

AGENDA

COMMITTEE ON GOVERNMENTAL RELATIONS

Meeting: 2:45 p.m., Tuesday, September 16, 2003
Glenn S. Dumke Auditorium

Murray L. Galinson, Chair
Roberta Achtenberg, Vice Chair
Robert G. Foster
William Hauck
M. Alexander Lopez
Ralph R. Pesqueira
Kyriakos Tsakopoulos

Consent Items

Approval of Minutes of Meeting of July 15, 2003

Discussion Items

1. 2003/2004 Legislative Report No. 5, *Action*
2. Federal Relations Report: California State University 2003/2004 Goals and Role in Reauthorization of the Higher Education Act, *Information*
3. California State Ballot Initiative: Opposition by Board of Trustees, *Action*

**MINUTES OF THE MEETING OF
COMMITTEE ON GOVERNMENTAL RELATIONS
Office of the Chancellor
Glenn S. Dumke Conference Center
401 Golden Shore
Long Beach, California**

July 15, 2003

Members Present

Murray L. Galinson, Chair
Roberta Achtenberg, Vice Chair
Debra S. Farar, Chair of the Board
William Hauck
M. Alexander Lopez
Ralph R. Pesqueira
Charles B. Reed, Chancellor

Members Absent

Bob Foster
Kyriakos Tsakopoulos

Other Trustees Present

Cruz Bustamante, Lt. Governor
Harold Goldwhite
Alice A. Huffman
Shailesh J. Mehta
Frederick W. Pierce, IV

Chancellor's Office Staff

David S. Spence, Executive Vice Chancellor and Chief Academic Officer
Richard P. West, Executive Vice Chancellor and Chief Financial Officer
Christine Helwick, General Counsel
Jackie R. McClain, Vice Chancellor, Human Resources
Karen Y. Zamarripa, Assistant Vice Chancellor, Governmental Affairs

Chair Galinson called the meeting to order at 2:53 p.m.

The minutes of May 13, 2003 were approved

2003/2004 Legislative Report No. 4

Chair Galinson announced that Ms. Karen Zamarripa, Assistant Vice Chancellor, governmental relations, would present an update of current legislative activity in Sacramento.

Ms. Zamarripa welcomed new trustee, Alice A. Huffman to the board, and the newly appointed presidents for the San Marcos, Pomona, Chico, Sacramento, and San Jose campuses.

Ms. Zamarripa provided a verbal review of the written agenda report that focused on bills of high priority and interest to CSU. She also reported that the Assembly Higher Education Committee approved the CSU-sponsored bill authored by Senate pro Tempore John Burton dealing with the conflict of commitment/interest. SB 971 now moves to the final fiscal committee for consideration and on to the Assembly floor for final action.

Two other system-sponsored bills were also included in the committee report. A bill by Assembly Member Marco Firebaugh, related to the Cal Grant program, has become a two-year bill given its fiscal impact and the state's economic circumstances. CSU and Assembly Member Firebaugh hope that the bill will move next year to facilitate a more comprehensive discussion about financial aid programs and their availability to all needy students.

CSU's annual omnibus bill that includes several technical, cleanup issues to state statutes is in Assembly Appropriations Committee. The bill is expected to move from that committee on consent, making it one step closer to the Governor's Desk.

In addition to the written report, Ms. Zamarripa informed the committee there were several other issues that will require our close attention, and ongoing work given their impact on the CSU.

AB 1051 (Goldberg) deals with capital facilities fees. Ms. Zamarripa explained how the bill could negatively affect not only the CSU, but also K-12 and the community colleges. The bill would effectively eliminate our authority to negotiate capital facility fees with public utilities and could shift higher costs to the operating side of our budget. She indicated it might become necessary to enlist the assistance of the board of trustees and the campuses to bolster our efforts to prevent multi millions of new costs to campuses.

Ms. Zamarripa reported we are still working with Assembly Member Manny Diaz on his bill, AB 491, which is his response to the CMS audit. The bill is in the Senate Appropriations Committee and it is hoped we can resolve the two issues that remain for the system before it moves to the full Senate.

Lieutenant Governor Bustamante inquired if issues relating to sole sourcing of contracts had been resolved. Ms. Zamarripa acknowledged language in the bill does encourage the use of a competitive bid process. She noted that with the exception of approximately \$7 to \$9 million

dollars worth of contracts, CSU has utilized the competitive bid process in its technology contracting.

Ms. Zamarripa then addressed the pros and cons of two bills relating to early retirement as well as CSU's interest to develop retirement incentives with employee groups given our unique mission and the needs of students. She indicated both bills are in a fiscal committee at this time, are estimated to cost hundreds of millions of dollars, and as written do not really help CSU given our unique mission and academic calendar.

The final issue reported on was Senate Bill 18 by Senator Burton dealing with Native American burial sites, capital planning and the authority of the Board of Trustees land use and capital facilities of the system. Ms. Zamarripa indicated CSU is working diligently to resolve some differences between CSU, the proponents, the Governor's office and Senator Burton.

Trustee Achtenberg commented on the Diaz bill and voiced her support of the board's conduct in handling the fiduciary responsibilities of the CSU. She pointed out how this board has acted responsibly in every way including addressing all issues raised by the state auditor. The attempt to rebuke the board's authority as indicated in this bill is unwarranted.

The committee recommended approval of the proposed resolution (RGR 07-03-07).

The meeting adjourned at 3:11 p.m.

COMMITTEE ON GOVERNMENTAL RELATIONS

2003-2004 Legislative Report No. 5

Presentation By

Karen Y. Zamarripa
Assistant Vice Chancellor
Governmental Affairs

Summary

This item contains a status report on the Trustees' Legislative Program, and legislation introduced this year pertaining to the CSU or higher education in general. The status of each bill as of August 28 is indicated.

Background

Trustees' Legislative Program

The following proposals comprise the Trustees' Legislative Program for 2003.

