross-segmental and interagency initiatives and programs, advising the Legislature and the Governor regarding the need for, and the location of, new institutions and campuses of public higher education, acting as a clearinghouse for postsecondary education information and as a primary source of information for the Legislature, the Governor, and other agencies, and reviewing all proposals for changes in eligibility pools for admission to public institutions and segments of postsecondary education.

The bill would authorize the office to require the governing boards and institutions of public postsecondary education to submit data to the office on plans and programs, costs, selection and retention of students, enrollments, plant capacities, and other matters pertinent to effective planning, policy development, and articulation and coordination. To the extent that this provision would impose new duties on community college districts, it would constitute a state-mandated local program.

The bill would require the office to report to the Legislature and the Governor on or before December 31 of each year regarding its progress in achieving specified objectives and responsibilities.

The bill would repeal these provisions on January 1, 2021.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

*Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

~~Existing law establishes the University of California, under the administration of the Regents of the University of California, the California State University, under the administration of the Trustees of the California State University, and the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, as the 3 public segments of postsecondary education in this state.~~

~~This bill would express the intent of the Legislature to enact legislation to create the Office of Higher Education Performance and Accountability as the statewide postsecondary education coordination and planning entity.~~

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

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

1     SECTION 1. Article 2.6 (commencing with Section 66010.96)  
2     is added to Chapter 2 of Part 40 of Division 5 of Title 3 of the  
3     Education Code, to read:

4  
5     Article 2.6. Office of Higher Education Performance and  
6                                     Accountability  
7

8     66010.96. (a) The Office of Higher Education Performance  
9     and Accountability is hereby established as the statewide  
10    postsecondary education coordination and planning agency. The  
11    office is established in state government within the Governor's  
12    office, and is under the direct control of an executive director.

13    (b) The Governor shall appoint the Executive Director of the  
14    Office of Higher Education Performance and Accountability, who  
15    shall perform all duties, exercise all powers, assume and discharge  
16    all responsibilities, and carry out and effect all purposes vested  
17    by law in the office, including contracting for professional or  
18    consulting services in connection with the work of the office. The

1 *appointment of the executive director is subject to confirmation*  
2 *by the affirmative vote of a majority of the membership of the*  
3 *Senate. The executive director shall appoint persons to any staff*  
4 *positions the Governor may authorize.*

5 *(c) The Governor may appoint the executive director at a salary*  
6 *that shall be fixed pursuant to Section 12001 of the Government*  
7 *Code.*

8 *(d) (1) An advisory board is hereby established for the purpose*  
9 *of examining and making recommendations to the office regarding*  
10 *the functions and operations of the office and reviewing and*  
11 *commenting on any recommendations made by the office to the*  
12 *Governor and the Legislature.*

13 *(2) The advisory board consists of the Chairperson of the Senate*  
14 *Committee on Education and the Chairperson of the Assembly*  
15 *Committee on Higher Education, who serve as ex officio members,*  
16 *and six public members with experience in postsecondary*  
17 *education, appointed to terms of four years as follows:*

18 *(A) Three members of the advisory board appointed by the*  
19 *Senate Committee on Rules.*

20 *(B) Three members of the advisory board appointed by the*  
21 *Speaker of the Assembly.*

22 *(3) The office shall actively seek input from, and consult with,*  
23 *the advisory board regarding the functions, operations, and*  
24 *recommendations of the office, and provide the advisory board*  
25 *with sufficient time to review and comment.*

26 *(4) Advisory board meetings are subject to the Bagley-Keene*  
27 *Open Meeting Act (Article 9 (commencing with Section 11120) of*  
28 *Chapter 1 of Part 1 of Division 3 of Title 2 of the Government*  
29 *Code). Advisory board materials shall be posted on the Internet.*

30 *(5) The advisory board shall meet at least quarterly, and shall*  
31 *appoint one of its members to represent the board for purposes of*  
32 *communicating with the Legislature.*

33 *(6) The advisory board is responsible for developing an*  
34 *independent annual report on the condition of higher education*  
35 *in California.*

36 *(7) The advisory board is responsible for issuing an annual*  
37 *review of the performance of the Executive Director of the Office*  
38 *of Higher Education Performance and Accountability.*

39 *(8) Members of the advisory board shall serve without*  
40 *compensation, but shall receive reimbursement for actual and*

1 *necessary expenses incurred in connection with the performance*  
2 *of their duties as board members.*

3 *(e) The office shall consult with the higher education segments*  
4 *and stakeholders, as appropriate, in the conduct of its duties and*  
5 *responsibilities. For purposes of this subdivision, “higher*  
6 *education segments” has the same meaning as in Section 66010.95,*  
7 *and “higher education stakeholders” includes, but is not*  
8 *necessarily limited to, postsecondary faculty and students, K–12*  
9 *representatives, and representatives of the business community.*

10 *66010.962. The Office of Higher Education Performance and*  
11 *Accountability exists for the purpose of advising the Governor;*  
12 *the Legislature, and other appropriate governmental officials and*  
13 *institutions of postsecondary education. The office has the*  
14 *following functions and responsibilities in its capacity as the*  
15 *statewide postsecondary education coordination and planning*  
16 *agency and adviser to the Legislature and the Governor:*

