Assembly Bill No. 130

Passed the Assembly  September 12, 2019

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Chief Clerk of the Assembly

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Passed the Senate  September 11, 2019

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Secretary of the Senate

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This bill was received by the Governor this _____ day of ____________, 2019, at _____ o’clock ____m.

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Private Secretary of the Governor
CHAPTER

An act to add Article 2.3 (commencing with Section 66010.8) to Chapter 2 of Part 40 of Division 5 of Title 3 of the Education Code, relating to postsecondary education.

LEGISLATIVE COUNSEL’S DIGEST


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, the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, independent institutions of higher education, and private postsecondary educational institutions as the 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 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 2018–19 fiscal year, inclusive, have provided no funding for CPEC.

This bill would establish the Higher Education Performance, Accountability, and Coordination Commission, composed of 5 public members with experience in postsecondary education, appointed as specified, as the statewide postsecondary education oversight, coordination, and planning entity. The bill would require the commission to develop and publish an independent annual report on the condition of higher education in California, as provided. The bill would establish other functions and responsibilities of the commission, which would include specified
advisory duties and acting as a clearinghouse for postsecondary education information.

The bill would authorize the commission to require the governing boards and institutions of public postsecondary education to submit specified information and student data to the commission on plans and programs, costs, selection and retention of students, enrollments, plant capacities, and other matters pertinent to the commission’s functions and responsibilities. To the extent that these provisions would impose new duties on community college districts, the bill would constitute a state-mandated local program.

The bill would require the Legislative Analyst’s Office to report to the Legislature on the performance of the commission on or before January 1, 2025.

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 the statutory provisions noted above.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) (1) In 1960, the State Department of Education published the Master Plan for Higher Education in California, which relegated each public postsecondary segment of higher education to a distinct role in California’s public postsecondary education system.

(2) The Master Plan for Higher Education recommended that a coordinating agency be formed to address “the demands of the state for rational development and maximum economy in higher education,” and called for a “Co-ordinating Council for Higher Education,” comprising representatives of the three public segments, to serve as the advisory body. California, in its adoption of the Master Plan for Higher Education, established the Coordinating Council for Higher Education.

(b) (1) In 1974, the Legislature established the California Postsecondary Education Commission (CPEC), the successor to
the Coordinating Council for Higher Education, to ensure “the effective utilization of public postsecondary education resources, thereby eliminating waste and unnecessary duplication, and to promote diversity, innovation, and responsiveness to student and societal needs through planning and coordination.”

(2) CPEC was responsible for conducting long-range planning of state needs for new college or university campuses, providing timely information about student enrollment and educational outcomes, and reviewing proposals from public colleges and universities for new degree programs.

(c) The California Postsecondary Education Commission is referenced over 50 times in statute and fulfilled important oversight and coordination duties, including monitoring gifts, bequests, devises, or donations to the California State University trustees; cooperating with the government of the United States regarding federal assistance for higher education and requisitioning funds; identifying ineffective projects enacted under the California Academic Partnership Program for termination; and reviewing annual reports of the three public segments of higher education on transfer patterns.

(d) In 2010, the Joint Committee on the Master Plan for Higher Education concluded that “it is essential that [California] have some designated agency with the role, responsibility, and capacity for advising the Legislature and Governor, the Segments of higher education and the California public with regard to essential coordination and needed efficiency in our delivery of higher education.”

(e) Both the Coordinating Council for Higher Education and the California Postsecondary Education Commission included representatives of public segments as voting members, which, according to numerous reviews by the Legislative Analyst’s Office and the Public Policy Institute of California, undermined the body’s ability to provide independent policy leadership.

(f) Since the California Postsecondary Education Commission was defunded in 2011, California has been without a statewide postsecondary education coordinating body and remains one of just two states without such body. As a result, California’s public higher education segments function in silos.

(g) The Legislature lacks independent and comprehensive policy guidance on major issues of higher education coordination that
have been recently considered, including legislative proposals to offer baccalaureate degrees at California Community Colleges, create doctoral degree programs at California State University campuses, make the completion of an ethnic studies course a graduation requirement, establish an online, competency-based community college district, and conduct studies regarding the feasibility of new campuses in specific regions.