Senate Bill 971 (Burton) California State University. As amended on April 23, Senate Bill 971 includes three sections pertaining to various employees of the CSU:

- The bill would require Executive, Management Personnel Plan (MPP), and Academic employees to report on outside employment and business activities to ensure that such activities do not constitute a conflict of interest with CSU employment or conflict with normal work assignments or the performance of duties.
- The bill would prohibit an employee of the CSU from being a consultant or an employee of a for-profit business entity that provides services to the university.
- The bill would require CSU to offer ethics training to each employee who is required to file a Statement of Economic Interests in accordance with current law.

The latter two provisions are in response to recommendations made by the Bureau of State Audits in the recent audit of CSU's Common Management Systems.

Status: Set for Assembly Appropriations Committee Suspense File Action, August 29

Assembly Bill 825 (Firebaugh) Student Financial Aid: Ensuring Access to Cal Grant Program. In 2000, the State Legislature passed Senate Bill 1644 (Ortiz), legislation that made California a leader in guaranteeing financial aid for students based on merit and need. Among the four categories of the new Cal Grant structure, the California Community College (CCC) Transfer Entitlement has the greatest potential in providing financial aid to students who have chosen the Community College as their route to a college degree, program or certificate.

This entitlement is structured in such a way that a large portion of CCC students who desire to transfer to a four-year university cannot participate due to the age restriction as set forth in the California Education Code Sec 69436.8 (A-E). Essentially, only students who are under the age of 24 are eligible for this entitlement. This has a significant impact on CCC transfer students, as many are over the age of 24. Another provision in the CCC Transfer Entitlement Program requires that students maintain a community college GPA of 2.4 in order to be eligible for the award. However, transfer students are CSU-eligible if they maintain a 2.0 GPA. Therefore, the current statutory GPA requirement disenfranchises a significant number of eligible transfer students.

As an initial step in an effort by CSU to address these issues, Assembly Bill 825 expresses a finding by the Legislature that the current Cal Grant Competitive Program should be modified to ensure that the program clearly addresses the unique needs of older, adult, nontraditional, returning, and reentry students; and that the current program structure should be modified to ensure that the needs of students pursuing vocational and technical education programs are adequately being met.

In addition, the bill expresses the intent of the Legislature that the Student Aid Commission convene a group of interested parties to prepare a study regarding the extent to which the current Cal Grant programs adequately address the needs of California residents pursuing a postsecondary education. The study would specifically address means by which the current structure could be enhanced to meet the needs of nontraditional, returning, and older adult students, and focus on the current limitations on eligibility which are identified above.

Status: Held in the Senate Education Committee. Because this is seen as a long-term effort and one which in the end will require significant state resources, the Senate Education Committee felt it was best to hold the bill without hearing and continue discussions on these issues, during the interim and into next year's session.

Assembly Bill 1778 (Higher Education Committee) California State University Omnibus Proposals. The following technical and/or non-controversial proposals comprise this year's omnibus legislation:

Repeal Government Code Section Pertaining to Lottery Payments. This proposal would delete an obsolete reference in the Code to the California Maritime Academy (CMA) Board of Governors which no longer applies given the CMA's formal inclusion in the CSU.

Amend Government Code Section Pertaining to CSU Lottery Education Fund To Reflect CSU Authority. This proposal would amend Government Code section 8880.5 to reflect authority in the Education Code which provides CSU discretion to deposit lottery funds in local trust accounts.

Repeal Education Code Section Pertaining to Auxiliary Organization Obligations. Education Code Section 89911 was added to the Code by CSU-sponsored legislation in 1988 to enable favorable tax treatment of auxiliary organization revenue bonds. Since that time the IRS has issued a revenue ruling which assures favorable treatment, and this section is now obsolete.

Amend Education Code Section to Update Internal Citation. This proposal would update an internal citation in Education Code Section 90404 pertaining to the CSU's mission, which is located in a different code section than it was at the time that Section 90404 was adopted.

Status: Signed by Governor Davis; Chapter 187, Statutes of 2003

International Polytechnic High School: Specialized Secondary Funding. This proposal would seek enhanced funding, through the budget process, for the International Polytechnic High School (I-Poly), a public specialized secondary school operated and housed at Cal Poly, Pomona.

Status: Ongoing conversations with key legislators involved in the budget process. For the time being, the initiative has been deferred given the state's fiscal condition.

Notable Legislation

The bills in this section of the report would result in an impact on the CSU or on higher education in general. The bills are organized under the following subject matters:

- Bills Directly Impacting the California State University
- Student Fee Policy
- Student Financial Aid
- Bills to Implement the Recommendations of the Joint Master Plan Committee
- California Postsecondary Education Commission
- Miscellaneous Relevant Legislation

Bills Directly Impacting the California State University

Assembly Bill 457 (Negrete McLeod) Public Employees: Early Retirement Incentives. This bill would authorize specified state, local, and school employees, upon a specified determination by their employer, to receive credit for an additional 2 years of service and 2 years of age if those employees retire within a designated period, prior to January 1, 2005. As introduced, the bill would include employees of the CSU in its provisions.

Status: Set for Senate Appropriations Committee Suspense File Action, August 29

Assembly Bill 491 (Diaz) California State University: Information Technology Projects. Assembly Bill 491 would enact a comprehensive statutory scheme relating to information technology projects of the CSU. Specifically, the bill would:

- Require that any CSU IT project that exceeds \$1 million in costs, be overseen, by an auditor appointed by the Director of the Department of Finance (DOF).
- Require a systemwide IT project that is approved on or before 6/30/09, and that exceeds \$20 million in costs, to be submitted to the Governor for consideration and inclusion in the Governor's Budget and require the project to be reviewed through the annual budget process. Require CSU to take measures to analyze and justify IT project costs.
- Require CSU to disclose, prior to entering into a contract with a private vendor, any donations to the CSU, made by that vendor for up to one year before the date on which the contract is to be executed.
- Require CSU to take prescribed actions to safeguard electronic records that contain confidential student information.
- Require CSU to develop specified policies and procedures relating to the acquisition of IT goods or services.

