

AMENDED IN SENATE MAY 6, 2009
AMENDED IN SENATE APRIL 16, 2009
AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 195

**Introduced by Senator Florez
(Principal coauthor: Senator Romero)
(Coauthor: Senator Alquist)**

February 23, 2009

An act to amend Section 66290 of the Education Code, relating to postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

SB 195, as amended, Florez. Equity in Higher Education Act.

(1) Existing law, the Equity in Higher Education Act, provides that it is the policy of the state to afford all persons, regardless of disability, gender, nationality, race or ethnicity, religion, sexual orientation, or other specified bases, equal rights and opportunities in the postsecondary institutions of the state. The act requires a postsecondary educational institution, as defined, prior to the receipt of any state financial assistance or state student financial aid, to provide assurance to the agency administering the funds that each program or activity conducted by the institution will be conducted in compliance with the act and all other applicable provisions of state law prohibiting discrimination on the basis of sex. The act permits a postsecondary educational institution to provide a single assurance, not more than one page in length and signed by an appropriate responsible official of the institution, for all programs and activities conducted by the institution.

This bill would additionally require a postsecondary educational institution to provide assurance that each program and activity conducted by the institution will be conducted in compliance with applicable provisions of federal law prohibiting discrimination on the basis of sex. The bill would require the assurance provided by the postsecondary educational institution to be signed by specified officers of the institution, would require the assurance to apply to all programs and activities, including, but not limited to, academic and athletic programs, and would delete the one-page limit on the assurance. The bill would require that assurance to include specified information regarding compliance with the act. The bill would require that information to be available for public inspection, upon request. The bill would provide for a civil penalty for a false declaration of specified matters required by these provisions. *The bill would authorize any person to bring a civil action in the public interest to recover the civil penalty. The bill would require 50% of a civil penalty collected pursuant to these provisions to be deposited in the General Fund and 50% of the penalty to be paid to the person who brought the civil action.* Because this bill would impose new requirements on community college districts under the act, it would constitute a state-mandated local program.

(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. Section 66290 of the Education Code is amended
- 2 to read:
- 3 66290. (a) Prior to receipt of any state financial assistance or
- 4 state student financial aid, a postsecondary educational institution
- 5 shall provide assurance to the agency administering the funds, in
- 6 the manner required by the funding agency, that each program or
- 7 activity conducted by the postsecondary educational institution
- 8 will be conducted in compliance with this chapter and all other

1 applicable provisions of state law and federal law prohibiting
2 discrimination on the basis of sex. A single assurance, which shall
3 be signed by the Title IX compliance officer of the applicable
4 campus or location of the postsecondary educational institution,
5 if any, and the chief administrative official of the postsecondary
6 educational institution, shall be provided for all the programs and
7 activities conducted by a postsecondary educational institution,
8 including, but not limited to, academic and athletic programs. The
9 assurance shall include information regarding compliance with
10 this chapter for each campus or location of the postsecondary
11 educational institution which, at a minimum, shall include:

12 (1) The annual number of complaints of prohibited
13 discrimination filed pursuant to Section 66292.3, including the
14 number of written complaints received by each campus or location
15 of the postsecondary educational institution.

16 (2) The annual number of civil actions filed against the
17 institution pursuant to Section 66292.4.

18 (3) A description of any information against discrimination, as
19 described in Section ~~66271.8~~ 106.9 of Title 34 of the Code of
20 Federal Regulations, provided to students by the postsecondary
21 educational institution.

22 (b) The information described in paragraphs (1) to (3), inclusive,
23 of subdivision (a), as it pertains to a campus or a location of the
24 postsecondary educational institution, shall be available for public
25 inspection at that campus or location, upon request.

26 (c) (1) A person identified in paragraph (1) of subdivision (d)
27 who declares as true any material matter required by this section
28 that he or she ~~knows or knows, or after conducting due diligence~~
29 reasonably should have known, to be false shall be subject to a
30 civil penalty not exceeding fifty thousand dollars(\$50,000).

31 (2) The civil penalty provided for in this subdivision may be
32 assessed and recovered in a civil action brought in any court of
33 competent jurisdiction.

34 (3) Actions pursuant to this subdivision may be brought by any
35 person in the public interest.

36 (4) *A civil penalty collected pursuant to this subdivision shall*
37 *be distributed as follows:*

38 (A) *Fifty percent of the civil penalty shall be paid to the person*
39 *that brought the action pursuant to paragraph (3).*

1 (B) *Fifty percent of the civil penalty shall be deposited in the*
2 *General Fund.*

3 (d) For purposes of this section, the following terms have the
4 following meanings:

5 (1) “Chief administrative official” means one of the following,
6 as applicable:

7 (A) The President of the University of California.

8 (B) The Chancellor of the California State University.

9 (C) The president of a campus of the California Community
10 Colleges.

11 (D) The president or highest ranking official of the private
12 postsecondary educational institution.

13 (2) “Title IX compliance officer” means the employee
14 designated by the postsecondary educational institution to
15 coordinate compliance with Title IX of the Education Amendments
16 of 1972 (20 U.S.C. Sec. 1681 et seq.) pursuant to the federal
17 regulations implementing that law.

18 SEC. 2. If the Commission on State Mandates determines that
19 this act contains costs mandated by the state, reimbursement to
20 local agencies and school districts for those costs shall be made
21 pursuant to Part 7 (commencing with Section 17500) of Division
22 4 of Title 2 of the Government Code.