

Introduced by Senator Liu

February 13, 2012

An act to amend Sections 70901.5 and 71092 of the Education Code, relating to community colleges.

LEGISLATIVE COUNSEL'S DIGEST

SB 1062, as introduced, Liu. California Community Colleges: board of governors.

Existing law establishes the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, as one of the segments of public postsecondary education in this state. Existing law prohibits the board of governors from adopting regulations that the Department of Finance determines would create a state-mandated local program cost until the department has certified that a source of funds is available to reimburse that cost.

This bill would instead require the board of governors to identify that a source of funds is available to reimburse a state-mandated local program cost that the department determines a regulation would create.

Existing law requires the board of governors to designate the headquarters for each of its employees, except as provided.

This bill would remove that requirement and would authorize the board of governors to appoint a person without permanent civil service status to a position classified as a career executive assignment, for the position of vice chancellor or assistance vice chancellor, if the person has a minimum of 5 years of specified work experience, previously held permanent status in the civil service, was employed by the Legislature for 2 or more consecutive years, or held for 2 or more consecutive years one or more nonelected exempt positions in the executive branch.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 70901.5 of the Education Code is
2 amended to read:

3 70901.5. (a) The board of governors shall establish procedures
4 for the adoption of rules and regulations governing the California
5 Community Colleges. Among other matters, the procedures shall
6 implement the following requirements:

7 (1) Written notice of a proposed action shall be provided to each
8 community college district and to all other interested parties and
9 individuals, including the educational policy and fiscal committees
10 of the Legislature and the Department of Finance, at least 45 days
11 in advance of adoption. The regulations shall become effective no
12 earlier than 30 days after adoption.

13 (2) The proposed regulations shall be accompanied by an
14 estimate, prepared in accordance with instructions adopted by the
15 Department of Finance, of the effect of the proposed regulations
16 with regard to the costs or savings to any state agency, the cost of
17 any state-mandated local program as governed by Part 7
18 (commencing with Section 17500) of Division 4 of Title 2 of the
19 Government Code, any other costs or savings of local agencies,
20 and the costs or savings in federal funding provided to state
21 agencies.

22 (3) The board of governors shall ensure that all proposed
23 regulations of the board meet the standards of “necessity,”
24 “authority,” “clarity,” “consistency,” “reference,” and
25 “nonduplication,” as those terms are defined in Section 11349 of
26 the Government Code. A district governing board or any other
27 interested party may challenge any proposed regulatory action
28 regarding the application of these standards.

1 (4) Prior to the adoption of regulations, the board of governors
2 shall consider and respond to all written and oral comments
3 received during the comment period.

4 (5) The effective date for a regulation shall be suspended if,
5 within 30 days after adoption by the board of governors, at least
6 two-thirds of all governing boards vote, in open session, to
7 disapprove the regulation. With respect to any regulation so
8 disapproved, the board of governors shall provide at least 45
9 additional days for review, comment, and hearing, including at
10 least one hearing before the board itself. After the additional period
11 of review, comment, and hearing, the board may do any of the
12 following:

13 (A) Reject or withdraw the regulation.

14 (B) Substantially amend the regulation to address the concerns
15 raised during the additional review period, and then adopt the
16 revised regulation. The regulation shall be treated as a newly
17 adopted regulation, and shall go into effect in accordance with
18 those procedures.

19 (C) Readopt the regulation as originally adopted, or with those
20 nonsubstantive, technical amendments deemed necessary to clarify
21 the intent of the original regulation. If the board of governors
22 decides to readopt a regulation, with or without technical
23 amendments, it shall also adopt a written declaration and
24 determination regarding the specific state interests it has found
25 necessary to protect by means of the specific language or
26 requirements of the regulation. A readopted regulation may then
27 be challenged pursuant to existing law in a court of competent
28 jurisdiction, and shall not be subject to any further appeal within
29 the California Community Colleges.

30 (6) As to any regulation which the Department of Finance
31 determines would create a state-mandated local program cost, the
32 board of governors shall ~~not adopt the regulation until the~~
33 ~~Department of Finance has certified to the board of governors and~~
34 ~~to the Legislature~~ *identify* that a source of funds is available to
35 reimburse that cost.

36 (7) Any district or other interested party may propose a new
37 regulation or challenge any existing regulation.

38 (b) Except as expressly provided by this section, and except as
39 provided by resolution of the board of governors, the provisions
40 of Chapter 3.5 (commencing with Section 11340) of Part 1 of

1 Division 3 of Title 2 of the Government Code shall not apply to
2 regulations adopted by the board of governors.

3 SEC. 2. Section 71092 of the Education Code is amended to
4 read:

5 71092. (a) The board of governors shall employ and fix the
6 compensation, in accordance with law, of assistants, clerical, and
7 other employees as it deems necessary for the effective conduct
8 of the work of the board and the chancellor's office.

9 (b) ~~(1) Notwithstanding Section 19849.5 of the Government~~
10 ~~Code any other law, except as provided in paragraph 2, the Board~~
11 ~~of Governors of the California Community Colleges shall designate~~
12 ~~the headquarters for each of its employees, except as provided in~~
13 ~~Section 71004. may appoint a person without permanent civil~~
14 ~~service status to a position classified as a career executive~~
15 ~~assignment, for the positions of vice chancellor or assistant vice~~
16 ~~chancellor, if the person meets any of the following:~~

17 (A) *Has a minimum of five years of work experience in any of*
18 *the following:*

19 (i) *A local community college.*

20 (ii) *A higher education policy position.*

21 (iii) *A technical or occupational capacity for which there is a*
22 *shortage of qualified workers.*

23 (B) *Previously held permanent status in the civil service.*

24 (C) *Was employed by the Legislature for two or more*
25 *consecutive years.*

26 (D) *Held for two or more consecutive years one or more*
27 *nonelected exempt positions in the executive branch.*

28 (2) *This subdivision does not limit the application of any law*
29 *applicable to career executive assignments, including the*
30 *provisions of the Government Code and rules of the State Personnel*
31 *Board, except as to authorize the appointments described in this*
32 *subdivision.*

33 SEC. 3. If the Commission on State Mandates determines that
34 this act contains costs mandated by the state, reimbursement to
35 local agencies and school districts for those costs shall be made
36 pursuant to Part 7 (commencing with Section 17500) of Division
37 4 of Title 2 of the Government Code.