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AB-3374 Postsecondary education. (2019-2020)

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Assembly Bill No. 3374

CHAPTER 129

An act to amend Sections 66022.5, 87482, 87786, 88810, and 94923 of the Education Code, relating to postsecondary education.

[Approved by Governor September 24, 2020. Filed with Secretary of State September 24, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3374, Committee on Higher Education. Postsecondary education.

(1) Commencing with admissions for the 2020–21 academic year, existing law prohibits a campus of the California State University and, if adopted by the Regents of the University of California by appropriate resolution, the University of California, from admitting an applicant by admission by exception, as defined, unless the admission by exception has been approved, prior to the student's enrollment, by at least 3 senior campus administrators, the applicant is a California resident who is receiving an institution-based scholarship to attend the campus, or the applicant is accepted by an educational opportunity program for admission to the campus. Commencing with admissions for the 2020–21 academic year, existing law establishes requirements pertaining to admission by exception at a campus of the California State University and, if adopted by the regents by appropriate resolution, a campus of the University of California, as specified.

This bill instead would make these provisions operative commencing with admissions for the 2021–22 academic year.

(2) Existing law establishes the California Community Colleges under the administration of the Board of Governors of the California Community Colleges. Existing law classifies any person who is employed to teach adult or community college classes for not more than 67% of the hours per week considered a full-time assignment for regular employees having comparable duties, excluding substitute service, as a temporary employee. Existing law authorizes the governing board of a community college district to employ a qualified individual as a temporary faculty member for a complete academic year, but not less than a complete semester or quarter during an academic year. Existing law requires that the employment of those persons be based upon the need for additional faculty during a particular semester or quarter, as specified.

Existing law exempts persons serving as full-time or part-time clinical nursing faculty who meet specified requirements from certain limitations imposed under this provision. A single community college district may employ, for up to 4 semesters or 6 quarters, a person serving as full-time clinical nursing faculty or as part-time clinical nursing faculty teaching not more than 67% of the hours per week considered a full-time assignment for regular employees having comparable duties.

This bill would specify that the full-time or part-time clinical nursing faculty referenced above may be employed by a single community college district for up to 4 semesters or 6 quarters within any period of 3 consecutive academic years. The bill would also make nonsubstantive changes to this and related provisions.

(3) Existing law requires the Legislative Analyst's Office to aggregate, analyze, and submit an interim report by January 1, 2019, and a final report by December 1, 2021, to the Legislature on the progress of a financial and professional development grant funding program in achieving its prescribed purpose, based on information submitted by community colleges participating in the grant program.

This bill would delete the requirement that the Legislative Analyst's office submit a final report on the progress of the grant program pursuant to these provisions.

(4) The California Private Postsecondary Education Act of 2009 provides for the regulation of private postsecondary educational institutions by the Bureau for Private Postsecondary Education in the Department of Consumer Affairs. The act also establishes the Student Tuition Recovery Fund and requires the bureau to adopt regulations governing the administration and maintenance of the fund, including requirements relating to assessments on students and student claims against the fund, and establishes that the moneys in this fund are continuously appropriated to the bureau for specified purposes.

This bill would make a clarifying change to a definition used under these provisions concerning the Student Tuition Recovery Fund.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 66022.5 of the Education Code is amended to read:

66022.5. (a) For purposes of this section, the following definitions apply:

(1) "Admission by exception" means the process by which a campus admits applicants who do not meet the eligibility requirements for admission to the segment, or guaranteed admission to a campus of the segment, but who demonstrate high potential for success and leadership in an academic or special talent program at the campus.

(2) "Campus" means a campus of the California State University or the University of California.

(3) "Special talent program" refers to a campus' program that requires additional admissions review to determine the qualification of an applicant for admission into that program. Special talent program includes, but is not necessarily limited to, a campus' athletic or fine arts program.

(b) A campus shall not admit a student by admission by exception unless the student's admission by exception has been approved, before the student's enrollment, by a minimum of three senior campus administrators.

(c) Notwithstanding subdivision (b), a campus may admit, by admission by exception, a California resident who is receiving an institution-based scholarship to attend the campus or an applicant who is accepted by an educational opportunity program for admission to the campus.

(d) A campus that admits a student by admission by exception shall comply with both of the following:

(1) Document its employees who were involved in the evaluation of the student's application for admission.

(2) Establish a policy that applies articulated standards to the campus' admissions by exception decisions. The standards shall include minimum procedural requirements and shall include an explanation for choosing the standards that supports their application as fair and appropriate.

(e) A campus that admits a student by admission by exception into an athletics program shall establish a policy requiring the student to participate in the program for a minimum of one academic year.

(f) (1) Upon request, a campus shall report to the Legislature, pursuant to Section 9795 of the Government Code, any information that is required to be established or documented pursuant to this section.