17 *(a) It shall, through its use of information and its analytic*  
18 *capacity, inform the identification and periodic revision of state*  
19 *goals and priorities for higher education in a manner that is*  
20 *consistent with the goals outlined in Section 66010.91 and takes*  
21 *into consideration the metrics outlined in Sections 89295 and*  
22 *92675. It shall, biennially, interpret and evaluate both statewide*  
23 *and institutional performance in relation to these goals and*  
24 *priorities.*

25 *(b) It shall review and make recommendations, as necessary,*  
26 *regarding cross-segmental and interagency initiatives and*  
27 *programs in areas that may include, but are not necessarily limited*  
28 *to, efficiencies in instructional delivery, financial aid, transfer,*  
29 *and workforce coordination.*

30 *(c) It shall advise the Legislature and the Governor regarding*  
31 *the need for, and the location of, new institutions and campuses*  
32 *of public higher education.*

33 *(d) It shall review proposals by the public segments for new*  
34 *programs, the priorities that guide the public segments, and the*  
35 *degree of coordination between those segments and nearby public,*  
36 *independent, and private postsecondary educational institutions,*  
37 *and shall make recommendations regarding those proposals to*  
38 *the Legislature and the Governor.*

39 *(e) (1) It shall act as a clearinghouse for postsecondary*  
40 *education information and as a primary source of information for*

1 *the Legislature, the Governor, and other agencies. It shall develop*  
2 *and maintain a comprehensive database that does all of the*  
3 *following:*

4 *(A) Ensures comparability of data from diverse sources.*

5 *(B) Supports longitudinal studies of individual students as they*  
6 *progress through the state's postsecondary educational institutions*  
7 *through the use of a unique student identifier.*

8 *(C) Maintains compatibility with California School Information*  
9 *Services and the student information systems developed and*  
10 *maintained by the public segments of higher education, as*  
11 *appropriate.*

12 *(D) Provides Internet access to data, as appropriate, to the*  
13 *segments of higher education.*

14 *(E) Provides each of the educational segments access to the*  
15 *data made available to the office for purposes of the database, in*  
16 *order to support, most efficiently and effectively, statewide,*  
17 *segmental, and individual campus educational research*  
18 *information needs.*

19 *(2) The office, in implementing paragraph (1), shall comply*  
20 *with the federal Family Educational Rights and Privacy Act of*  
21 *1974 (20 U.S.C. Sec. 1232g) as it relates to the disclosure of*  
22 *personally identifiable information concerning students.*

23 *(3) The office shall not make available any personally*  
24 *identifiable information received from a postsecondary educational*  
25 *institution concerning students for any regulatory purpose unless*  
26 *the institution has authorized the office to provide that information*  
27 *on behalf of the institution.*

28 *(4) The office shall, following consultation with, and receipt of*  
29 *a recommendation from, the advisory board, provide 30-day*  
30 *notification to the chairpersons of the appropriate policy and*  
31 *budget committees of the Legislature, to the Director of Finance,*  
32 *and to the Governor before making any significant changes to the*  
33 *student information contained in the database.*

34 *(f) It shall review all proposals for changes in eligibility pools*  
35 *for admission to public institutions and segments of postsecondary*  
36 *education, and shall make recommendations regarding those*  
37 *proposals to the Legislature, the Governor, and institutions of*  
38 *postsecondary education. In carrying out this subdivision, the*  
39 *office periodically shall conduct a study of the percentages of*  
40 *California public high school graduates estimated to be eligible*

1 *for admission to the University of California and the California*  
2 *State University.*

3 *(g) It shall submit reports to the Legislature in compliance with*  
4 *Section 9795 of the Government Code.*

5 *(h) It shall manage data systems and maintain programmatic,*  
6 *policy, and fiscal expertise to receive and aggregate information*  
7 *reported by the institutions of higher education in this state.*

8 *66010.964. Notwithstanding any other law, the office may*  
9 *require the governing boards and the institutions of public*  
10 *postsecondary education to submit data to the office on plans and*  
11 *programs, costs, selection and retention of students, enrollments,*  
12 *plant capacities, and other matters pertinent to effective planning,*  
13 *policy development, and articulation and coordination. The office*  
14 *shall furnish information concerning these matters to the Governor*  
15 *and the Legislature as requested by them.*

16 *66010.967. (a) On or before December 31 of each year, the*  
17 *office shall report to the Legislature and the Governor regarding*  
18 *its progress in achieving the objectives and responsibilities set*  
19 *forth in subdivision (a) of Section 66010.962.*

20 *(b) On or before January 1, 2020, the Legislative Analyst's*  
21 *Office shall review and report to the Legislature regarding the*  
22 *performance of the office in fulfilling its functions and*  
23 *responsibilities as outlined in Section 66010.962.*

24 *66010.969. This article shall remain in effect only until*  
25 *January 1, 2021, and as of that date is repealed, unless a later*  
26 *enacted statute, that is enacted before January 1, 2021, deletes or*  
27 *extends that date.*

28 *SEC. 2. If the Commission on State Mandates determines that*  
29 *this act contains costs mandated by the state, reimbursement to*  
30 *local agencies and school districts for those costs shall be made*  
31 *pursuant to Part 7 (commencing with Section 17500) of Division*  
32 *4 of Title 2 of the Government Code.*

33 ~~*SECTION 1. It is the intent of the Legislature to enact*~~  
34 ~~*legislation to create the Office of Higher Education Performance*~~  
35 ~~*and Accountability as the statewide postsecondary education*~~  
36 ~~*coordination and planning entity.*~~