

AMENDED IN ASSEMBLY APRIL 25, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1413

Introduced by Assembly Members Portantino and Brownley

(Principal coauthor: Senator Romero)

***(Coauthors: Assembly Members Berg, DeVore, Huffman, Leno,
Levine, Lieber, and Ruskin)***

(Coauthor: Senator Padilla)

February 23, 2007

An act to amend Sections 66600, 66602, and 66903 of, and to add Sections 66602.8 and 89504.7 to, the Education Code, relating to public postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

AB 1413, as amended, Portantino. Public postsecondary education: California State University: trustees.

(1) Existing law establishes the California State University, under the administration of the Trustees of the California State University, as one of the segments of public postsecondary education in this state.

This bill would express findings and declarations of the Legislature, as well as the intent of the Legislature, relating to executive compensation of top officials of the California State University and the ethical standards of the trustees.

(2) Under existing law, the trustees are composed of a total of 25 members, which include 5 specified ex officio members, 16 members appointed by the Governor, subject to confirmation by $\frac{2}{3}$ of the membership of the Senate, for 8-year terms, and 2 California State University students and 2 California State University faculty members appointed by the Governor for 2-year terms.

This bill would authorize any ex officio trustee to designate a person to attend a meeting or meetings of the board in his or her absence and to act on his or her behalf at that meeting or those meetings. The bill would increase the total membership of the trustees to 27 by adding an appointee of the Speaker of the Assembly and an appointee of the Senate Committee on Rules, both of whom would serve for 2-year terms.

(3) Existing law authorizes the trustees to select a chief executive officer for the university, known as the Chancellor of the California State University, to employ other officers and employees, and to delegate powers and responsibilities to these individuals. Existing law authorizes the university to operate 25 institutions of higher education at designated locations throughout the state.

This bill would prohibit the trustees, on and after January 1, 2008, from approving a contract for the hiring of an executive officer, as defined, unless and until that contract and its terms are adopted, by resolution, in a duly noticed meeting of the board.

The bill would require that, to the extent that the trustees provide executive officer compensation in the form of transition pay at the time an executive officer, as defined, ceases to perform his or her regular duties, that transition pay would not exceed the compensation, as defined, being received by that executive officer in the last year of regular duties, and would only be paid for actual duties performed. The bill would provide that, to the extent the trustees provide executive compensation in the form of trustee professorships at the time an executive officer, as defined, ceases to perform his or her regular duties, no compensation, as defined, would be paid unless it is paid in consideration for actual teaching and does not exceed the amount a full professor of the California State University would be paid for a similar teaching assignment.

(4) Existing law establishes the 17-member California Postsecondary Education Commission (CPEC) for, among other purposes, the collection of data pertinent to the planning and coordination of the higher education system of the state.

This bill would require CPEC to report annually to the Governor regarding specified expenditures related to instruction, student services, and administration within the University of California, the California State University, and the California Community Colleges. The bill would also require CPEC to provide to the Legislature and the Governor on or before January 1, 2009, and annually thereafter a comprehensive review of compensation policies for faculty, administrators, and

executives within California higher education in order to achieve transparency and accountability in the compensation process.

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. (a) The Legislature finds and declares that reports
2 regarding executive compensation for the top officials of the
3 California State University system reveal a need for improved
4 communication between the Trustees of the California State
5 University and the Legislature and the need for immediate reforms
6 related to excess compensation.

7 (b) Therefore, it is the intent of the Legislature to reform the
8 composition of the Trustees of the California State University to
9 allow for improved communication with the Legislature, to make
10 some immediate reforms in executive compensation and to seek
11 long-term policy advice and data upon which to base further
12 reforms if warranted.