(2) The campus shall submit information to the Legislature pursuant to paragraph (1) to the extent permitted by state and federal privacy laws, including, but not limited to, the federal Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g).

(g) This section shall not be interpreted to prohibit the University of California from adopting policies that impose additional restrictions on or requirements for admission by exception.

(h) This section shall become operative commencing with admissions for the 2021–22 academic year.

SEC. 2. Section 87482 of the Education Code is amended to read:

87482. (a) (1) Notwithstanding Section 87480, the governing board of a community college district may employ a qualified individual as a temporary faculty member for a complete academic year, but not less than a complete semester or quarter during an academic year. The employment of those persons shall be based upon the need for additional faculty during a particular semester or quarter because of the higher enrollment of students during that semester or quarter as compared to the other semester or quarter in the academic year, or because a faculty member has been granted leave for a semester, quarter, or academic year, or is experiencing long-term illness, and shall be limited, in number of persons so employed, to that need, as determined by the governing board of the community college district.

(2) Employment of a person under this subdivision may be pursuant to contract fixing a salary for the entire semester or quarter.

(b) A person, other than a person serving as clinical nursing faculty and exempted from this subdivision pursuant to paragraph (1) of subdivision (c), shall not be employed by a single community college district under this section for more than two semesters or three quarters within any period of three consecutive academic years.

(c) (1) Notwithstanding subdivision (b), a person serving as full-time clinical nursing faculty or as part-time clinical nursing faculty teaching the hours per week described in Section 87482.5 may be employed by a single community college district under this section for up to four semesters or six quarters within any period of three consecutive academic years.

(2) A community college district that employs faculty pursuant to this subdivision shall provide data to the chancellor's office as to the number of faculty members hired under this subdivision, and what the ratio of full-time to part-time faculty was for each of the three academic years prior to the hiring of faculty under this subdivision and for each academic year for which faculty is hired under this subdivision. This data shall be submitted, in writing, to the chancellor's office on or before June 30 of each year.

(3) The chancellor shall report, in writing, to the Legislature and the Governor on or before September 30 of each year in accordance with data received pursuant to paragraph (2), the number of community college districts that hired faculty under this subdivision, the number of faculty members hired under this subdivision, and what the ratio of full-time to part-time faculty was for these community college districts in each of the three academic years before the operation of this subdivision and for each academic year for which faculty is hired under this subdivision.

(4) A community college district may not employ a person pursuant to this subdivision if the hiring of that person results in an increase in the ratio of part-time to full-time nursing faculty in that district.

SEC. 3. Section 87786 of the Education Code is amended to read:

87786. Section 87780 shall not apply to any community college district which adopts and maintains in effect a rule that provides that when a person employed in an academic position is absent from their duties on account of illness or accident for a period of five school months or less whether or not the absence arises out of or in the course of the employment of the employee, the employee shall receive 50 percent or more of their regular salary during the period of the absence and nothing in Section 87780 shall be construed as preventing the governing board of any district from adopting any such rule.

Notwithstanding the foregoing, when a person employed in an academic position is absent from their duties on account of illness for a period of more than five school months, or when a person is absent from their duties for a cause other than illness, the amount deducted from the salary due the employee for the month in which the absence occurs shall be determined according to the rules and regulations established by the governing board of the district. These rules and regulations shall not conflict with rules and regulations of the board of governors.

Nothing in this section shall be construed so as to deprive any district, city, or city and county of the right to make any reasonable rule for the regulation of accident or sick leave or cumulative accident or sick leave without loss of salary for academic employees.

This section shall be applicable whether or not the absence from duty is by reason of a leave of absence granted by the governing board of the employing district.

SEC. 4. Section 88810 of the Education Code is amended to read:

88810. (a) In order to receive a grant, the governing board of a community college district shall demonstrate in its application for funding, consistent with subdivision (b) of Section 88805, that the community colleges that are to participate in the grant program

will redesign their curriculum, career pathways, assessment and placement procedures, or any combination thereof, to implement, or significantly expand the use or application of, two or more of the following evidence-based practices and principles:

(1) Adopting placement tests or other student assessment indicators and related policies that may include multiple measures of student performance, including grades in high school courses, especially overall grade point average, results from the common assessment system, and input from counselors.

(2) Increasing the placement of students directly in gateway English and mathematics courses that are transferable to the University of California or the California State University and career pathways, with remedial instruction integrated as appropriate for underprepared students.

(3) Aligning content in remedial courses with the students' programs of academic or vocational study to target students' actual needs and increase relevance. This paragraph is intended to encourage the development of remedial instruction focused on a student's identified academic need informed by the student's intended course of study.

(4) Contextualizing remedial instruction in foundational skills for the industry cluster, pathways, or both, in which the student seeks to advance.