(h) (1) California will need a growing supply of educated workers to meet future economic demand. The state is expected to face a shortfall of between 1.1 million to 2.4 million bachelor’s degrees by 2030, and the demand for public higher education in certain regions, including the San Francisco Bay area, outpaces supply. To meet this demand, California must address disparities in college enrollment and completion by populations historically underrepresented in higher education.

(2) The public postsecondary segments face challenges in on-time completion, transfer pathways, and access. Less than 60 percent of California State University freshmen graduate within six years, and the average California Community College student completes more than double the required units to obtain an associate degree. Nearly 30,000 eligible students are denied admission to the California State University each year due to impaction.

(i) In the absence of a coordinating body, California lacks the leadership to set statewide goals and metrics to meet current and future postsecondary needs. California is one of 11 states with no statewide goals for higher education.

(j) According to the National Center for Public Policy and Higher Education, designating an entity with the responsibility to develop and provide leadership in implementing a long-term strategy to improve postsecondary educational attainment and outcomes is a nationally recognized best practice.

(k) California needs strong, independent, state-level leadership positioned to provide a clear vision or public agenda for higher education that ensures access to postsecondary opportunities for all residents, closes equity gaps, and is positioned to meet future workforce needs.

SEC. 2. Article 2.3 (commencing with Section 66010.8) is added to Chapter 2 of Part 40 of Division 5 of Title 3 of the Education Code, to read:
Article 2.3. Higher Education Performance, Accountability, and Coordination Commission Act

66010.8. (a) This article shall be known, and may be cited, as the Higher Education Performance, Accountability, and Coordination Act.

(b) For purposes of this article, “commission” means the Higher Education Performance, Accountability, and Coordination Commission.

(c) It is the intent of the Legislature that all of the following occur:

1. That the commission promotes integration, planning, oversight, and coordination of postsecondary education in the state, whereby each segment of postsecondary education, in accordance with the missions and functions of the segment, contributes toward achieving a common purpose.

2. That the commission, as the state’s postsecondary planning and coordinating entity, ensures the effective use of public postsecondary education resources, thereby eliminating unnecessary duplication of these resources, and promotes diversity in postsecondary education, innovation, and responsiveness to student and societal needs.

3. That the commission is responsible for coordinating public, independent, and private postsecondary education in this state and for providing independent policy analyses and recommendations to the Legislature and the Governor on postsecondary education issues.

4. That the commission work collaboratively with relevant state agencies to ensure effective oversight of private for-profit postsecondary educational institutions and student and public protections against fraudulent or substandard postsecondary academic programs or degrees.

5. That commission members shall broadly and equitably reflect the diversity of the state, including, but not limited to, the geographic, economic, and racial diversity of California.

66010.81. (a) The Higher Education Performance, Accountability, and Coordination Commission is hereby established as the statewide postsecondary education oversight, coordination, and planning agency. The commission is an independent state agency, which shall be advisory to the Governor,
the Legislature, other appropriate government officials, and
institutions of postsecondary education.

(b) (1) The commission shall be composed of 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, subject to
       confirmation by the Senate.

   (2) (A) Except as provided in subparagraph (B), members of
       the commission shall serve four-year terms.
       (B) The initial members appointed pursuant to subparagraph
           (C) of paragraph (1) shall serve six-year terms.
       (C) Members of the commission may be reappointed to serve
           additional terms on the commission, with a maximum of three
           consecutive terms.

   (3) Each member appointed pursuant to paragraph (1) shall be
       a member of the public with relevant experience in postsecondary
       education as it pertains to at least one of the following areas:
       (A) Student support.
       (B) College and career pathways.
       (C) Postsecondary education policy, research, or planning, or
           workforce development.

   (4) (A) Except as provided in subparagraph (B), a person who
       is employed by any public or private postsecondary educational
       institution shall not be appointed to serve on the commission.
       (B) A person who has part-time teaching duties at a public or
           private postsecondary educational institution that do not exceed
           20 percent of the annual teaching load of a full-time employee of
           the institution may be appointed to serve on the commission if the
           person is not a permanent, full-time employee of the institution.

   (5) The members of the commission shall select a chairperson
       from among the membership.

   (6) Members of the commission shall serve without
       compensation, but shall receive reimbursement for actual and
       necessary expenses incurred in connection with the performance
       of their duties.