13 SEC. 2. Section 66600 of the Education Code is amended to
14 read:

15 66600. The California State University shall be administered
16 by a board designated as the Trustees of the California State
17 University, which is hereby created. It is the intent of the
18 Legislature that the trustees shall be held to appropriate ethical
19 standards relating to any conflict of interest between the private
20 interests of each member and the business of the university. It is
21 further the intent of the Legislature to enact legislation if, after
22 additional review of the California State University, the Legislature
23 finds the enactment of a statute governing ethical standards of the
24 trustees to be necessary and appropriate.

25 SEC. 3. Section 66602 of the Education Code is amended to
26 read:

27 66602. (a) (1) The board shall be composed of the following
28 five ex officio members: the Governor, the Lieutenant Governor,
29 the Superintendent of Public Instruction, the Speaker of the
30 Assembly, and the person named by the trustees to serve as the
31 Chancellor of the California State University; a representative of
32 the alumni associations of the state university, selected for a
33 two-year term by the alumni council, California State University,

1 which representative shall not be an employee of the California
2 State University during the two-year term; and 16 appointive
3 members appointed by the Governor and subject to confirmation
4 by two-thirds of the membership of the Senate.

5 (2) Any ex officio member of the board may designate a person
6 to attend a meeting or meetings of the board in his or her absence
7 and to act on his or her behalf at that meeting or those meetings.

8 (b) (1) Two students from the California State University, who
9 shall have at least a junior year standing at the institutions they
10 attend, and who remain in good standing as students during their
11 respective terms, shall also be appointed by the Governor for
12 two-year terms.

13 (2) In the selection of students as members of the board, the
14 Governor shall appoint the students from lists of names of at least
15 two, but not more than five, persons furnished by the governing
16 board of any statewide student organization that represents the
17 students of the California State University and the student body
18 organizations of the campuses of the California State University.
19 Any appointment to fill a vacancy of a student member shall be
20 effective only for the remainder of the term of the person's office
21 that became vacated.

22 (3) The term of office of one student member of the board shall
23 commence on July 1 of an even-numbered year and expire on June
24 30 two years thereafter. The term of office of the other student
25 member of the board shall commence on July 1 of an
26 odd-numbered year and expire on June 30 two years thereafter.
27 Notwithstanding paragraph (1), a student member who graduates
28 from his or her college or university on or after January 1 of the
29 second year of his or her term of office may serve the remainder
30 of the term.

31 (4) During the first year of a student member's term, a student
32 member shall be a member of the board and may attend all
33 meetings of the board and its committees. At these meetings, a
34 student member may fully participate in discussion and debate,
35 but may not vote. During the second year of a student member's
36 term, a student member may exercise the same right to attend
37 meetings of the board, and its committees, and shall have the same
38 right to vote as the members appointed pursuant to subdivision
39 (a).

1 (5) Notwithstanding paragraph (4), if a student member resigns
2 from office or a vacancy is otherwise created in that office during
3 the second year of a student member's term, the remaining student
4 member shall immediately assume the office created by the vacancy
5 and all of the participation privileges of the second-year student
6 member, including the right to vote, for the remainder of that term
7 of office.

8 (c) (1) A faculty member from the California State University,
9 who shall be tenured at the California State University campus at
10 which he or she teaches, shall also be appointed by the Governor
11 for a two-year term. In the selection of a faculty member as a
12 member of the board, the Governor shall appoint the faculty
13 member from a list of names of at least two persons furnished by
14 the Academic Senate of the California State University.

15 (2) The faculty member of the board appointed by the Governor
16 pursuant to this subdivision shall not participate on any
17 subcommittee of the board responsible for collective bargaining
18 negotiations.

19 (3) The term of office of the faculty member of the board shall
20 commence on July 1, and shall expire on June 30 two years
21 thereafter.

22 (d) An appointee of the Speaker of the Assembly and an
23 appointee of the Senate Committee on Rules shall also be appointed
24 for two-year terms.