(5) Providing proactive student support services that are integrated with the instruction provided.

(6) Developing two- and three-course sequences, as appropriate, for completion of a college-level English or mathematics course, or both, for underprepared students, by either utilizing technology, where appropriate, to enhance the adoption of the high impact practices specified in paragraphs (1) to (5), inclusive, or implementing other effective basic skills course strategies and practices not specified in paragraphs (1) to (5), inclusive, subject to the college providing evidence that substantiates the practice is effective.

(b) Community colleges are encouraged to collaborate with local school districts serving kindergarten and grades 1 to 12, inclusive, to better articulate English and math instruction between the high schools and the community colleges.

(c) Each participating community college shall be responsible for all of the following:

(1) Developing a plan based on two or more of the evidence-based principles and practices described in subdivision (a) that demonstrates a clear strategy for ensuring that both of the following occur within a five-year period:

(A) A progressively increasing share of the students who enroll at participating community colleges within the community college district achieve the goals listed in subdivision (b) of Section 88805.

(B) A significantly greater share of entering students who are enrolled at the community college achieve the goals listed in subdivision (b) of Section 88805 within a shorter time period than before the implementation of the plan at the community college.

(2) Ensuring that the plan developed pursuant to paragraph (1) does all the following:

(A) Describes the community college's current practices with regard to the selected high impact practices and its readiness to implement the new interventions.

(B) Articulates targets for the share of entering students projected to be served by these interventions over the three-year implementation period.

(C) Sets goals for the share of entering students who complete a college-level English or mathematics course within three semesters or less after enrollment.

(D) Identifies key strategies and implementation benchmarks for evaluating the progress of campus efforts to implement the selected interventions.

(E) Details the number of campus faculty likely to be involved in all selected high impact interventions and the plan for addressing their professional and technical assistance needs.

(3) Ensuring that its faculty participate in professional development regarding academic programs or new curriculum developed or expanded pursuant to the plan, using grant funds to support that faculty participation.

(4) Commencing in the year that a community college receives a grant and for the following three fiscal years, annually reporting to the chancellor's office on program outcomes, disaggregated by the demographic characteristics, high school grade point average, and initial placement level of its students, for purposes of measuring progress compared to the community college's performance before its implementation of the plan. These reports should include all of the following:

(A) The total number and percentage of entering students identified as underprepared before receipt of the grant.

(B) The number and percentage of entering students served by the grant program, disaggregated by type of practice implemented.

(C) The number and percentage of entering students achieving the goals listed in subdivision (b) of Section 88805.

(D) The number of faculty involved and faculty needs regarding the adoption and operation of courses under the plan.

(E) If applicable, a narrative describing any subsequent adjustments to the design of the college's basic skills course practices or strategies adopted pursuant to paragraph (6) of subdivision (a).

(F) A description of any additional or expanded student supports offered.

(G) A narrative describing the community college's efforts to collaborate with local school districts serving kindergarten and grades 1 to 12, inclusive, to better articulate English and math instruction between the high schools and the community colleges.

(5) These plans should be developed in consultation with campus faculty.

(d) The office of the Chancellor of the California Community Colleges shall be responsible for all of the following:

(1) Developing application criteria, administrative guidelines, and other requirements for purposes of administering the grant program. Applications that would do one or both of the following shall be given priority consideration within the application criteria:

(A) Scale up existing practices.

(B) Provide services to greater proportions of students.

(2) Administering the grant program and distributing and monitoring awards to recipient community college districts.

(3) Providing the information submitted pursuant to paragraph (4) of subdivision (c) to the Legislative Analyst's Office.

(e) (1) The Legislative Analyst's Office shall aggregate, analyze, and report the information submitted pursuant to paragraph (3) of subdivision (d) to the Legislature on the progress of the grant program in achieving its prescribed purpose. The Legislative Analyst's Office shall issue a report by December 1, 2019.

(2) (A) The requirement for submitting a report imposed under this subdivision is inoperative on July 1, 2026, pursuant to Section 10231.5 of the Government Code.

(B) A report to be submitted pursuant to paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 5. Section 94923 of the Education Code is amended to read:

94923. (a) The Student Tuition Recovery Fund relieves or mitigates economic loss suffered by a student while enrolled in an institution not exempt from this article pursuant to Article 4 (commencing with Section 94874), who, at the time of the student's enrollment, was a California resident or was enrolled in a California residency program, prepaid tuition, and suffered economic loss.

(b) (1) The bureau shall adopt, by regulation, procedures governing the administration and maintenance of the Student Tuition Recovery Fund. The fund shall be used to provide awards to students who suffer economic loss.