Status: Set for Senate Appropriations Committee Suspense File Action, August 29

Assembly Bill 610 (Diaz) California State University: CMS Funding. As proposed to be amended, this bill would require CSU to redirect \$55.8 million intended for the implementation, integration, upgrade and in-kind costs of the Common Management Systems project to offset the impact of budget reductions on students by reducing fee increases adopted by the Board of Trustees in July 2003. The bill would also direct CSU to not seek any alternative funding such as campus funds or special funds to subsidize this reduction.

Status: Senate Floor

Assembly Bill 1051 (Goldberg) Capital Facilities Fees. Under current law, the CSU is not obligated to pay any share of the cost of construction of public utility facilities that do not serve

CSU [this applies to other public education entities as well]. Assembly Bill 1051 would eliminate this existing exemption and provide that a utility may charge CSU for the costs of operation, maintenance, construction, repair, replacement or rehabilitation of facilities or debt service payments on facilities that are not in excess of the “reasonable cost” of providing the public utility service. The bill would set aside the statutory compromise negotiated in 1988 after a California Supreme Court decision ruled any such fees illegal without legislative authorization.

Status: Set for Senate Appropriations Committee Suspense File Action, August 29

Assembly Bill 1144 (Pavley) California State University: Employees. This bill would require the CSU to provide employees who are appealing notices of adverse actions or who are challenging denials of requests for reasonable accommodation for disabilities with procedural rights based on those granted to some civil service employees.

Status: Assembly Floor; Pending Concurrence in Senate Amendments

Assembly Bill 1185 (Montañez) California State University: Administrative Costs. Assembly Bill 1185 would require the Chancellor’s Office and each campus of the CSU, using existing resources, to provide annual reports on administrative costs, which are defined to include only non-represented employees; i.e. executives, confidential and management personnel plan employees.

Status: Failed Passage in the Senate Education Committee

Assembly Bill 1253 (Bermudez) Public Employees’ Retirement: CSU Employees. Assembly Bill 1253 would provide an additional 2 years of service credit for employees of CSU, if those employees retire within a period to be designated by the Director of the Department of Finance during fiscal year 2003-04. The bill requires that CSU must offer this benefit to all eligible employees.

Status: Set for Senate Appropriations Committee Suspense File Action, August 29

Assembly Bill 1465 (Negrete McLeod) California State University: Independent Audit. This bill would require the CSU to annually provide a detailed accounting of funds related to the CSU Continuing Education Program in an independent audit.

Status: Dropped by Author pursuant to agreement that a one-time systemwide independent audit of Continuing Education Revenue Funds will be conducted.

Senate Bill 18 (Burton) Traditional Tribal Culture Sites. This bill would create a procedure in the California Environmental Quality Act for reviewing proposed projects that may adversely

affect traditional tribal cultural sites and provides for the participation of Native Americans in that process. The bill also establishes criminal penalties for disclosure of traditional tribal cultural sites, revises the duties and composition of the Native American Heritage Commission, increases participation by Native Americans in the local land use planning process, and allows Native American tribes to hold conservation easements. CSU opposes the bill, as it could adversely impact the system's capital outlay program by increasing litigation costs and restricting the CSU's ability to use campus land for planned university development.

Status: Set for Senate Appropriations Committee Suspense File Action, August 29

Senate Bill 41 (Bowen) Public Contracts: Services. The bill is a follow-up measure to SB 1467 (Chapter 1122, Statutes of 2002), which extended certain provisions of existing law regarding conflict of interest and contract-related penalties to the CSU and University of California. By creating a new section of the Public Contract Code devoted solely to CSU conflict of interest issues, SB 41 provides additional clarity to the issue, in particular with regard to the contract work which staff and faculty may perform within the scope and conditions of their employment. Examples of this type of work include the following:

- Honoraria are paid to proctors, test supervisors, and assistant supervisors to administer the CSU English Placement Test (EPT) and Entry Level Mathematics (ELM) examination.
- The Lower Division Core Project is an agreement made between the Administration and the Chancellor for CSU to review its 20 top majors, and align the lower division pre-major courses. Approximately 10 faculty annually are paid stipends for this critical work.
- Faculty in the Civil Engineering department at CSU, Sacramento contract with the Department of Health Services to develop continuing education materials for water treatment plant supervisors.

Such work could continue under the provisions of SB 41.

Status: Set for Assembly Appropriations Committee Suspense File Action, August 29

Senate Bill 81 (Alpert) Teacher Training: California State University Integrated Programs. This bill would require greater uniformity among integrated teacher preparation programs offered by the CSU, beginning in 2006-07. The bill also requires the CSU and community colleges to strengthen articulation for students who transfer into such integrated programs.

Status: Set for Assembly Appropriations Committee Suspense File Action, August 29

Student Fee Policy

Assembly Bill 843 (Higher Education Committee) Public Postsecondary Education: Resident Student Fee Policy. During the 2002-03 State budget deliberations, the Legislature adopted Supplemental Report Language directing the California Postsecondary Education Commission (CPEC) to convene various parties to develop long-term student fee policy recommendations for students enrolled at the University of California and the CSU. The CSU was an active participant in this process, and after a series of formal meetings and extensive consultation an advisory group reached broad general agreement about a recommended framework for implementing a long-term student fee policy.

Assembly Bill 843 incorporates the policy principles and implementation recommendations which were developed during the CPEC process, and calls for the state to continue to bear the principal responsibility for ensuring that all financially needy students have the financial assistance necessary for them to complete their postsecondary education objectives. In addition, the bill directs the Board of Trustees and the University of California Board of Regents to develop in consultation with students, faculty, and staff, a state university fee policy. The bill would require any changes in resident student fees to reflect several fundamental policy principles, including a) any changes should be graduate, moderate and predictable; b) available State General Fund revenues should be considered; c) the total cost of educating a student should be considered; and d) timely information about available financial aid should be provided.

