
SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2019 - 2020 Regular

Bill No: AB 130 **Hearing Date:** June 26, 2019
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Version: June 3, 2019
Urgency: No **Fiscal:** Yes
Consultant: Olgalilia Ramirez

Subject: Postsecondary education: Higher Education Performance and Accountability Commission.

NOTE: This bill has been referred to the Committees on Education and Governmental Organizations. A "do pass" motion should include referral to the Committee on Governmental Organizations.

SUMMARY

This bill establishes the Higher Education Performance and Accountability Commission as California's independent, statewide postsecondary education coordination and planning agency.

BACKGROUND

Existing law:

- 1) Establishes the California Postsecondary Education Commission (CPEC) to be responsible for coordinating public, independent, and private postsecondary education in California and to provide independent policy analysis and recommendations to the Legislature and the Governor on postsecondary education policy. (Education Code § 66900 et. seq.)
- 2) Prescribes the CPEC composition to include the following 17 members:
 - a) One representative from each of the following bodies:
 - i) The University of California Regents.
 - ii) The California State University Trustees.
 - iii) The California Community College Board of Governors.
 - iv) The Association of Independent Colleges and Universities.
 - b) The chair or designee of the Council for Private Postsecondary and Vocational Education.
 - b) The President or designee of the State Board of Education.

- d) Nine representatives of the general public, with three appointed by the Governor, three by the Senate Rules Committee, and three by the speaker of the Assembly.
- e) Two student representatives. (EC § 66901)

ANALYSIS

This bill:

- 1) Establishes the Higher Education Performance and Accountability Commission as the statewide postsecondary education oversight, coordination, and planning agency, as an independent state agency that is to be advisory to the Governor, the Legislature, other appropriate government offices, and institutions of postsecondary education.

Governing Board

- 2) Specifies that the composition of the commission be five members appointed as follows:
 - a) One member appointed by the Senate Committee on Rules.
 - b) One member appointed by the Speaker of the Assembly.
 - c) Three members appointed by the Governor.
- 3) Specifies that a member of the commission serve a term of four years, and may be removed by the appointing authority only for cause.
- 4) Requires a member of the commission be a member of the public with relevant experience in postsecondary education.
- 5) States that it is the Legislature's intent that the members of the commission be reflective of the geographic, economic, and racial diversity of California.
- 6) Prohibits a person who employed by any public or private postsecondary educational institution from being appointed to serve on the commission, except for certain part-time employees.
- 7) Requires the members of the commission to select a chair person from among the membership.
- 8) Requires members of the commission to serve without compensation, and that the members receive reimbursement for actual and necessary expenses incurred in connection with the performance of their duties.
- 9) Requires the commission to appoint an executive director, to perform all duties, exercise all powers, assume and discharge all responsibilities, and carry out and effect all purposes vested by law in the commission, as specified.

- 10) Makes commission meetings subject to the Bagely-Keene Open Meeting Act and requires commission materials to be posted on the internet.
- 11) Requires that the commission meet quarterly, and appoint one of its members to represent the commission for purposes of communicating with the Legislature.
- 12) Specifies that the commission is responsible for issuing an annual review of the performance of the executive director of the commission.

Advisory Body

- 13) Requires the commission to establish an advisory body to give recommendations on issues before the commission. The advisory body is to be composed of the following 13 members:
 - a) The Chancellor of the California Community Colleges (CCC), designee.
 - b) The Chancellor of the California State University (CSU), designee.
 - c) The President of the University of California (UC), or designee.
 - d) One member from the independent colleges and universities that are formed and operated as nonprofit organizations in the state and are accredited by a regional association that is recognized by the United States Department of Education, appointed the Governor from a list(s) of nominees submitted by an association or associations of independent colleges and universities.
 - e) Three faculty members, one each from the CCC, the CSU, and the UC that are appointed by the Governor from a list of nominees submitted by the academic senate of the respective segment of public postsecondary education.
 - f) Three student members, one each from the CCC, the CSU, and the UC, appointed by the Governor from a list of nominees submitted by applicable statewide student organization of the respective segment of public postsecondary education.
 - g) The Superintendent of Public Instruction, or designee.
 - h) The executive director of the California Workforce Development Board, or designee.
 - i) The director of the Student Aid Commission, or designee.
- 14) Requires that the terms of the faculty, student and independent colleges advisory members be two-year terms and may be reappointed as specified.
- 15) Specifies that the commission consult with the higher education segments and stakeholders, as appropriate.

