
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2019 - 2020 Regular Session

AB 70 (Berman) - Private postsecondary education: California Private Postsecondary Education Act of 2009

Version: August 13, 2020

Urgency: No

Hearing Date: August 19, 2020

Policy Vote: B., P. & E.D. 8 - 0

Mandate: Yes

Consultant: Janelle Miyashiro

Bill Summary: AB 70 prohibits the Bureau for Private Postsecondary Education (BPPE) from approving an exemption or handling complaints for a nonprofit institution that operated as a for-profit institution during any period on or after January 1, 2010, unless the Attorney General (AG) verifies specified information.

Fiscal Impact: Estimated ongoing fiscal impact to the Department of Justice (DOJ) in the hundreds of thousands of dollars (General Fund and Legal Services Revolving Fund).

Background: The BPPE is responsible for oversight of private postsecondary educational institutions operating with a physical presence in California. AB 48 (Portantino, Chapter 310, Statutes of 2009) made many substantive changes that created a foundation for oversight and gave the BPPE enforcement tools to ensure schools comply with the law. AB 48 established the BPPE's authority to regulate private postsecondary institutions and enforce the provisions of the new California Private Postsecondary Education Act of 2009 (Act) and to respond to the major problems with the former laws governing the industry in California. The Act provides for prohibitions on false advertising and inappropriate recruiting and requires disclosure of critical information to students such as program outlines, graduation and job placement rates, and license examination information, and ensures colleges justify those figures.

The Act also provides the BPPE with enforcement powers necessary to protect consumers. The BPPE is also tasked with actively investigating and combatting unlicensed activity, administering the Student Tuition Recovery Fund (STRF), and conducting outreach and education activities for students and private postsecondary educational institutions within the state. The STRF is an important tool to assist harmed students. The STRF exists to relieve or mitigate economic loss suffered by students enrolled at non-exempt private postsecondary education institutions due to the institutions' closure, the institutions' failure to pay refunds or reimburse loan proceeds, or the institutions' failure to pay students' restitution award for a violation of the Act.

Proposed Law: This bill:

- Prohibits the BPPE from approving an exemption or handle complaints for a nonprofit institutions that operated as for-profit institutions during any period on or after January 1, 2010, unless the AG verifies:
 - The nonprofit institution acquired the for-profit institution's assets for no more than the fair value of the assets.

- The nonprofit institution has not executed agreements for goods or services exceeding the fair value of the goods or services.
 - All core functions of the nonprofit institution are conducted by, or under the direction of, the nonprofit institution.
 - The nonprofit institution has not committed a substantial share of the institution's assets to a joint venture with a person or entity unless the joint venture is with an entity that is a public institution of higher education or nonprofit corporation, and all core function of the venture are conducted by, under the control of, or subject to significant direction from that entity.
- Establishes definitions.

Related Legislation: AB 1341 (Berman, 2019) would have prohibited the BPPE from verifying the exemption from its oversight, or contracting to handle complaints for, a nonprofit institution that operated as a for-profit institution during any period on or after January 1, 2010, unless the Attorney General made certain determinations. This bill was held in this committee on Suspense.

Staff Comments: The Charitable Trusts Section within DOJ's Public Rights Division anticipates an increase in workload, with costs estimated to up to \$1 million. The Charitable Trusts Sections reports that it would need to evaluate and verify current and past transactions, dating back to 2010, to ensure fairness and reasonableness when for-profit schools sold assets to non-profit corporations. In order to address the additional workload, beginning in Fiscal Year 2020-21, the Section would require additional staff resources.

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