SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair
2019 - 2020 Regular

Bill No:	AB 1346	**Hearing Date:**	July 10, 2019
Author:	Medina, et al.		
Version:	April 1, 2019		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Lynn Lorber		

Subject: Postsecondary education: California Private Postsecondary Education Act of 2009: Student Tuition Recovery Fund.

SUMMARY

This bill expands the definition of "economic loss," as it pertains to the Student Tuition Recovery Fund (STRF), to include all amounts paid by a student to the institution, any amounts paid in connection with attending the institution, and all principal, interest, and charges of any kind for any loan incurred by the student to pay these amounts.

BACKGROUND

Existing law:

1) Establishes the California Private Postsecondary Education Act until January 1, 2021, and requires the Bureau of Private Postsecondary Education (Bureau), within the Department of Consumer Affairs) to review, investigate and approve private postsecondary institutions, programs and courses of instruction. (Education Code § 94800 et. seq.)

2) Authorizes the Bureau to take formal actions against an institution/school and seek closure of an institution/school if determined necessary. Existing law requires unaccredited degree-granting institutions to be accredited by an accrediting agency recognized by the United States Department of Education by 2020. Existing law provides for specified disclosures and enrollment agreements for students, requirements for cancellations, withdrawals and refunds, and requires the Bureau to administer the STRF to provide refunds to students affected by the possible closure of an institution/school. (EC § 94800 et. seq.)

3) Authorizes a California student of a Corinthian Colleges, Inc. institution who meets all of the other eligibility requirements, including that the student was enrolled as of June 20, 2014, or withdrew within 120 days of that date, to receive payment from the STRF. (EC § 94923)

4) Defines "economic loss," for the purposes of a student's loss that may be relieved or mitigated through the STRF, to include but not be limited to:

    a) Pecuniary loss, which is:

        i) The sum of the student's tuition.

        ii) All other institutional charges.

iii) The cost of equipment and materials required for the educational program.

iv) Interest on any student loan used to pay for such charges.

v) Collection costs.

vi) Penalties.

vii) Any license or exam fees the student paid to the institution but it unable to recover.

b) The amount the institution collected and failed to pay to third parties on behalf of the student for license fees or any other purpose. (EC § 94923)

5) Prohibits "economic loss" from including:

a) STRF assessments, unless the student is entitled to a full refund, as specified.

b) Room and board.

c) Supplies.

d) Transportation.

e) Application fees.

f) Non-pecuniary damages (inconvenience, aggravation, etc).

g) Legal fees, attorney fees, court costs, or arbitration. (EC § 94923)

6) Prohibits the amount in the STRF from not exceeding $25 million at any time, and requires the Bureau, if it has temporarily stopped collecting STRF assessments because STRF has approached the $25 million limit, to resume collecting STRF assessments when the fund falls below $20 million. (EC § 94925)

7) Provides that an otherwise eligible student who enrolled during a period when institutions were not required to collect STRF assessment is eligible for STRF payments despite not having paid any STRF assessment. (EC § 94925)

8) Requires each qualifying institution to collect an assessment of zero dollars per $1,000 of institutional charges from each student in an educational program who is a California resident or is enrolled in a residency program. Provides that the assessment is zero collars for institutional charges of $1,000 or less. (California Code of Regulations, Title 5, § 76120)

ANALYSIS

This bill:

1) Expands the definition of "economic loss" to include:

   a) All amounts paid by the student to the institution.

   b) Any amounts paid in connection with attending the institution.

   c) All principal, interest, and charges of any kind for a loan incurred by a student to pay these amounts.

2) Deletes the prohibition on the consideration of room and board, supplies, transportation, and application fees in determining economic loss.

3) Provides an exception to the prohibition against economic loss including legal fees, attorney fees, court costs, or arbitration to allow for these things to be considered an economic loss if those costs are awarded to the student pursuant to a court or arbitrator award and the student is eligible for payment from the STRF.