Status: Held on the Assembly Appropriations Committee Suspense File

Assembly Bill 550 (Diaz) Public Postsecondary Education: Resident Student Fee Policy. As amended on April 21, this bill would have established a Systemwide Student Fee Advisory Committee as an official standing committee of the Board of Trustees, the University of California Board of Regents, and the California Community Colleges Board of Governors. The committee would have been comprised of 11 members, as follows: six students; 2 faculty members; 1 administrator; 1 non-faculty, non-administrator employee; and 1 parent of a student enrolled in that segment. The bill would have directed the committee to develop and implement a process requiring that any alternative funding for that segment be considered and exhausted before consideration of a student fee increase.

Status: Held on the Assembly Appropriations Committee Suspense File

Student Financial Aid

Assembly Bill 153 (Calderon) Student Financial Aid: Eligibility. In 2001, Assembly Bill 540 (Firebaugh and Maldonado) exempted non-resident students from paying resident tuition at CSU and CCC provided they: a) attended high school in California for three or more years; b)

graduated from a California high school or attainment of the equivalent thereof; c) have registered at or attends an accredited institution of higher education in California not earlier than the fall semester or quarter of the 2001-02 academic year.

Following up on that measure, AB 153 would require the CSU and the California Community Colleges, and request the University of California, to establish procedures and forms that enable students exempted from paying non-resident tuition pursuant to AB 540 to apply for, and participate in to the full extent permitted by federal law, all student aid programs administered by each respective segment.

Status: Set for Senate Appropriations Committee Suspense File Action, August 29

Assembly Bill 547 (Liu) Student Financial Aid: Tuition and Fee Waivers for National Guard and Military Reserve. This bill would establish the National Guard State Tuition Benefits Program (NGSTBP). Specifically, it would award qualifying members of the California Army National Guard (NG), the California Air NG, State Military Reserves, and the Naval Militia with the following tuition benefits:

- a) For students attending California Community Colleges (CCC), eligible NG members shall be eligible for the Board of Governors Fee Waivers; and,
- b) For students attending California State University and University of California (UC) institutions, the tuition and student fee benefit shall not exceed 75% of the fee charged students enrolled in UC campuses on the quarter system.

Status: Set for Senate Appropriations Committee Suspense File Action, August 29

Assembly Bill 1323 (Jackson) Student Financial Aid: Decentralized Campus-Based Approach. Assembly Bill 1323 would require the California Postsecondary Education Commission to establish a Cal Grant Delivery Transition Work Group to discuss, negotiate, and resolve technical and logistical issues relating to the transition to a decentralized, campus-based approach for the administration of Cal Grant award programs. The bill would require the commission to submit a plan for the implementation of this decentralized, campus-based approach to the Legislature by December 31, 2004.

Status: Held on the Assembly Appropriations Committee Suspense File

Senate Bill 680 (McPherson) Student Financial Aid: Cal Grant M Program. Among other provisions, this bill would establish, commencing in an unspecified fiscal year, the Cal Grant M Program to defray the cost of tuition and mandatory systemwide fees for nontraditional, returning, and older adult students.

Status: Set for Assembly Appropriations Committee Suspense File Action, August 29

Bills to Implement the Recommendations of the Joint Master Plan Committee

The following bills would implement various recommendations of the Joint Committee to Develop a Master Plan for Education. Each bill was held in the Appropriations Committee in its house of origin, to allow substantive deliberations on the final content of each bill to begin. No further legislative action on the bills is expected this year, although the committee will hold an informational hearing later this summer on higher education student fee and financial aid policy.

Assembly Bill 242 (Liu) Teachers. This bill contains the committee's recommendations on teacher personnel matters. With a goal of ensuring that every student in the state is taught by a qualified, credentialed teacher, the bill would:

- provide financial aid and other incentives for the best teachers to move to low-performing schools
- boost salaries for teachers and principals
- eliminate emergency teaching permits
- establish career opportunities that encourage exceptional teachers to remain in the classroom
- provide salary credits tied to professional development goals
- develop rigorous standards and training for those who teach young children

While the bill's primary focus is on K-12 teachers, it also includes several provisions pertaining to university faculty and higher education issues, including:

- States legislative intent that the state increase the capacity of California's postsecondary education system to prepare larger and more sufficient numbers of qualified educators, especially from among racial, ethnic, and linguistic groups that are underrepresented in today's teaching workforce.
- Requires the CSU and the California Community Colleges (CCC), and requesting the University of California (UC), to adopt policies regarding the appropriate balance of temporary and permanent tenure-track faculty for their respective systems and to report these respective policies, and the rationales therefore, in written reports to the Legislature, to be submitted no later than January 1, 2005. In addition, the bill requires that the segments report the ratio of permanent/tenure-track faculty to temporary faculty who are employed by their respective systems, how this ratio compares to their respective systemwide policies, which activities are reserved for permanent/tenure-track faculty in their respective systems, and the reasons why temporary faculty cannot be enlisted in carrying out these activities.

- States legislative intent that the CSU, CCC, and UC provide adequate pro rata compensation to temporary faculty who agree to perform functions usually restricted to permanent/tenure-track faculty and direct an examination of faculty promotion, tenure, and review policies and practices, and revise them, as needed, to ensure that teaching excellence is given significant weight in decisions that affect the compensation awarded to faculty.