Functions and Responsibilities

- 16) States that the Higher Education Performance and Accountability Commission exists for the purpose of advising the Governor, the Legislature, and other appropriate governmental officials and institutions of postsecondary education.
- 17) Provides that the commission has the following functions and responsibilities in its capacity as the statewide postsecondary education oversight, coordination, and planning agency and adviser to the Legislature and the Governor:
 - a) Through its use of information and its analytic capacity, identify and periodically revise state goals and priorities for higher education consistent with the existing goals and takes metrics outlined in statute by SB 195 (Liu, Chapter 367, Statutes of 2013) and in the 2013-14 and 2014-2015 Budget Acts.
 - b) In consultation with the segments of public postsecondary education and workforce and development agencies, including, but not limited to, the Labor and Workforce Development Agency, do all of the following:
 - i) Set performance targets for enrollment and degree and certificate completion statewide and by region and update those targets every five years and by July 1, 2022.
 - ii) Periodically measure the supply and demand of jobs in the fields of study statewide and by region.
 - iii) Periodically review both statewide and regional gaps of higher education admission, enrollment, success, and employment by race, ethnic, gender, socioeconomic status, and additional categories of students, as determined by the commission.
 - iv) Provide cross-segmental data aggregation analyses to the segments of public postsecondary education.
 - c) Adopt a strategic plan, by July 1, 2022, in consultation with the advisory board, to guide the commission and its staff in achieving state postsecondary education goals and update that plan every five years.
 - d) Review proposals by the segments of public postsecondary education for new programs beyond the scope of those contemplated by the Master Plan for Higher Education or existing law, and make recommendations regarding those proposals to the Legislature and the Governor. States that the segments are not required to receive approval from the commission to establish new majors, minors, or career technical education programs at individual campuses.
 - e) Review and evaluate budgetary proposals by the segments based on the

alignment of the proposals with state goals and priorities identified by the commission and outlined in and make recommendations regarding those proposals to the Legislature and the Governor.

Database

- f) Act as a clearing house for postsecondary education information and as a primary source of information for the Legislature, the Governor, and other agencies and develop and maintain a comprehensive database that does all of the following:
 - i) Ensure comparability of data from diverse sources.
 - ii) Supports longitudinal studies of individual students as they progress through the state's postsecondary education institutions through the use of a unique student identifier.
 - iii) Maintains compatibility with California School Information Services and the student information systems developed and maintained by the segments of public postsecondary education, as appropriate.
 - iv) Provides internet access to data, as appropriate, to the segments, of higher education.
 - v) Provides each of the educational segments access to the data made available to the commission for purposes of the database in order to support, most efficiently and effectively, statewide, segmental and individual campus educational research information needs.
- g) In implementing the database, comply with federal Family Educational Rights and Privacy Act of 1974 as it relates to the disclosure of personally identifiable information.
- h) Not make available any personally identifiable information received from a postsecondary educational institution concerning students for any regulator purpose unless the institution has authorized the commission to provide that information on behalf of the institution.
- i) Review all proposals for changes in eligibility pools for admission to the segments of higher education, and make recommendations regarding those proposals.

Reporting requirements

- j) Submit reports to the Legislature as specified, and manage data systems and maintain programmatic, policy, and fiscal expertise to receive and aggregate information reported by the institutions of higher education in this state.

- k) Develop an independent annual report on the condition of higher education in California and requires that the report be transmitted to the chairpersons of the specified Senate and Assembly committees. This bill specifies that the independent annual report on the condition of higher education in California may include any of the following:
 - i) An update on progress towards achieving the performance targets for enrollment and degree and certificate completion statewide and by region set by the commission.
 - ii) Information from the prior year on the following data points, disaggregated by region, race ethnicity, gender socioeconomic statuses, type of institution, and additional categories, as determined by the commission:
 - a. The percent of California high school graduates enrolling in a postsecondary educational institution.
 - b. The number of four-year degrees, two-year degrees, certificates, graduate degrees, and professional degrees awarded.
 - c. The average and median amount of debt incurred by current students and graduates.
 - d. Average degree or certificate time-to-completion.
 - e. The percent of graduates from the prior academic year employed, unemployed, or underemployed.
 - f. The average and median incomes of recent graduates by type of degree.
 - g. Enrollment in particular programs of student.
 - h. Policy or fiscal recommendations for the Legislature and the Governor.
- 18) Authorizes the commission to require the submission of data from the governing boards and the institutions of higher education 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, as specified.
- 19) Requires the commission to report to the Legislature and the Governor regarding its progress in achieving the objectives and responsibilities set forth in the bill.
- 20) Requires on or before January 1, 2025, and on or before January 1 every five years thereafter, the Legislative Analyst's Office review and report to the

Legislature regarding the performance of the commission in fulfilling its functions and responsibilities as outlined in the bill.