4) Expands eligibility for relief through the STRF for students who attended a Corinthian College, from including only students who were enrolled as of June 20, 2014, or withdrew within 120 days of that date or any greater period determined by Bureau, to include students who resided in California and attended a campus of a Corinthian Colleges, Inc. institution on or after January 1, 2010.

5) Replaces gendered possessive pronouns (his, hers) with gender-neutral possessive pronouns (the student's).

STAFF COMMENTS

1) ***Need for the bill.*** According to the author, "Surrounding the many recent high-profile private for-profit school closures in California, like Corinthian Colleges, Inc., ITT Technical Institute, and most recently Brightwood Colleges, investigations and other legal actions have shown that there is a pattern of abuse at profit-driven institutions. Students are routinely enrolled in these institutions under false and misleading promises, which leave the student with massive debts and far worse off than they were prior to enrolling. When a school closes or a student is otherwise unable to complete or use their education due to problems with the school, the student is faced with a number of hurdles. First and foremost is the fact that the student's educational path is disrupted. Secondly, the student is worried about existing debts, outstanding loans, and any other expenses incurred as a result of attending the school. STRF's definition of 'economic loss' is unjustly narrow and prevents students from recovering the true cost of their loss. Currently, the definition of 'economic loss' is limited to tuition, books, and other charges paid directly to the school. However, the costs of attending college far exceed the costs of tuition and books alone. Many students give up their jobs and take out private loans to cover other associated expenses,

including housing, childcare, and transportation."

2) ***Bureau for Private Postsecondary Education (Bureau)***. The Bureau is responsible for oversight of private postsecondary educational institutions that serve California students, including approval of institutions and programs, establishment of minimum operating standards, administration of a complaint resolution process, and ensuring that institutions provide accurate information to prospective students on school and student performance. The Bureau is also tasked with actively investigating and combatting unlicensed activity, administering the STRF, and conducting outreach and education activities for students and within the state.

3) ***Student Tuition Recovery Fund (STRF) and economic loss*.** The STRF, administered by the Bureau, exists to relieve or mitigate economic loss suffered by students enrolled at non-exempt private postsecondary education institutions due to the institutions' closure, the institutions' failure to pay refunds or reimburse loan proceeds, or the institutions' failure to pay students' restitution award for a violation of law. Students enrolled in institutions that are exempt from, or not under Bureau oversight, are not eligible for STRF.

   The definition of "economic loss" excludes many elements that represent a student's total cost of attendance. As noted by the author, many students take on additional debt in order to cover other expenses like rent, transportation, and childcare. This bill expands the definition of "economic loss" to better reflect the true cost of attendance (not just costs paid directly to the institution). This is consistent with recent efforts to expand financial aid to include the total costs of attendance.

4) ***Corinthian Colleges.*** Over 13,000 students enrolled in Heald College (owned by Corinthian Colleges) at the time of the institution's unlawful closure were not eligible for STRF due to broad exemptions in statute. Further, as a result of the then-requirement (at the time of those school closure) that schools under Bureau oversight have a physical presence in the state, a number of California students enrolled in Everest Online (owned by Corinthian but housed outside of California) were not eligible for STRF. Subsequently, statutes were changed to extend eligibility for STRF to a student who was enrolled at a California campus of a Corinthian Colleges, or was a California student enrolled in an online program offered by an out-of-state campus of a Corinthian institution, who also meets all of the other eligibility requirements, if the student was enrolled as of June 20, 2014.

   In March 2016, the California Attorney General obtained a default judgment for illegal and deceptive business practices against Corinthian Colleges that provides for $820 million in restitution to all California residents who attended any Corinthian college on or after Jan. 1, 2010. The Attorney General, however, was not able to collect and pay this restitution to students, due to Corinthian's bankruptcy. As a result, all Corinthian students covered by this judgment are now eligible for relief under STRF, except for Heald College and distance education students who enrolled before June 20, 2014. This bill expands the STRF eligibility for former Corinthian students who were residing in California and attending a campus of a Corinthian Colleges institution on or after January 1, 2010.