Status: Held in the Assembly Appropriations Committee (two-year bill)

Assembly Bill 1550 (Goldberg) Public Education Facilities. Assembly Bill 1550 contains the committee's recommendations on public facilities, and presently includes the following provisions pertaining to higher education facilities:

- Requires the Department of General Services (DGS) to adopt facility standards for public postsecondary education facilities in consultation with the CSU, the California Community Colleges (CCC), and the University of California (UC).
- Requires DGS to establish and maintain an inventory of all public school facilities, including at the CCC, CSU, and UC. The inventory must include: a) a description of the facility; b) the facility's student loading capacity; c) a description of its current use and condition; d) an assessment of its expected life; e) a description of any prior or planned modernization or renovation projects that would extend the expected life of the facility; and f) an assessment of the regional importance of the facility.
- Requires the Legislative Analyst and the Director of the Department of Finance (DOF), with the assistance of the segments, to jointly review the postsecondary education facilities funding methodology and develop a plan for postsecondary facilities construction.

Status: Held in the Assembly Appropriations Committee (two-year bill)

Senate Bill 6 (Alpert) Public Education Governance. This bill contains the committee's recommendations on Governance issues, including:

- Transfers management responsibility for the department of education from the Superintendent of Public Instruction (SPI) to the Governor's office;
- Assigns responsibility for performance monitoring, reporting and advocacy to the SPI;

- Reconfigures the California Community Colleges as a multi-district system of colleges by designating it as a public trust and assigning accountability for systemwide governance and representation to the Board of Governors;
- Establishes a California Education Commission to serve as the statewide education data repository from pre-kindergarten to postsecondary education.

Status: Held in the Senate Appropriations Committee (two-year bill)

Senate Bill 550 (Vasconcellos) Education. Senate Bill 550 contains the committee's recommendations on issues of student learning. Among other provisions, the bill would:

- Require the State Board of Education (SBE) to establish an academically rigorous curriculum for every high school pupil, including career and technical courses for every high school pupil and necessary learning support, including career guidance, to enable pupils to pursue a postsecondary education or career options.
- Require the Community Colleges, the CSU, UC to establish an intersegmental group, including faculty and students, to consider the steps needed to be taken to establish a transfer associate's degree, within the existing associate degree unit requirements, the attainment of which would guarantee admission and course transferability, but not necessarily admission to the major of choice, at any campus of the California State University or the University of California for students who successfully complete the transfer associate degree program.

In addition, the bill states legislative intent that:

- The CSU and UC systems continue to collaborate with the public elementary and secondary schools to increase the rigor of all academic courses, to reduce the demand for remedial instruction among freshman college students, and to eliminate the current practice of providing additional weight to honors and advanced placement courses in the grade point average calculations made during the admissions process.
- Legislation be enacted to mandate the development of transparent and sustainable articulation and transfer processes to provide students with clear curricular guidance on the transition between grade levels, between high school and college, and between and among 2- and 4-year colleges and universities.
- Legislation be enacted that would require the CCC, CSU, and UC to collaborate to strengthen the programs in community colleges that prepare students to transfer successfully to CSU or UC.

- Legislation be enacted to require that the courses taken by community college students who plan to transfer are acceptable for transfer credit at all CSU and UC campuses.

Status: Held in the Senate Appropriations Committee (two-year bill)

California Postsecondary Education Commission

Assembly Bill 655 (Liu) Consolidation of Functions: Postsecondary Education. Assembly Bill 655 would create the California Higher Education Policy and Finance Commission, which would consolidate the current responsibilities of the California Postsecondary Education Commission, the California Student Aid Commission, and the Bureau of Private Postsecondary and Vocational Education into a single agency. Considered a work-in-progress that will be further developed during intersegmental consultation with legislative staff, the bill's goal is to create an agency which would provide:

- Strong capacity for independent and objective higher education policy planning and analysis.
- Full integration of the resources of the private postsecondary sector, in combination with the public and independent sectors, in accommodating enrollment growth and providing workforce training.
- Full integration of student fee policy and financial aid policy with higher education funding and finance policies.
- A comprehensive higher education information system, integrating all sectors of postsecondary education including financial aid, providing accurate current and historical data about higher education.

Status: Set for Senate Appropriations Committee Suspense File Action, August 29

Senate Bill 542 (Murray) California Postsecondary Education Commission. This bill would transfer from the Bureau of Private Postsecondary and Vocational Education to the California Postsecondary Education Commission (CPEC) the authority to regulate and approve private postsecondary institutions that grant degrees, and to assume the administration and oversight of the federal Veterans program from the State Department of Education. In addition, the bill would require CPEC to consult with representatives of the private, public, and independent postsecondary education sectors, and develop recommendations for long-term policies that guide oversight and regulation of the nonpublic sectors of postsecondary education. The bill would require CPEC to submit the recommendations to the appropriate education committees of the

Legislature by September 1, 2004.

Status: Senate Business and Professions Committee (two-year bill)

Miscellaneous Legislation

Senate Bill 1 (Speier) Financial Institutions: Nonpublic Information. This bill would enact the California Financial Information Privacy Act, which requires a financial institution to provide a written form to a consumer relative to the sharing of the consumer's nonpublic personal information. The bill allows a consumer to direct the financial institution to not share the nonpublic information with affiliated companies or with nonaffiliated financial companies with which the financial institution has contracted to provide services.

Status: Signed by Governor Davis; Chapter number pending

Adoption of the following resolution is recommended:

RESOLVED, By the Board of Trustees of the California State University,
that the 2003-04 Legislative Report No. 5 is adopted.

COMMITTEE ON GOVERNMENTAL RELATIONS

Federal Relations Report: California State University 2003/2004 Goals and Role in Reauthorization of the Higher Education Act

Presentation By

George H. Conant
Legislative Director
Office of Federal Relations

Summary

This item contains a report regarding the 2003 CSU Federal Agenda and reauthorization of the Higher Education Act of 1965.

Background

The Higher Education Act (HEA) of 1965 authorizes the majority of federal student financial assistance programs, as well as a number of programs to aid developing institutions (Hispanic Serving Institutions (HSIs), Historically Black Colleges and Universities (HBCUs), etc.), graduate and international education programs, and teacher education programs. In federal Fiscal Year 2003 (FY 03), it is estimated that the HEA leveraged approximately \$90 billion in assistance for higher education, most of which was provided to students in the form of grants, loans, and Work Study programs.

