

AMENDED IN ASSEMBLY JULY 14, 2015

AMENDED IN ASSEMBLY JULY 1, 2015

AMENDED IN SENATE APRIL 7, 2015

**SENATE BILL**

**No. 42**

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**Introduced by Senator Liu**

December 2, 2014

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An act to add ~~Sections 66010.96, 66010.97, and 66010.98 to 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: ~~California Commission on Office of Higher Education Performance and Accountability.~~

~~Existing~~

(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 a 6-member advisory board to the office for the purpose of reviewing and commenting on any recommendations made by the office to the Governor and the Legislature.

The bill would specify the functions and responsibilities of the office, which would include, among other things, ~~the articulation and monitoring of state performance objectives~~ *participation, as specified, in the identification and periodic revision of state goals and priorities* for higher education, 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 ~~require~~ *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, 2016. 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: ~~no~~-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  
18 by 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 to the office is established for the  
7 purpose of examining and making recommendations 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 six public members with  
12 experience in postsecondary education, appointed to terms of four  
13 years as follows:

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

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

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

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

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

30 (e) The office shall consult with the higher education segments  
31 and stakeholders, as appropriate, in the conduct of its duties and  
32 responsibilities. For purposes of this subsection, higher education  
33 segments shall have the same meaning as in Section 66010.95,  
34 and higher education stakeholders shall include, but not  
35 necessarily be limited to, postsecondary faculty and students, K-12  
36 representatives, and representatives of the business community.

37 66010.962. The Office of Higher Education Performance and  
38 Accountability shall exist for the purpose of advising the Governor,  
39 the Legislature, and other appropriate governmental officials and  
40 institutions of postsecondary education. The office shall have the

1 following functions and responsibilities in its capacity as the  
2 statewide postsecondary education planning and coordinating  
3 agency and advisor to the Legislature and the Governor:

4 (a) It shall, through its use of information and its analytic  
5 capacity, inform the identification and periodic revision of state  
6 goals and priorities for higher education in a manner that is  
7 consistent with the goals outlined in Section 66010.91 and takes  
8 into consideration the metrics outlined in Sections 89295 and  
9 92675. It shall, biennially, interpret and evaluate both statewide  
10 and institutional performance in relation to these goals and  
11 priorities.

12 (b) It shall advise the Legislature and the Governor regarding  
13 the need for, and the location of, new institutions and campuses  
14 of public higher education.

15 (c) It shall review proposals by the public segments for new  
16 programs, the priorities that guide the public segments, and the  
17 degree of coordination between those segments and nearby public,  
18 independent, and private postsecondary educational institutions,  
19 and shall make recommendations regarding those proposals to  
20 the Legislature and the Governor.

21 (d) (1) It shall act as a clearinghouse for postsecondary  
22 education information and as a primary source of information for  
23 the Legislature, the Governor, and other agencies. It shall develop  
24 and maintain a comprehensive database that does all of the  
25 following:

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

27 (B) Supports longitudinal studies of individual students as they  
28 progress through the state's postsecondary educational institutions  
29 through the use of a unique student identifier.

30 (C) Maintains compatibility with California School Information  
31 Services and the student information systems developed and  
32 maintained by the public segments of higher education, as  
33 appropriate.

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

36 (E) Provides each of the educational segments access to the  
37 data made available to the commission for purposes of the  
38 database, in order to support, most efficiently and effectively,  
39 statewide, segmental, and individual campus educational research  
40 information needs.

1 (2) *The office, in implementing paragraph (1), shall comply*  
2 *with the federal Family Educational Rights and Privacy Act of*  
3 *1974 (20 U.S.C. Sec. 1232g) as it relates to the disclosure of*  
4 *personally identifiable information concerning students.*

5 (3) *The office may not make available any personally identifiable*  
6 *information received from a postsecondary educational institution*  
7 *concerning students for any regulatory purpose unless the*  
8 *institution has authorized the office to provide that information*  
9 *on behalf of the institution.*

10 (4) *The office shall, following consultation with, and receipt of*  
11 *a recommendation from, the advisory board, provide 30-day*  
12 *notification to the chairpersons of the appropriate policy and*  
13 *budget committees of the Legislature, to the Director of Finance,*  
14 *and to the Governor before making any significant changes to the*  
15 *student information contained in the database.*

16 (e) *It shall review all proposals for changes in eligibility pools*  
17 *for admission to public institutions and segments of postsecondary*  
18 *education, and shall make recommendations regarding those*  
19 *proposals to the Legislature, the Governor, and institutions of*  
20 *postsecondary education. In carrying out this subdivision, the*  
21 *office periodically shall conduct a study of the percentages of*  
22 *California public high school graduates estimated to be eligible*  
23 *for admission to the University of California and the California*  
24 *State University.*

25 (f) *It shall submit reports to the Legislature in compliance with*  
26 *Section 9795 of the Government Code.*

27 (g) *It shall manage data systems and maintain programmatic,*  
28 *policy, and fiscal expertise to receive and aggregate information*  
29 *reported by the institutions of higher education in this state.*