25 SEC. 4. Section 66602.8 is added to the Education Code, to
26 read:

27 66602.8. (a) Notwithstanding any other provision of law, on
28 and after January 1, 2008, the board is not authorized to approve
29 a contract for the hiring of an executive officer unless and until
30 that contract and its terms are adopted, by resolution, in a duly
31 noticed meeting of the board.

32 (b) As used in this section, "executive officer" includes, but is
33 not necessarily limited to, the Chancellor of the California State
34 University, a vice chancellor or an executive vice chancellor of
35 the university, the general counsel of the university, or a president
36 of a campus.

37 SEC. 5. Section 66903 of the Education Code is amended to
38 read:

39 66903. The commission has the following functions and
40 responsibilities in its capacity as the statewide postsecondary

1 education planning and coordinating agency and adviser to the
2 Legislature and the Governor:

3 (a) It shall require the governing boards of the segments of
4 public postsecondary education to develop and submit to the
5 commission institutional and systemwide long-range plans in a
6 form determined by the commission after consultation with the
7 segments.

8 (b) It shall prepare a state plan for postsecondary education that
9 shall integrate the planning efforts of the public segments with
10 other pertinent plans. The commission shall seek to resolve
11 conflicts or inconsistencies among segmental plans in consultation
12 with the segments. If these consultations are unsuccessful, the
13 commission shall report the unresolved issues to the Legislature
14 with recommendations for resolution. In developing the plan, the
15 commission shall consider at least the following factors:

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

17 (2) The range and kinds of programs appropriate to each
18 institution or system.

19 (3) The budgetary priorities of the institutions and systems of
20 postsecondary education.

21 (4) The impact of various types and levels of student charges
22 on students and on postsecondary education programs and
23 institutions.

24 (5) The appropriate levels of state-funded student financial aid.

25 (6) The access and admission of students to postsecondary
26 education.

27 (7) The educational programs and resources of independent and
28 private postsecondary institutions.

29 (8) The provisions of this division differentiating the functions
30 of the public systems of higher education.

31 (c) It shall update the plan periodically, as appropriate.

32 (d) It shall participate in appropriate stages of the executive and
33 the legislative budget processes as requested by the executive and
34 the legislative branches, and shall advise the executive and the
35 legislative branches as to whether segmental programmatic
36 budgetary requests are compatible with the state plan. It is not
37 intended that the commission hold independent budget hearings.

38 (e) It shall advise the Legislature and the Governor regarding
39 the need for, and location of, new institutions and campuses of
40 public higher education.

1 (f) It shall review proposals by the public segments for new
2 programs, the priorities that guide them, and the degree of
3 coordination with nearby public, independent, and private
4 postsecondary educational institutions, and shall make
5 recommendations regarding those proposals to the Legislature and
6 the Governor.

7 (g) In consultation with the public segments, it shall establish
8 a schedule for segmental review of selected educational programs,
9 evaluate the program approval, review, and disestablishment
10 processes of the segments, and report its findings and
11 recommendations to the Legislature and the Governor.

12 (h) It shall serve as a stimulus to the segments and institutions
13 of postsecondary education by projecting and identifying societal
14 and educational needs and encouraging adaptability to change.

15 (i) It shall periodically collect or conduct, or both collect and
16 conduct, studies of projected manpower supply and demand, in
17 cooperation with appropriate state agencies, and disseminate the
18 results of those studies to institutions of postsecondary education
19 and to the public in order to improve the information base upon
20 which student choices are made.

21 (j) It shall periodically review and make recommendations
22 concerning the need for, and availability of, postsecondary
23 programs for adult and continuing education.

24 (k) It shall develop criteria for evaluating the effectiveness of
25 all aspects of postsecondary education.

26 (l) It shall maintain and update annually an inventory of all
27 off-campus programs and facilities for education, research, and
28 community services operated by public and independent institutions
29 of postsecondary education.