The Higher Education Act was last reauthorized for five years in 1998. In anticipation of the onset of the 108th Congress, this past fall the CSU Office of Federal Relations (OFR), in coordination with system leaders and as part of the CSU's annual process to produce a federal agenda, began formulating system priorities related to the upcoming reauthorization of the HEA. This past January the Board of Trustees approved a relevant set of CSU priorities, and the Chancellor emphasized these in detailed letters to the Secretary of Education, and to the Chairmen and Ranking Minority Members of the House and Senate committees with jurisdiction over the HEA.

Since that time, the House has begun the reauthorization process. The House Education and Workforce Committee is expected to split the reauthorization into a number of individual bills covering six areas detailed below, and hopes to pass them all prior to adjournment of the first session this fall. The Senate has not yet begun the reauthorization process, and will not likely begin until next year. Meanwhile, programs authorized under the HEA will continue as last

reauthorized for an additional year as provided for under the General Education Provisions Act (GEPA).

The items listed below represent introduced and anticipated House legislation on reauthorization, and highlights items of particular interest to the CSU.

U.S. House of Representatives Bills for Reauthorization of the HEA

1. *Teacher Preparation and Retention* – The House has introduced and passed two bills on teacher preparation. H.R. 2211, the “Ready to Teach Act,” reauthorizes Title II of the HEA, and provides grants to states and to partnerships of Institutions of Higher Education and local school districts and other partners to improve teacher preparation programs. H.R. 438, the “Teacher Recruitment and Retention Act,” provides increased student loan forgiveness for teachers of math, science, and special education that serve in low-income schools.

The CSU prepares approximately 60 percent of California’s teachers, and approximately 10 percent of America’s teachers. OFR staff have been monitoring these bills, consulting with system experts, and working with Congressional staff to ensure that they complement system goals and objectives.

Of Interest – As introduced, H.R. 2211 contained a provision that required that at least 50 percent of “partnership grant” funding would go to local school districts, potentially reducing funding that could go to CSU teacher preparation programs. OFR staff successfully lobbied to have this provision removed. In addition, CSU OFR staff will continue to lobby for provisions that ensure that partnership grant funds are spent in accordance with the terms of agreements between local school districts and Institutions of Higher Education.

2. *Access to Higher Education* – On September 9, 2003, H.R. 3039, the “Expanding Opportunities in Higher Education Act,” was introduced by Rep. Tom Cole (R-OK). This bill will be the vehicle used by the House to reauthorize the GEAR UP and TRIO programs (both which work to ensure that low-income and first generation college students pursue a postsecondary education, persist, and graduate), as well as programs to support Historically Black Colleges and Universities (HBCUs) and Hispanic Serving Institutions (HSIs).

The CSU has advocated keeping the GEAR UP and TRIO programs, which serve different student cohorts, separate and distinct. In addition, the OFR has been advocating

for enhancing HSI programs, and in particular for creation of a program to enhance graduate programs at HSIs.

Of Interest – The House bill contains provisions to maintain separate TRIO and GEAR UP programs, despite rumors that the House would merge the two programs. In addition, the House bill relaxes income provisions that hamper HSIs from participating in Title V programs. OFR staff will continue to promote the TRIO and GEAR UP programs, and will continue to work to strengthen programs that support HSIs, including the creation of a program to support HSI graduate institutions. Notably, controversy has emerged in this bill due to a provision included to merge the definitions of eligible institutions to include both for-profit and non-profit. Previously, for-profit institutions were only allowed to participate in a subset of HEA programs. This may prove to be an issue for additional reauthorization bills, as some are concerned that it could dilute funding available to non-profit institutions.

3. *College Affordability* -- On September 3, Rep. John Boehner, chairman of the House Education and Workforce Committee, and Rep. Howard "Buck" McKeon, chairman of the subcommittee on 21st Century Competitiveness, released a document entitled "The College Cost Crisis: A Congressional Analysis of College Costs and Implications for America's Higher Education System." The document provides a preview of what is likely to become a central theme as Congress considers legislation to reauthorize the Higher Education Act. The document finds that "decades of cost increases, in both good economic times and bad, have caused America's higher education system to reach a crisis point," pricing students and families out of the college market. It also states that Americans believe that "wasteful spending" by university management is the "number one reason" for "skyrocketing costs."

Of Interest -- While the report does not propose specific solutions to rising tuition costs, it sets the stage for forthcoming reauthorization legislation by House Republican leaders. A proposal likely to be introduced in the weeks ahead is "The Affordability in Higher Education Act of 2003" by Rep. Howard P. (Buck) McKeon, the California Republican who heads the House subcommittee with jurisdiction over higher education issues. Under the proposal, colleges that increase their cost of attendance by more than twice the rate of inflation over a three-year interval would potentially face penalties, including the possible loss of eligibility to participate in HEA programs **other than** programs that provide direct aid to students (Pell grants, and Stafford and Direct Loans). The proposal also includes a college affordability demonstration program, provisions related to transfer of credits and proposals to reduce federal administrative and regulatory burdens. While the bill has not been introduced yet, Republican leaders have provided a detailed draft summary to committee leaders.

Not surprisingly, reaction has been strongly negative in much of the higher education community and among its representatives in Washington. The OFR has been in continual contact with Rep. McKeon and others regarding CSU system concerns. Rep. McKeon and his staff seem to understand the problems that such legislation could cause for institutions such as the CSU, that have historically worked to keep fees for students low, and whose fees are still among the nation's lowest, but that have recently been forced to increase fees by significant percentages due to state fiscal problems. OFR staff continues to work with Rep. McKeon on ways to mitigate CSU concerns about the legislative ideas that have surfaced thus far.