30 66010.964. *Notwithstanding any other law, the office is*  
31 *authorized to require the governing boards and the institutions of*  
32 *public postsecondary education to submit data to the office on*  
33 *plans and programs, costs, selection and retention of students,*  
34 *enrollments, plant capacities, and other matters pertinent to*  
35 *effective planning, policy development, and articulation and*  
36 *coordination. The office shall furnish information concerning these*  
37 *matters to the Governor and to the Legislature as requested by*  
38 *them.*

39 66010.966. (a) (1) *The office shall administer a study to*  
40 *evaluate the admissions policies used by the University of*

1 *California and the California State University to determine the*  
2 *number of freshman and transfer students eligible for admission*  
3 *to each of these segments.*

4 *(2) The director of the office, or his or her designee, shall*  
5 *convene a work group that includes, but is not necessarily limited*  
6 *to, representatives from the University of California, the California*  
7 *State University, the State Department of Education, the*  
8 *Department of Finance, and the Legislative Analyst's Office, to*  
9 *consider the overall approach to the study.*

10 *(b) The study shall report the number of students eligible for*  
11 *admission to each segment by race, gender, ethnicity, and region,*  
12 *and shall include an analysis of the factors affecting eligibility for*  
13 *admission to the University of California and the California State*  
14 *University, by racial or ethnic group and by income level.*

15 *(c) The office shall submit a report summarizing the*  
16 *methodology and findings of the study to the Legislature and the*  
17 *Governor by December 1, 2016. The report shall identify whether*  
18 *the University of California and the California State University*  
19 *are admitting students as described in the Master Plan for Higher*  
20 *Education. The report shall also include a discussion of any*  
21 *adjustments the University of California and the California State*  
22 *University have made, or plan to make, to admissions policies in*  
23 *response to the findings of the study.*

24 *(d) The report to be submitted pursuant to subdivision (c) shall*  
25 *be submitted in compliance with Section 9795 of the Government*  
26 *Code.*

27 *(e) The office may execute contracts to perform the study*  
28 *specified in this section. Any contracts executed for the study*  
29 *specified in this section are not subject to the provisions of Article*  
30 *1 (commencing with Section 10100) of Chapter 1 of Part 2 of*  
31 *Division 2 of the Public Contract Code, or Article 6 (commencing*  
32 *with Section 999) of Chapter 6 of Division 4 of the Military and*  
33 *Veterans Code.*

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

37 *66010.968. (a) On or before December 31 of each year, the*  
38 *office shall report to the Legislature and the Governor regarding*  
39 *its progress in achieving the objectives and responsibilities set*  
40 *forth in subdivision (a) of Section 66010.962.*

1 (b) On or before January 1, 2020, the Legislative Analyst's  
2 Office shall review and report to the Legislature regarding the  
3 performance of the office in fulfilling its functions and  
4 responsibilities as outlined in Section 66010.962.

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

8 SEC. 2. If the Commission on State Mandates determines that  
9 this act contains costs mandated by the state, reimbursement to  
10 local agencies and school districts for those costs shall be made  
11 pursuant to Part 7 (commencing with Section 17500) of Division  
12 4 of Title 2 of the Government Code.

13 SECTION 1. Section 66010.96 is added to the Education Code,  
14 to read:

15 ~~66010.96. (a) The Office of Higher Education Performance~~  
16 ~~and Accountability is hereby established as the statewide~~  
17 ~~postsecondary education coordination and planning entity. The~~  
18 ~~office shall be established in state government within the~~  
19 ~~Governor's office, and shall be under the direct control of an~~  
20 ~~executive director.~~

21 ~~(b) The Governor shall appoint the Executive Director of the~~  
22 ~~Office of Higher Education Performance and Accountability, who~~  
23 ~~shall perform all duties, exercise all powers, assume and discharge~~  
24 ~~all responsibilities, and carry out and effect all purposes vested by~~  
25 ~~law in the office, including contracting for professional or~~  
26 ~~consultant services in connection with the work of the office. The~~  
27 ~~appointment of the executive director shall be subject to~~  
28 ~~confirmation by the affirmative vote of a majority of the~~  
29 ~~membership of the Senate. The executive director shall appoint~~  
30 ~~persons to any staff positions the Governor may authorize.~~

31 ~~(c) The Governor may appoint the executive director at a salary~~  
32 ~~that shall be fixed pursuant to Section 12001 of the Government~~  
33 ~~Code.~~

34 ~~(d) An advisory board to the office is established for the purpose~~  
35 ~~of reviewing and commenting on any recommendations made by~~  
36 ~~the Office to the Governor and the Legislature. The advisory board~~  
37 ~~shall consist of six public members with experience in~~  
38 ~~postsecondary education, appointed as follows:~~

39 ~~(1) Three members of the advisory board shall be appointed by~~  
40 ~~the Senate Committee on Rules.~~



1 ~~(2) Three members of the advisory board shall be appointed by~~  
2 ~~the Speaker of the Assembly.~~

