

AMENDED IN ASSEMBLY SEPTEMBER 2, 2015

AMENDED IN ASSEMBLY AUGUST 31, 2015

AMENDED IN ASSEMBLY JULY 14, 2015

AMENDED IN ASSEMBLY JULY 1, 2015

AMENDED IN SENATE APRIL 7, 2015

SENATE BILL

No. 42

Introduced by Senator Liu

December 2, 2014

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

SB 42, as amended, Liu. 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, 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.

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, based upon metrics recommended by a working group, 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 administer a study to evaluate the admissions policies used by the University of California and the California State University to determine the number of freshman and transfer students eligible for admission to those segments. The bill~~

would require the office to submit a report summarizing the methodology and findings of this study to the Legislature and the Governor by December 1, 2017. The bill would also 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.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: 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 entity. The
11 office shall be established in state government within the
12 Governor’s office, and shall be under the direct control of an
13 executive director.

14 (b) The Governor shall appoint the Executive Director of the
15 Office of Higher Education Performance and Accountability, who
16 shall perform all duties, exercise all powers, assume and discharge
17 all responsibilities, and carry out and effect all purposes vested by
18 law in the office, including contracting for professional or
19 consulting services in connection with the work of the office. The
20 appointment of the executive director shall be subject to
21 confirmation by the affirmative vote of a majority of the

1 membership of the Senate. The executive director shall appoint
2 persons to any staff positions the Governor may authorize.

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

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

11 (2) The advisory board shall consist of the chair of the Senate
12 Committee on Education and the chair of the Assembly Committee
13 on Higher Education, who shall serve as ex officio members, and
14 six public members with experience in postsecondary education,
15 appointed to terms of four years as follows:

16 (A) Three members of the advisory board shall be appointed
17 by the Senate Committee on Rules.

18 (B) Three members of the advisory board shall be appointed by
19 the Speaker of the Assembly.

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

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

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

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

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

38 (8) Members of the advisory board shall serve without
39 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 subsection, higher education
6 segments shall have the same meaning as in Section 66010.95,
7 and higher education stakeholders shall include, but not necessarily
8 be 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 shall exist for the purpose of advising the Governor,
12 the Legislature, and other appropriate governmental officials and
13 institutions of postsecondary education. The office shall have the
14 following functions and responsibilities in its capacity as the
15 statewide postsecondary education planning and coordinating
16 agency and advisor 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 programs
27 in areas that may include, but are not necessarily limited to,
28 efficiencies in instructional delivery, financial aid, transfer, and
29 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 the
38 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 sectors
13 of higher education.

14 (E) Provides each of the educational segments access to the data
15 made available to the commission for purposes of the database, in
16 order to support, most efficiently and effectively, statewide,
17 segmental, and individual campus educational research information
18 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 may 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 budget
31 committees of the Legislature, to the Director of Finance, and to
32 the Governor before making any significant changes to the student
33 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 office
39 periodically shall conduct a study of the percentages of California

1 public high school graduates estimated to be eligible for admission
2 to the University of California and the California 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 is
9 authorized to require the governing boards and the institutions of
10 public postsecondary education to submit data to the office on
11 plans and programs, costs, selection and retention of students,
12 enrollments, plant capacities, and other matters pertinent to
13 effective planning, policy development, and articulation and
14 coordination. The office shall furnish information concerning these
15 matters to the Governor and to the Legislature as requested by
16 them.

17 ~~66010.966. (a) (1) The office shall administer a study to~~
18 ~~evaluate the admissions policies used by the University of~~
19 ~~California and the California State University to determine the~~
20 ~~number of freshman and transfer students eligible for admission~~
21 ~~to each of these segments:~~

22 ~~(2) The director of the office, or his or her designee, shall~~
23 ~~convene a workgroup that includes, but is not necessarily limited~~
24 ~~to, representatives from the University of California, the California~~
25 ~~State University, the State Department of Education, the~~
26 ~~Department of Finance, and the Legislative Analyst's Office, to~~
27 ~~consider the overall approach to the study.~~

28 ~~(b) The study shall report the number of students eligible for~~
29 ~~admission to each segment by race, gender, ethnicity, and region,~~
30 ~~and shall include an analysis of the factors affecting eligibility for~~
31 ~~admission to the University of California and the California State~~
32 ~~University, by racial or ethnic group and by income level.~~

33 ~~(c) The office shall submit a report summarizing the~~
34 ~~methodology and findings of the study to the Legislature and the~~
35 ~~Governor by December 1, 2017. The report shall identify whether~~
36 ~~the University of California and the California State University~~
37 ~~are admitting students as described in the Master Plan for Higher~~
38 ~~Education. The report shall also include a discussion of any~~
39 ~~adjustments the University of California and the California State~~

1 University have made, or plan to make, to admissions policies in
2 response to the findings of the study.

3 ~~(d) The report to be submitted pursuant to subdivision (c) shall~~
4 ~~be submitted in compliance with Section 9795 of the Government~~
5 ~~Code.~~

6 ~~(e) The office may execute contracts to perform the study~~
7 ~~specified in this section. Any contracts executed for the study~~
8 ~~specified in this section are not subject to the provisions of Article~~
9 ~~1 (commencing with Section 10100) of Chapter 1 of Part 2 of~~
10 ~~Division 2 of the Public Contract Code, or Article 6 (commencing~~
11 ~~with Section 999) of Chapter 6 of Division 4 of the Military and~~
12 ~~Veterans Code.~~

13 ~~(f) This section shall remain in effect only until January 1, 2018,~~
14 ~~and as of that date is repealed, unless a later enacted statute, that~~
15 ~~is enacted before January 1, 2018, deletes or extends that date.~~

16 ~~66010.968.~~

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

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

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