30 (m) (1) It shall act as a clearinghouse for postsecondary
31 education information and as a primary source of information for
32 the Legislature, the Governor, and other agencies. It shall develop
33 and maintain a comprehensive database that does all of the
34 following:

35 (A) Ensures comparability of data from diverse sources.

36 (B) Supports longitudinal studies of individual students as they
37 progress through the state's postsecondary educational institutions,
38 based upon the commission's existing student data base through
39 the use of a unique student identifier.

1 (C) Is compatible with the California School Information System
2 and the student information systems developed and maintained by
3 the public segments of higher education, as appropriate.

4 (D) Provides Internet access to data, as appropriate, to the sectors
5 of higher education.

6 (E) Provides each of the educational segments access to the data
7 made available to the commission for the purposes of the database,
8 in order to support, most efficiently and effectively, statewide,
9 segmental, and individual campus educational research information
10 needs.

11 (2) The commission, in implementing paragraph (1), shall
12 comply with the federal Family Educational Rights and Privacy
13 Act of 1974 (20 U.S.C. Sec. 1232g) relating to the disclosure of
14 personally identifiable information concerning students.

15 (3) The commission may not make available any personally
16 identifiable information received from a postsecondary educational
17 institution concerning students for any regulatory purpose unless
18 the institution has authorized the commission to provide that
19 information on behalf of the institution.

20 (4) The commission shall provide 30-day notification to the
21 chairpersons of the appropriate legislative policy and budget
22 committees of the Legislature, to the Director of Finance, and to
23 the Governor prior to making any significant changes to the student
24 information contained in the database.

25 (n) It shall establish criteria for state support of new and existing
26 programs, in consultation with the public segments, the Department
27 of Finance, and the Joint Legislative Budget Committee.

28 (o) It shall comply with the appropriate provisions of the federal
29 Education Amendments of 1972 (P.L. 92-318), as specified in
30 Section 67000.

31 (p) It shall consider the relationship among academic education
32 and vocational education and job training programs, and shall
33 actively consult with representatives of public and private
34 education.

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

1 estimated to be eligible for admission to the University of
2 California and the California State University. The changes made
3 to this subdivision during the 2001–02 Regular Session of the
4 Legislature shall be implemented only during those fiscal years
5 for which funding is provided for the purposes of those provisions
6 in the annual Budget Act or in another measure.

7 (r) It shall report periodically to the Legislature and the Governor
8 regarding the financial conditions of independent institutions, their
9 enrollment and application figures, the number of student spaces
10 available, and the respective ~~cost~~ costs of utilizing those spaces as
11 compared to providing additional public spaces. The reports shall
12 include recommendations concerning state policies and programs
13 having a significant impact on independent institutions.

14 (s) Upon request of the Legislature or the Governor, it shall
15 submit to the Legislature and the Governor a report on all matters
16 so requested that are compatible with its role as the statewide
17 postsecondary education planning and coordinating agency. Upon
18 request of individual Members of the Legislature or personnel in
19 the executive branch, the commission shall submit information or
20 a report on any matter to the extent that sufficient resources are
21 available. From time to time, it also may submit, to the Legislature
22 and the Governor, a report that contains recommendations as to
23 necessary or desirable changes, if any, in the functions, policies,
24 and programs of the several segments of public, independent, and
25 private postsecondary education.

26 (t) In consultation with the public segments, it shall consider
27 the development of facilities to be used by more than one segment
28 of public higher education, commonly called “joint-use facilities.”
29 It shall recommend to the Legislature criteria and processes for
30 different segments to utilize bond funds for these intersegmental,
31 joint-use facilities.