   (c) The commission shall appoint a state higher education
       executive director, who shall perform all duties, exercise all
       powers, assume and discharge all responsibilities, and carry out
       and effect all purposes vested by law in the commission, including
contracting for professional or consulting services in connection with the work of the commission. The state higher education executive director shall appoint persons to any staff positions the commission may authorize.

(d) (1) Commission meetings are subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code). Commission materials shall be posted on the internet.

(2) The commission shall meet at least quarterly, and shall appoint one of its members to represent the commission for purposes of communicating with the Legislature.

(3) The commission is responsible for issuing an annual review of the performance of the executive director of the commission.

(e) (1) The commission shall establish an advisory body to give recommendations on issues before the commission. The advisory body shall be composed of the following 14 members:

(A) The Chancellor of the California Community Colleges, or the chancellor’s designee.

(B) The Chancellor of the California State University, or the chancellor’s designee.

(C) The President of the University of California, or the president’s 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. This member shall be appointed by the Governor from a list or lists of nominees submitted by an association or associations of independent colleges and universities.

(E) Three faculty members, one each from the California Community Colleges, the California State University, and the University of California. A faculty member shall be 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, each from a different segment of postsecondary education. A student member shall be enrolled at a California postsecondary educational institution at the time of appointment to, and throughout the student’s term of service on, the advisory body, except that a student member who graduates from a California postsecondary educational institution with no
more than six months of the student member’s term remaining may serve on the advisory body for the remainder of the student member’s term. For each student member of the advisory body, the applicable organization representing students for the postsecondary segment may submit to the Governor a list of at least three, but not more than five, nominees. A student member shall be appointed by the Governor from the lists of nominees submitted by the organizations representing students.

(G) The Superintendent of Public Instruction, or the Superintendent’s designee.

(H) The executive director of the California Workforce Development Board, or the executive director’s designee.

(I) The director of the Student Aid Commission, or the director’s designee.

(J) The bureau chief of the Bureau for Private Postsecondary Education, or the bureau chief’s designee.

(2) A member of the advisory body appointed pursuant to subparagraph (D), (E), or (F) of paragraph (1) shall serve a two-year term and may be reappointed to one or more two-year terms if the member continues to meet the applicable requirements for appointment to the advisory body.

(f) The commission shall consult with the higher education segments and stakeholders, as appropriate, in the conduct of its duties and responsibilities. For purposes of this subdivision, “higher education segments” has the same meaning as “segments of postsecondary education,” as that term is defined in Section 66010.95. “Higher education stakeholders” includes, but is not necessarily limited to, postsecondary faculty and students, K–12 representatives, and representatives of the business community.

66010.82. The Higher Education Performance, Accountability, and Coordination Commission exists for the purpose of advising the Governor, the Legislature, and other appropriate governmental officials and institutions of postsecondary education. 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) (1) The commission shall, through its use of information and its analytic capacity, identify and periodically revise state goals and priorities for higher education in a manner that is consistent
with the goals outlined in Section 66010.91 and takes into consideration the metrics outlined in Sections 89295 and 92675.

(2) In consultation with the advisory body described in Section 66010.81, the commission shall do all of the following:

(A) Set performance targets for enrollment and degree and certificate completion statewide and by region. The commission shall update the performance targets every five years. The commission shall set its first performance targets no later than July 1, 2022.

(B) Periodically measure the supply and demand of jobs in fields of study statewide and by region.

(C) Periodically review both statewide and regional gaps of higher education admission, enrollment, success, and employment by race, ethnicity, gender, socioeconomic status, and additional categories of students, as determined by the commission.

(D) Provide cross-segmental data aggregation analyses to the segments of public postsecondary education.

(E) Provide, on its internet website, comparative information to help students and their families make informed decisions regarding academic programs offered by public and private postsecondary educational institutions in the state. The comparative information shall include, to the extent feasible, all academic programs, their costs, average graduate earnings, and the median debt incurred by graduates, searchable by region and academic program type.

(3) In consultation with the advisory body described in Section 66010.81, the commission shall adopt a strategic plan by July 1, 2022, to guide the commission and its staff in achieving the commission’s goals. The strategic plan shall be updated in accordance with the performance targets every five years.

(b) The commission shall review and make recommendations, as necessary, regarding cross-segmental and interagency initiatives and programs in areas that may include, but are not necessarily limited to, efficiencies in instructional delivery, financial aid, transfer pathways, degree and certificate completion, adult education, graduation rates, affordability, and workforce coordination.