4. *Accountability and Student Financial Assistance Programs* – Title IV of the Higher Education Act authorizes the majority of direct federal student financial assistance programs. Title IV includes the Pell Grant Program, the Campus Based Aid programs (Supplemental Education Opportunity Grants (SEOG), The College Work Study program, and the Perkins Loan program), and the guaranteed and direct student loan programs. Title IV also contains accountability provisions governing the accreditation of institutions of higher education, agreements between institutions of higher education and the U.S. Department of Education for participation in federal student financial assistance programs, and provisions related to state regulation of institutions of higher education.

Of Interest – Congress and the Administration seem ready to consider a number of provisions that could improve student financial assistance programs for students and the institutions they attend. For example, this legislation may include a provision to allow students to receive Pell Grants year round (an additional grant for summer session study), if it decreases time to graduation. Another potential change of interest to the CSU would be an increase in the amount students are allowed to borrow under the federal student loan programs. Of particular interest to the CSU are potential changes to the Campus Based Aid programs including the College Work Study program. It is expected that the House bill will include provisions to ensure that these funds are distributed more fairly, based on the number of students with need at the institution. In addition, provisions might be included to reward (with increased funding) institutions such as the CSU that do a better than average job in placing Work Study students in community service positions.

Changes to the accountability provisions within Title IV are also likely, and might impact the CSU. It is expected that this legislation will strengthen the accreditation process, and focus accreditation more on measuring student-learning outcomes. Other potential changes include modifications to campus reporting requirements designed to give students and parents better access to information on institutional quality, and changes to the way institutions are required to refund federal student financial aid when a student withdraws from his or her course of study prior to completion of the term.

5. *International Education Programs* – Title VI of the Higher Education Act authorizes federal programs to improve international education opportunities. Programs authorized under Title VI include International and Foreign Language Studies, Business and International Education programs, and an Institute for International Public Policy. In general, these programs provide funds to colleges and universities to improve their international programs and to provide fellowships and stipends to students pursuing degrees in international studies.

On September 11, 2003, Rep. Pete Hoekstra (R – MI) introduced H.R. 3077, the “International Studies in Higher Education Act of 2003.” It is expected that this legislation will be the vehicle used to reauthorize Title VI, and will be amended by the House Subcommittee on Select Education on September 17, 2003. While it is unlikely that major changes will be made to federal international education programs during this reauthorization, H.R. 3077 does contain provisions of interest.

Of Interest – H.R. 3077 would require that institutions participating in federal programs for improving international education provide materials that draw from diverse perspectives reflecting the full range of views on subject matter. This provision reflects a belief by some on the House Committee that a number of such programs are providing materials that are one-sided and often anti-American. In addition, H.R. 3077 would allow in some instances new partnerships with colleges of education in connection with training teachers in fields related to international studies. Finally, the legislation is designed to increase the participation of minority serving institutions, including Hispanic Serving Institutions, in these programs, and in some instances allows the Secretary of Education to reduce the non-federal match required for such minority institutions to participate.

6. *Graduate and Postsecondary Improvement Programs* – Title VII of the Higher Education Act authorizes federal programs to improve graduate education opportunities. Programs authorized under Title VII include the Javits Fellowship program, Graduate Assistance in Areas of National Need (GAANN), The Thurgood Marshall Legal Educational Opportunity program, the Fund for Improving Postsecondary Education (FIPSE), and Demonstration Projects to Ensure Students with Disabilities Receive a Quality Higher Education. In general, these programs provide funds to colleges and universities to improve their graduate programs and to provide fellowships and stipends to students pursuing advanced degrees.

On September 11, 2003, Rep. Pete Hoekstra (R – MI) introduced H.R. 3076, the “Graduate Opportunities in Higher Education Act of 2003.” It is expected that this legislation will be the vehicle used to reauthorize Title VII, and will be amended by the House Subcommittee on Select Education on September 17, 2003. While it is unlikely

that major changes will be made to federal graduate education programs during this reauthorization, H.R. 3076 does contain provisions of interest.

Of Interest – H.R. 3076 contains provisions to enhance the training of teachers who teach students with limited English proficiency, and to better prepare math, science, and special education faculty to train highly qualified teachers. In addition, it amends FIPSE to allow grants to encourage the improvement of postsecondary education in general with a focus on non-traditional students, and to establish institutions and programs based on the technology of communications, including delivery by distance education.

COMMITTEE ON GOVERNMENTAL RELATIONS

California State Ballot Initiative: Opposition by Board of Trustees

Presentation By

Christine Helwick
General Counsel

Summary

This item proposes that the Board of Trustees oppose the California State Ballot Initiative “Classification by Race, Ethnicity, Color, or National Origin,” slated to appear on the October 7, 2003 special election ballot.

Background

The “Classification by Race, Ethnicity, Color, or National Origin” initiative (originally the Racial Privacy Initiative) would prohibit the state and other public entities, including California State University, from classifying individuals by race, ethnicity, color or national origin. The Initiative, a proposed amendment to the California Constitution, will appear on the October 7, 2003 “recall” ballot.

If adopted, effective January 1, 2005, the state (including CSU) would be prohibited from “classifying” by race, ethnicity, color or national origin any current or prospective students, employees or contractors in the operation of public education, public contracting or public employment. “Classify” is defined as “separating, sorting or organizing” by race, etc., including but not limited to “inquiring, profiling, or collecting such data on government forms.” The Initiative would permit such classification only where necessary to comply with federal law, to establish or maintain eligibility for any federal program where ineligibility would result in a loss of federal funds, and for medical research.

Current CSU Collection and Use of Racial/Ethnic Data

CSU currently collects and utilizes racial/ethnic data for a variety of purposes related to fulfilling its mission. Among other things, such data are used in admissions and enrollment, educational outreach, faculty and staff recruitment and employment, and contracting practices, to ensure that CSU complies with federal and state laws and to enable CSU to assess the availability of its programs and educational benefits to all segments of society.