(2) The following students, and any other students deemed appropriate, are eligible for payment from the Student Tuition Recovery Fund:

(A) Any student who was enrolled at an institution, at a location of the institution, or in an educational program offered by the institution, at the time that institution, location, or program was closed or discontinued, as applicable, who did not choose to participate in a teach-out plan approved by the bureau or did not complete a chosen teach-out plan approved by the bureau.

(B) Any student who was enrolled at an institution or a location of the institution within the 120-day period before the closure of the institution or location of the institution, or who was enrolled in an educational program within the 120-day period before the program was discontinued.

(C) Any student who was enrolled at an institution or a location of the institution more than 120 days before the closure of the institution or location of the institution, in an educational program offered by the institution as to which the bureau

determines there was a significant decline in the quality or value of the program more than 120 days before closure.

(D) A student to whom an institution has been ordered to pay a refund by the bureau but has failed to do so.

(E) A student to whom an institution has failed to pay or reimburse loan proceeds under a federal student loan program as required by law, or has failed to pay or reimburse proceeds received by the institution in excess of tuition and other costs.

(F) A student who has been awarded restitution, a refund, or other monetary award by an arbitrator or court, based on a violation of this chapter by an institution or representative of an institution, but who has been unable to collect the award from the institution. The bureau shall review the award or judgment and shall ensure the amount to be paid from the fund does not exceed the student's economic loss.

(G) Notwithstanding the definition of economic loss in subdivision (f), for purposes of recovery from the Student Tuition Recovery Fund, a student who has sought legal counsel that resulted in the cancellation of one or more student loans in connection with the student's Student Tuition Recovery Fund claim may seek reimbursement for legal services rendered in an amount up to five hundred dollars (\$500). The bureau shall review the invoice of the legal services rendered and evidence of the cancellation of the student loan or loans, and upon verifying that cancellation, pay the claim directly to the student.

(3) Notwithstanding the requirement that a student attend an institution that is not exempt from this article as provided in subdivision (a), the following students who either were enrolled at a California campus of a Corinthian Colleges, Inc., institution or who were California students enrolled in an online program offered by an out-of-state campus of a Corinthian Colleges, Inc., institution are eligible for payment from the Student Tuition Recovery Fund:

(A) A student who meets one of the eligibility requirements in paragraph (2), if the student also was residing in California and was attending a campus of a Corinthian Colleges, Inc., institution on or after January 1, 2010.

(B) A student who was enrolled as of June 20, 2014, or withdrew within 120 days of that date, and did not complete the student's program at the institution.

(c) Any student who is required to pay a Student Tuition Recovery Fund assessment who pays tuition equal to or greater than the required assessment shall be deemed to have paid the required assessment, whether or not the student's enrollment agreement specifies collection of the required assessment, and whether or not the institution identifies any money collected from the student as a Student Tuition Recovery Fund assessment.

(d) A student who suffers educational opportunity losses, whose charges are paid by a third-party payer, is eligible for educational credits under the fund.

(e) The bureau may seek repayment to the Student Tuition Recovery Fund from an institution found in violation of the law for which a student claim was paid. An institution shall not be eligible to renew its approval to operate with the bureau if the repayment is not made to the bureau as requested.

(f) (1) For purposes of this section, "economic loss" includes, but is not necessarily limited to, any of the following:

(A) All cash or other consideration paid by the student to the institution.

(B) All expenses related to private or government student loans, including retail installment contracts made by the institution, paid to the student or to the institution in connection with the student's attendance at the institution, including related principal, interest, and any fees.

(C) All third-party payments, including government grants, paid to the student or to the institution in connection with the student's attendance at the institution.

(2) Economic loss does not include Student Tuition Recovery Fund assessments, unless the student is entitled to a full refund under Section 94919 or 94920, or nonpecuniary damages such as inconvenience, aggravation, emotional distress, or punitive damages. Economic loss does not include legal fees, attorney fees, court costs, or arbitration fees. This subdivision shall not prevent the bureau from further defining economic loss to include loss of educational opportunity.

(g) As a condition of the bureau satisfying a student loan obligation on behalf of a Student Tuition Recovery Fund applicant, the loan servicer or debtholder shall submit a letter stating that the servicer or holder will no longer collect on the debt and shall report the debt as "paid in full" to all credit reporting agencies. The bureau shall retain a copy of that letter and provide the original to the applicant.

(h) Except as provided in subdivision (i), the bureau shall require a student seeking reimbursement from the Student Tuition Recovery Fund to file a written application that shall be received by the bureau no later than four years after the date of the action

that made the student eligible for recovery from the Student Tuition Recovery Fund.

(i) Any student whose loan is revived by a loanholder or debt collector after a period of noncollection by the holder or collector may, at any time, file a written application for recovery from the Student Tuition Recovery Fund for the debt that would have been otherwise eligible for recovery under this section.