STAFF COMMENTS

- 1) ***Need for the bill.*** With the defunding of the CPEC, currently there is no coordinating entity for higher education in California. According to the author, “California’s education and workforce needs cannot be addressed by any single segment. The state’s approach to higher education must become more comprehensive if it is to ensure state-level workforce needs and priorities are being met. Numerous reports, including legislative reviews of the Master Plan for Higher Education and more recent reports from higher education experts, have called for California to establish a central higher education body. This central body is an important element of the state’s ability to honor its promise of affordable, high quality postsecondary education for all high school graduates and adults who could benefit from instruction offered at California’s colleges and universities. Without such an entity, California cannot systematically plan to address the current and future needs of all its students and overall economy.”

The author asserts that AB 130 represents the next necessary step in establishing greater clarity and accountability for our higher education system’s performance in meeting the statewide goals outlined in the Master Plan.

- 2) **History of California Postsecondary Education Commission.** The 1960 Master Plan for Higher Education in California articulated basic state policies on higher education, such as assigning missions to the different higher education segments, specifying eligibility targets and expressing the state’s intent that higher education remain accessible, affordable, high-quality and accountable. In addition, the Master Plan created an oversight body, the CPEC tasked with providing fiscal and policy recommendations to the Governor and Legislature; monitoring and coordinating public institutions; and ensuring comprehensive statewide planning for higher education and effective use of resources.

Although Governor Brown vetoed funding for CPEC in the 2011-12 budget, his veto message acknowledged the well-established need for coordinating and guiding state higher education policy and requested that stakeholders explore alternative ways that these functions could be fulfilled. This bill proposes an alternative.

- 3) **Since the Closure of California Postsecondary Education Commission (CPEC)?** Performance and Accountability. In the absence of a coordinating body, the Legislature and Governor have taken some steps toward developing, supporting and refining greater accountability for higher education. These efforts include the passage and development of agreed upon goals for higher education through the passage of SB 195 (Liu, Chaptered 2014).

SB 195 established statewide goals of improved student access, equity and success, degree/credential alignment with workforce needs, and the efficient/effective use of resources. The 2013-14 and 2014-15 Budget Acts added reporting requirements around specified performance metrics and

required the UC, CSU, and community colleges to set targets around these metrics consistent with the statewide goals outlined by SB 195 (Liu, 2014). However, there has been no clear articulation around specific state goals and no specific entity charged with stewarding a public agenda to guide budget and policy deliberations.

- 4) **Program and campus review.** The CPEC's role in program and campus review was to coordinate the long-range planning of the state's public higher education systems as a means to ensure that they were working together to carry out their individual missions while serving the state's long-range workforce and economic needs. In its oversight report, the Legislative Analyst's Office (LAO) noted that no office or committee has the resources to devote to review of programs to identify long-term costs, alignment with state needs and institutional missions, duplication and priority relative to other demands.

This bill limits program review to those beyond the scope of those contemplated by the Master Plan for Higher Education. As outlined in the Master Plan for Higher Education and by state statute, the primary mission of the CSU is undergraduate and graduate instruction through the master's degree. The UC was granted the sole authority to offer doctoral degrees. The mission and function of the CCC is the offering of academic and vocational instruction at the lower division level and the CCC are authorize authorized to grant the associate in arts and the associate in science degree.

- 5) **Related reports/recommendations.** A number of recent reports have cited the need for an independent body to steward a public agenda for higher education. These include the following:
- a) *Improving Higher Education Oversight (LAO January 2012)* – In this report the LAO raised concerns that in the wake of CPEC's closure, the future of higher education oversight was unclear and noted that while the public segments had stepped in to assume some roles previously performed by CPEC, expressed concerns about how institutional and public interests would be balanced. The LAO also noted that while CPEC's performance had been problematic, several important functions performed by the commission had been lost. Among other things, the LAO recommended the Legislature re-establish an independent oversight body and increase the body's independence from the public higher education segments, assign the body with limited and clear responsibilities, and develop a more unified governing board appointment process.
- b) *The Case for a Statewide Higher Education Coordinating Entity (California Competes, March 2019)* -This report notes that in the absence of coordination, each of California's public higher education segments function in siloes. Consequently, the state lacks a centralized authority for statewide goal-setting, comprehensive strategic planning and mechanisms to smooth students' progress through and between systems. The report opined that California needs an independent, statewide coordinating entity to uphold a public agenda for higher education that links the needs of the state's economy to experiences and outcomes of California's students. It

also asserted that the composition of the coordinating entity is critical to its credibility and its success; to maintain independence, representatives from the segments should play an advisory rather than a decisionmaking role in its governance.