Collection and Uses Required Under Federal Law

CSU currently collects racial and ethnic data for a variety of reasons and purposes mandated by federal law and/or as required to obtain federal funding. Employees and applicants for employment are provided an opportunity to identify their racial, ethnic or national origin background, as required under U.S. Executive Order 11246, 41 Code of Federal Regulations Part 60 – Affirmative Action Programs. This data is used to analyze hiring, compensation, promotions, terminations and other personnel transactions, to monitor for possible discrimination on the basis of race and ethnicity. Compliance is required for all federal contractors.

Employee racial and ethnic data collection is also required under the Higher Education Act of 1965 and the Civil Rights Act of 1964. These statutes require that CSU complete the Fall Staff Survey of the Integrated Postsecondary Education Data System (IPEDS) Report, which requests information on the number of institutional staff by occupational activity, full- and part-time status, gender and race/ethnicity. Data is reported in the aggregate (i.e., not tied to individuals by name).

IPEDS is the core postsecondary education data collection program for the National Center for Education Statistics, consisting of a series of interrelated surveys. In addition to the Fall Staff Survey, CSU is also required to complete IPEDS surveys requiring the collection of student racial/ethnic data, including surveys targeting student enrollment, program completion and graduation rates. This federal mandate applies only to enrolled and not prospective students.

The Enhanced Border Security and Visa Entry Reform Act requires that CSU collect and report to the U.S. government the date and place of birth and country of citizenship of all F-1, J-1 and M-1 visa holders (international and exchange visitor students and scholars) enrolled at the campuses.

Collection and Uses Not Required Under Federal Law¹

Racial, ethnic and/or national origin data are utilized for several reports published by CSU, including an annual employee profile and fact sheet, which includes aggregate demographic data on CSU employees within various occupational groups, and a report on new tenure track faculty, which includes a demographic profile of newly hired faculty. CSU prepares and disseminates aggregate information, often including racial/ethnic data, about prospective and current students, student proficiency, degree completion and financial need and aid. From time to time, additional

¹ The information contained in this section is limited to the collection and uses made of racial/ethnic data on a system-wide basis; detailed information on the myriad of uses the campuses may make of such data is not available, including the degree to which CSU faculty may engage in research requiring the collection and/or utilization of racial/ethnic data.

reports are prepared in response to CSU Trustee and executive policy, direction, initiatives and interest. These reports disclose aggregate data, and not information on the racial/ethnic identity of specific individuals.

CSU also receives requests for racial/ethnic/national origin data from a variety of interest groups, including members of the California State Legislature and the collective bargaining units representing CSU employees, and other special interest groups. State law mandates that CSU respond to information requests from these employee unions.

Since 1974, the California Postsecondary Education Commission has served under the 1960 Master Plan for Higher Education as the central body responsible for coordinating and planning for higher education in California. CSU annually provides CPEC with individual-level data (no personal identifiers but including racial/ethnic indicators) and racial/ethnic aggregate summary information for CSU students. Various State laws mandate the provision of this information, which CPEC then uses for various purposes including publication of “Student Transfer in California Postsecondary Education,” “Performance Indicators of California Higher Education” and “Student Profiles.”

CSU also provides its vendors an opportunity to identify their racial/ethnic and/or national origin background, as required under California Public Contract Code section 10116. The information is then reported annually to the Legislature and Governor.

Participants in the CSU Forgivable Loan Program are also provided a post-selection opportunity to self identify by race, ethnicity and/or national origin.

Collections and Uses Likely to be Deemed Prohibited

While racial/ethnic data collection required by federal law or to obtain federal funding would not be affected, the Initiative would likely restrict CSU’s ability to collect or utilize these data for any other purpose, including all uses listed under “Collections and Uses Not Required Under Federal Law” above.

The language of the Initiative itself does not make clear whether data “properly” collected under federal law could thereafter be utilized for other purposes. Other uses could sometimes be characterized as “separating, sorting or organizing” by race, etc., and therefore would be prohibited.

Admissions, Retention and Outreach

CSU currently collects racial/ethnic data on prospective as well as current students. While federal law mandates the collection of such data for enrolled students, there is no such federal requirement for prospective students. As the collection of data from applicants and admits does not appear to fall within any of the exceptions to the Initiative's restrictions on "classifying" by race, etc., it would likely be prohibited. This would negatively impact CSU's ability to determine the impacts of its admissions policies and practices on various groups of students, including assessing the effectiveness of various outreach and recruitment efforts. CSU's ability to conduct research regarding academic preparation and college-going patterns for students from different backgrounds for use in reports to the Legislature, internal CSU studies and eligibility studies prepared by CPEC would also likely be prohibited. The collective effect could seriously impede CSU's ability to both demonstrate its commitment to diversity and to ensure that its educational programs and practices do not have a disparate impact on any particular racial or ethnic groups.

Recruitment and Employment

Given the federal mandates in this area, it would appear that CSU could continue to collect data on the race/ethnicity of both faculty and staff employees and applicants for employment, consistent with the terms of the Initiative. Further use of the data, however, would likely be prohibited, including utilizing the data to compare the race/ethnicity of CSU's faculty to that of comparison institutions and/or to monitor employment patterns to try to assure equal opportunity and non-discrimination in ways not required by federal law.

Faculty Research

Academic research conducted by CSU faculty and researchers could also be negatively impacted. In addition to limiting the ability of CSU faculty to collect racial/ethnic data needed for research, the Initiative's potential impact would likely include the loss of numerous state databases containing information classified by race and ethnicity. The initiative could also limit the availability of external research funding to CSU faculty (particularly funding from private corporations, foundations and individuals) if the research depended on racial or ethnic data.

Recommended Action

The following resolution is recommended for approval:

RESOLVED, By the Board of Trustees of the California State University, that the Board opposes the California State Ballot Initiative "Classification by Race, Ethnicity, Color, or National Origin," scheduled to appear on the October 7, 2003 Special Election ballot.