32 (u) To report annually to the Legislature and the Governor
33 regarding expenditures related to instruction, student services, and
34 administration within the University of California, the California
35 State University, and the California Community Colleges:

36 (1) On or before March 15, 2008, the commission shall appoint
37 a committee to advise on the reporting responsibilities in this
38 section, composed, at a minimum, of representatives of each ~~system~~
39 ~~to include system, including~~ system, including at least one person designated as a
40 manager or executive, one faculty bargaining representative, one

1 additional faculty member and one student, as well as a
 2 representative from the Legislative ~~Analyst~~ *Analyst's Office* and
 3 the Department of Finance, and other members as deemed
 4 appropriate by the commission, with terms set by the commission.
 5 (2) On or before January 1, 2009, the commission shall issue
 6 an initial report to the Legislature and the Governor that shall do
 7 both of the following:
 8 (A) Provide definitions and details of categories of expenditures
 9 in each system related to all of the following:
 10 (i) Instruction and instructionally related expenditures.
 11 (ii) Student support ~~service~~ *services* expenditures.
 12 (iii) Administration, other than instruction and student support
 13 services.
 14 (iv) All other expenditures.
 15 (B) Report the total and itemized expenditures of each system
 16 in each of these newly defined expenditure categories for the
 17 2006–07 and 2007–08 academic years.
 18 (3) On or before January 1, 2010, and on or before January 10
 19 in each subsequent year, the commission shall provide reports to
 20 the Legislature and the Governor that shall accomplish both of the
 21 following:
 22 (A) Report the total and itemized expenditures of each system
 23 in each of the defined expenditure categories for the immediately
 24 preceding academic year, both in absolute and relative terms.
 25 (B) Report on any changes in reporting of expenditures that
 26 affect these categories and make adjustments in such a manner
 27 that the Legislature and *the* Governor may compare, from year to
 28 year, spending on comparable items.
 29 (v) To provide to the Legislature and the Governor on or before
 30 January 1, 2009, and annually thereafter, a comprehensive review
 31 of compensation policies for faculty, administrators, and executives
 32 within California higher education in order to achieve transparency
 33 and accountability in the compensation process. This report shall
 34 accomplish all of the following:
 35 (1) Take into account and comment upon the competitive
 36 marketplace for recruitment and retention of outstanding faculty,
 37 administrators, and executives.
 38 (2) Review all compensation and benefits provided, to the extent
 39 that these data are available, and comment on the nature of

1 compensation and benefits for which data cannot be obtained and
2 the reasons for which these data are not available.

3 (3) Provide data on compensation in comparison to appropriate
4 institutions of like size, mission, and control.

5 (4) Undertake this review with the consultation of an advisory
6 committee to be appointed by March 15, 2008, that shall include
7 representatives of each system to include at least one person
8 designated as a manager or executive, one faculty bargaining
9 representative, one additional faculty member, and one student,
10 as well as a representative from the Legislative Analyst's Office
11 and the Department of Finance, and other members as deemed
12 appropriate by the commission, with terms set by the commission.

13 (w) It may undertake other functions and responsibilities that
14 are compatible with its role as the statewide postsecondary
15 education planning and coordinating agency.

16 SEC. 6. Section 89504.7 is added to the Education Code, to
17 read:

18 89504.7. (a) To the extent that the trustees provide executive
19 officer compensation in the form of transition pay at the time an
20 executive officer ceases to perform his or her regular duties, that
21 transition pay shall not exceed the compensation being received
22 by that executive in the last year of regular duties, and shall only
23 be paid for actual duties performed.

24 (b) To the extent that the trustees provide executive officer
25 compensation in the form of trustee professorships at the time an
26 executive officer ceases to perform his or her regular duties,
27 compensation shall not be paid unless it is paid in consideration
28 for actual teaching. This compensation shall not exceed the amount
29 a full professor of the California State University would be paid
30 for a similar teaching assignment.

31 (c) As used in this section:

32 (1) "Compensation" includes, but is not necessarily limited to,
33 salary, pension benefits, and automobile and housing allowances.

34 (2) "Executive officer" includes, but is not necessarily limited
35 to, the Chancellor of the California State University, a vice
36 chancellor or an executive vice chancellor of the university, the
37 general counsel of the university, or a president of a campus.

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