(c) The commission shall advise the Legislature and the Governor regarding the need for, and the location of, new institutions and campuses of public higher education, shall review
and evaluate proposals for new institutions and campuses of public higher education, and shall advise the Legislature and the Governor regarding the space needs of each segment, including land acquisition needs based on enrollment targets.

(d) The commission shall review and evaluate budgetary proposals by the segments of public postsecondary education based on the alignment of the proposals with state goals and priorities identified by the commission and outlined in Section 66010.91, and shall make recommendations regarding those proposals to the Legislature and the Governor before the enactment of the annual Budget Act.

(e) (1) The commission shall review and evaluate legislative proposals and proposals by the segments of public postsecondary education for new degrees, majors, and certificate programs.

(2) The commission shall make recommendations regarding the proposals described in paragraph (1) to the Legislature and the Governor for the purposes of minimizing duplication of functions and fostering coordination between the public postsecondary segments, nearby independent institutions of higher education, as defined in Section 66010, and private postsecondary education institutions, as defined in Section 94858. The recommendations shall include, but not be limited to, an evaluation of the need for degree, major, or certificate programs with a particular view to their relevance to state goals and priorities for higher education as identified in paragraph (1) of subdivision (a).

(3) Each public postsecondary segment shall submit proposals for new degrees, majors, and certificate programs at its campuses to the commission for review and evaluation together with supporting materials and documents specified by the commission.

(f) (1) The commission shall act as a clearinghouse for postsecondary education information and as a primary source of information for the Legislature, the Governor, and other agencies.

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

(3) The commission shall not make available any personally identifiable information received from a postsecondary educational institution concerning students for any regulatory purpose unless
the institution has authorized the commission to provide that information on behalf of the institution.

(g) The commission shall review all proposals for changes in eligibility pools for admission to the segments of public postsecondary education, and shall make recommendations regarding those proposals to the Legislature, the Governor, and the segments of public postsecondary education. In carrying out this subdivision, the commission periodically shall conduct a study of the percentages of California public high school graduates estimated to be eligible for admission to the University of California and the California State University.

(h) The commission shall submit reports to the Legislature in compliance with Section 9795 of the Government Code.

(i) The commission shall 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. In carrying out this subdivision, the commission may require the public postsecondary segments to submit information and student data to the commission pursuant to Section 66010.84. The public postsecondary segments shall submit information and student data requested by the commission 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).

(j) (1) The commission is responsible for developing an independent annual report on the condition of higher education in California. The report shall be transmitted to the chairpersons of the Assembly Committee on Higher Education and the Senate Committee on Education and to the Governor on or before July 1, 2023, and on or before July 1 annually. The commission shall publish the contents of the report on an online dashboard.

(2) The independent annual report on the condition of higher education in California shall include all of the following:

(A) An update on progress towards achieving the performance targets for enrollment and degree and certificate completion statewide and by region set by the commission pursuant to this section.

(B) Information from the prior year on the following data points, disaggregated by region, race, ethnicity, gender, socioeconomic
status, type of institution, and additional categories, as determined by the commission:

(i) The percent of California high school graduates enrolling in a postsecondary educational institution.
(ii) The number of four-year degrees, two-year degrees, certificates, graduate degrees, and professional degrees awarded.
(iii) The average and median amount of debt incurred by current students and graduates.
(iv) Average degree or certificate time-to-completion, including the number of students who successfully transferred from a community college to a four-year postsecondary educational institution in California.
(v) The percent of graduates from the prior academic year employed, unemployed, or underemployed.
(vi) The average and median incomes of recent graduates by type of degree.
(vii) Enrollment in particular programs of study.
(C) Policy or fiscal recommendations for the Legislature and the Governor.

66010.84. Notwithstanding any other law, the commission may require the governing boards and the institutions of public postsecondary education to submit data to the commission on policy, plans and programs, costs, selection and retention of students, enrollments, plant capacities, and other matters pertinent to the commission’s functions and responsibilities under this article. The commission shall furnish information concerning these matters to the Governor and the Legislature as requested by them.

66010.86. On or before January 1, 2025, the Legislative Analyst’s Office shall review and report to the Legislature regarding the performance of the commission in fulfilling its functions and responsibilities as outlined in Section 66010.82.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
Approved ______________________, 2019

Governor