- c) *Coordinating California's Higher Education System (Public Policy Institute of California, March 2019)* - The report discusses the qualities that shape an effective coordinating entity. It notes that setting clear and measurable goals as a key function. Specifically, in areas of UC and CSU eligibility, enrollment planning at the regional level to meet supply and demand as well as setting goals for funding, tuition and financial aid. The report also stresses the importance of the entity maintaining its independence from the segments.
 - d) *Coordinating Higher Education in California (Campaign for College Opportunity, March 2019)* - The report provides an analysis of lessons learned and best practices from other states as it relates to governance structures and duties for higher education coordinating bodies. Among its many findings, the report highlights the need for a chief executive to carryout day-to-day operations and provide guidance during the decision-making process. It notes the political significance of having this individual be appointed by and serve at the pleasure of the body and the importance the chief executive be viewed as a high-stature position commensurate with the leadership of each of the systems. The report concludes by asserting that a higher education coordinating entity with the proper authority and staff capacity will be best positioned to provide appropriate leadership and promote the continued prosperity of California residents.
- 6) ***Similar bill on the same subject.*** On April 3rd, this committee heard and approved SB 3 (Allen, 2019) which is substantially similar to this bill. Both bills seek to establish a higher education coordinating body and establish governing and advisory bodies. Among other things, the bills vary in part with regard to program view, data accessibility and reporting requirements. Staff understands that both authors are committed to come together to resolve the issue of competing proposals on the same topic.
- 7) ***Related and prior legislation.***
- a) Several bills have been introduced in an effort to improve higher education performance and accountability, and to re-establish CPEC most important functions. These include the following:
 - i) SB 3 (Allen, 2019) establishes the Office of Higher Education Coordination, Accountability, and Performance, administered by the governing board of the office, as the statewide postsecondary education coordination, oversight and planning entity, outlines its responsibilities, functions and authorities including data collection. SB 2 was approved by this committee and is scheduled to be heard in Assembly Higher Education Committee on June 25, 2019.

- ii) AB 217 (Low, 2017) would have established the Office of Higher Education Performance and Accountability as the statewide postsecondary coordination and planning agency, outlines its responsibilities, functions and authorities, and establishes an advisory board to the office.
- iii) AB 1837 (Low, 2016) mostly identical to AB 217. AB 137 was held in the Senate Appropriations Committee.
- iv) SB 42 (Liu, 2015), in its final form, was essentially identical to AB 1837. Although SB 42 was heard and passed by both houses, it was ultimately vetoed by the Governor, whose message read, in pertinent part:

“While there is much work to be done to improve higher education, I am not convinced we need a new office and an advisory board, especially of the kind this bill proposes, to get the job done.”

- v) SB 1196 (Liu, 2014) would have established a process for setting specific educational attainment goals for the State. SB 1196 was held in the Assembly Appropriations Committee.
- vi) AB 1348 (John A. Pérez, 2014) which would have established the California Higher Education Authority, its governing board and its responsibilities, as specified, phased-in over a three-year period. AB 1348 was held in the Senate Appropriations Committee.
- vii) SB 1022 (Huff, Chaptered 394, Statutes of 2014) requires the CSU and requests the UC to provide labor market outcome data on their graduates.
- viii) AB 2190 (John A. Pérez, 2012) would have established a new state oversight and coordinating body for higher education. AB 2190 was held in the Assembly Appropriations Committee.
- ix) SB 721 (Lowenthal, 2012) would have established statewide goals for guiding budget and policy decisions. SB 721 was ultimately vetoed.
- x) SB 1138 (Liu, 2011-12) would have established a central data management system for the higher education segments. SB 1138 was held in the Senate Appropriations Committee.
- xi) AB 2 (Portantino, 2011) and AB 218 (Portantino, 2009) essentially identical bills, required that the state establish an accountability framework to biennially assess and report on the collective progress of the state's system of postsecondary education in meeting specified educational and economic goals. Both bills were heard and passed by this Committee and were subsequently held in the Senate Appropriations Committee.

SUPPORT

Academic Senate for California Community Colleges
Cal State Student Association
California Competes
California School Employees Association
California State Student Association
Campaign for College Opportunity
League of Women Voters of California
Public Advocates Inc.
The Education Trust - West
University of California Student Association

OPPOSITION

None received

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