3 ~~(e) The office may consult with the higher education segments,~~  
4 ~~as appropriate, in the conduct of its duties and responsibilities.~~

5 ~~SEC. 2. Section 66010.97 is added to the Education Code, to~~  
6 ~~read:~~

7 ~~66010.97. The Office of Higher Education Performance and~~  
8 ~~Accountability shall exist for the purpose of advising the Governor,~~  
9 ~~the Legislature, and other appropriate governmental officials and~~  
10 ~~institutions of postsecondary education. The office shall have the~~  
11 ~~following functions and responsibilities in its capacity as the~~  
12 ~~statewide postsecondary education planning and coordinating~~  
13 ~~agency and advisor to the Legislature and the Governor:~~

14 ~~(a) It shall articulate and monitor state performance objectives~~  
15 ~~for higher education.~~

16 ~~(b) It shall advise the Legislature and the Governor regarding~~  
17 ~~the need for, and the location of, new institutions and campuses~~  
18 ~~of public higher education.~~

19 ~~(c) It shall review proposals by the public segments for new~~  
20 ~~programs, the priorities that guide the public segments, and the~~  
21 ~~degree of coordination by those segments with nearby public,~~  
22 ~~independent, and private postsecondary educational institutions,~~  
23 ~~and shall make recommendations regarding those proposals to the~~  
24 ~~Legislature and the Governor.~~

25 ~~(d) (1) It shall act as a clearinghouse for postsecondary~~  
26 ~~education information and as a primary source of information for~~  
27 ~~the Legislature, the Governor, and other agencies. It shall develop~~  
28 ~~and maintain a comprehensive database that does all of the~~  
29 ~~following:~~

30 ~~(A) Ensures comparability of data from diverse sources.~~

31 ~~(B) Supports longitudinal studies of individual students as they~~  
32 ~~progress through the state's postsecondary educational institutions~~  
33 ~~through the use of a unique student identifier.~~

34 ~~(C) Maintains compatibility with California School Information~~  
35 ~~Services and the student information systems developed and~~  
36 ~~maintained by the public segments of higher education, as~~  
37 ~~appropriate.~~

38 ~~(D) Provides Internet access to data, as appropriate, to the sectors~~  
39 ~~of higher education.~~

1 ~~(E) Provides each of the educational segments access to the data~~  
2 ~~made available to the commission for purposes of the database, in~~  
3 ~~order to support, most efficiently and effectively, statewide,~~  
4 ~~segmental, and individual campus educational research information~~  
5 ~~needs.~~

6 ~~(2) The office, in implementing paragraph (1), shall comply~~  
7 ~~with the federal Family Educational Rights and Privacy Act of~~  
8 ~~1974 (20 U.S.C. Sec. 1232g) as it relates to the disclosure of~~  
9 ~~personally identifiable information concerning students.~~

10 ~~(3) The office may not make available any personally~~  
11 ~~identifiable information received from a postsecondary educational~~  
12 ~~institution concerning students for any regulatory purpose unless~~  
13 ~~the institution has authorized the office to provide that information~~  
14 ~~on behalf of the institution.~~

15 ~~(4) The office shall provide 30-day notification to the~~  
16 ~~chairpersons of the appropriate policy and budget committees of~~  
17 ~~the Legislature, to the Director of Finance, and to the Governor~~  
18 ~~before making any significant changes to the student information~~  
19 ~~contained in the database.~~

20 ~~(e) It shall review all proposals for changes in eligibility pools~~  
21 ~~for admission to public institutions and segments of postsecondary~~  
22 ~~education, and shall make recommendations to the Legislature,~~  
23 ~~the Governor, and institutions of postsecondary education. In~~  
24 ~~carrying out this subdivision, the office periodically shall conduct~~  
25 ~~a study of the percentages of California public high school~~  
26 ~~graduates estimated to be eligible for admission to the University~~  
27 ~~of California and the California State University.~~

28 ~~(f) It shall, through its use of information and its analytic~~  
29 ~~capacity, inform the identification and periodic revision of state~~  
30 ~~goals and priorities for higher education in a manner that is~~  
31 ~~consistent with the goals outlined in Section 66010.91 and the~~  
32 ~~metrics outlined in Sections 89295 and 92675. It shall, biennially,~~  
33 ~~interpret and evaluate both statewide and institutional performance~~  
34 ~~in relation to these goals and priorities.~~

35 ~~(g) It shall submit reports to the Legislature in compliance with~~  
36 ~~Section 9795 of the Government Code.~~

37 ~~(h) It shall manage data systems and maintain programmatic,~~  
38 ~~policy, and fiscal expertise to receive and aggregate information~~  
39 ~~reported by the institutions of higher education in this state.~~

1     ~~SEC. 3.—Section 66010.98 is added to the Education Code, to~~  
2     ~~read:~~  
3     ~~66010.98.—On or before December 31 of each year, the office~~  
4     ~~shall report to the Legislature and the Governor regarding its~~  
5     ~~progress in achieving the objectives and responsibilities set forth~~  
6     ~~in subdivision (a) of Section 66010.97.~~

O