5) ***Sufficient STRF to cover expansion?*** This bill expands eligibility to additional students for relief through the STRF. As of January 18th, 2019, the balance of the STRF is $26,143,000 (which exceeds its statutory maximum of $25 million).

6) ***Fiscal impact.*** According to the Assembly Appropriations Committee, this bill would impose one-time and ongoing Special Fund costs ranging from in the mid hundreds of thousands up to $1 million to the Bureau.

7) ***Related legislation***. AB 1340 (Chiu) requires institutions regulated by the Bureau to report identifying, program enrollment, and loan debt information. Authorizes the Bureau to match student information with wage data provided by the Employment Development Department (EDD). Requires the Bureau to make information available on its website when the Director of the Department of Consumer Affairs (DCA) certifies that an updated information technology system is capable of processing data. AB 1340 is scheduled to be heard in this Committee on July 10.

AB 1341 (Berman) prohibits the Bureau from approving an exemption for, or handling complaints for a nonprofit institution that the AG determines does not meet the definition of a nonprofit corporation. AB 1342 is scheduled to be heard in this Committee on July 10.

AB 1342 (Low) requires the state Attorney General to review and approve any sale of a nonprofit educational institution to a for-profit entity. AB 1342 is scheduled to be heard in the Senate Appropriations Committee on July 8.

AB 1343 (Eggman) prohibit a private postsecondary educational institution, beginning January 1, 2023, from enrolling residents of California who are not already enrolled as of that date, unless the institution meets one of two requirements: either no more than 85 percent of the institution's tuition revenue is derived from federal monies or the institution does not spend less than 50 percent of revenue on student instruction. This bill is pending in the Senate Business and Professions Committee.

AB 1344 (Bauer-Kahan) beginning July 1, 2021, would replace current requirements for the information out-of-state institutions are required to provide the Bureau if they enroll California students in online programs, with the same and expanded information requirements, specifically adding adverse actions to the list of information that has to be provided. It would also authorize the Bureau to place these out-of-state private postsecondary institutions on a probationary status and revoke authorization to enroll California students. AB 1344 is scheduled to be heard in this Committee on July 10.

AB 1345 (McCarty) prohibits an institution from providing financial incentives to any person, including a student, involved in student recruitment, enrollment, continued enrollment, admission, or attendance, or involved in awarding of financial aid based on the enrollment of a student, or in the sales of any education materials, based on succeeding in those activities. AB 1345 is scheduled to be heard in this Committee on July 10.

8) ***Prior legislation.*** AB 573 (Medina) would have provided financial and other assistance to students impacted by the recent closing of all Heald, Everest, and WyoTech campuses in California, which were owned by Corinthian Colleges, Inc. AB 573 was vetoed by Governor Brown, whose veto message read:

> ***I am sympathetic to the many students who were enrolled at Corinthian Colleges when the company abruptly shuttered its doors earlier this year. I signed SB 150, which prevents students whose loans have been discharged from being penalized a second time with a significant tax bill on the value of the loan discharge, which they can ill afford to pay.***
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> ***The U.S. Department of Education has taken the matter of loan discharge seriously. In recent months, it has greatly eased the burden of filings for many students, and its work to provide a simple, swift and fair process for students continues. As such, it appears premature to create an attorney grant program, especially one that provides little direction on how funds should be used.***
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> ***While the bill's provisions to extend Cal Grant eligibility for Heald students are well-intentioned, I am not comfortable creating new General Fund costs outside of the budget process, particularly given the Cal Grant augmentations already included in this year's budget. For these reasons, I am returning this bill without my signature.***

SUPPORT

California Low-Income Consumer Coalition
Center for Responsible Lending
Children’s Advocacy Institute, Center for Public Interest Law
Consumer Federation of California
Consumer Reports Advocacy (formerly Consumers Union)
Housing and Economic Rights Advocates
National Student Legal Defense Network
NextGen California
Public Advocates
Public Counsel
Public Law Center
SEIU California
Student Debt Crisis
The Century Foundation
The Institute for College Access and Success
Veterans Education Success
Veterans Legal Clinic

OPPOSITION

None received

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