
SENATE COMMITTEE ON GOVERNANCE AND FINANCE

Senator Anna M. Caballero, Chair

2023 - 2024 Regular

Bill No: AB 1400
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Version: 7/5/23
Consultant: Grinnell

Hearing Date: 7/12/23
Tax Levy: No
Fiscal: Yes

STUDENT FINANCIAL AID: COLLEGE ACCESS TAX CREDIT FUND: COMMUNITY COLLEGE STUDENT TRANSFERS: HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

Redirects proceeds from the College Access Tax Credit Fund that currently supplement Cal Grant B awards, to instead be made available for grants to students completing associate degrees in California and transferring to a Historically Black College or University.

Background

Tax expenditures. California law allows various income tax credits, deductions, exemptions, and exclusions. The Legislature enacts such tax incentives either to compensate taxpayers for incurring certain expenses, such as child adoption, or to influence certain behavior, such as charitable giving. The Legislature uses tax incentives to encourage taxpayers to do something that but for the tax credit, they would otherwise not do. The Department of Finance is required annually to publish a list of state tax expenditures, currently totaling around \$81.1 billion per year.

College Access Tax Credit. In 2014, the Legislature enacted a new tax credit to induce taxpayers into contributing to the College Access Tax Credit Fund, which helps fund the Cal Grant B High School Entitlement Program (SB 798, De Leon, 2014). Administered by the California Student Aid Commission (Commission), Cal Grants fund eligible low-income high school graduates who have a minimum grade point average, and apply to college within one year of graduation. The award provides up to \$1,648 for books and living expenses for the first year and each year following for up to four years (or equivalent of four full-time years). After the first year, the award also provides tuition fee funding at qualifying postsecondary institutions.

The California Educational Facilities Authority (CEFA), housed in the Office of the State Treasurer, administers the tax credit, which implements a novel model that allows the taxpayer to combine the value of the state tax credit and the charitable deduction at the federal level to make a contribution either mostly or fully offset by its tax benefits. Taxpayers make cash contributions to CEFA, who then issues the taxpayer a credit certificate with a credit of 50% of the value of the contribution, which the taxpayer keeps after claiming the credit on his or her return. CEFA then deposits contribution proceeds in the College Access Tax Credit Fund. Fund proceeds first offset the foregone General Fund revenue resulting from the credit, and then are appropriated by the Legislature to the Franchise Tax Board (FTB), CEFA, the State Controller and the Student Aid Commission to reimburse any administrative costs. Any funds remaining are then continuously appropriated to the California Student Aid Commission (CSAC) to

supplement other moneys funding Cal Grants. CEFA can allocate up to \$500 million in credits each year on a first-come, first-served, basis.

The credit initially applied only to the Personal Income and Corporation Taxes, and was set to expire after the 2016 taxable year. However, the Legislature extended the credit through the 2017 taxable year, provided a flat 50% credit percentage instead of the declining levels initially enacted, expanded the credit to apply against the Gross Premiums Tax, and allowed the credit to offset tax below the tentative minimum tax (SB 81, Committee on Budget and Fiscal Review, 2015). The Legislature extended the credit in AB 490 (Quirk-Silva, 2017) to January 1, 2023, and again through the 2027 taxable year (AB 2880, M. Bonta, 2022).

When enacted, the College Access Tax Credit provided combined federal and state tax benefits almost equal to the amount of donations. Prior to 2019, taxpayers could claim both a credit at the state level and the charitable contributions deduction at the federal level for the same donation. For example, presume Jane contributed \$10,000 to the CTAC Fund, so CEFA gave her a certificate for a \$5,000 credit reservation (50% × \$10,000). Jane could then claim a \$5,000 credit on her California tax return, and a \$10,000 charitable contribution deduction on her federal return. However, she could not be able to claim a charitable contribution on her California return.

However, in 2019, the IRS issued Treasury Decision 9864 that finalized proposed regulations that, among other things, changed how charitable contribution amounts that are acknowledged with state tax credits are treated on the federal tax return. Specifically, the decision requires a taxpayer to reduce the amount of federal charitable contribution deduction by the amount of state tax credit provided for the same contribution. Therefore, a \$10,000 contribution now entitles the taxpayer to a \$5,000 state tax credit and the taxpayer is allowed to claim \$5,000 as a deduction on their federal return, rather than the whole \$10,000 they could claim prior to 2019. Ultimately, this ruling appears to have reduced the overall incentive to contribute to the CATC Fund. While the fund collected \$13.8 million in contributions in 2015, it only received \$957,250 in 2020, and \$1.18 million in 2021. The number of taxpayers contributing fell from a high of 355 in 2014 to only 94 in 2020. With 279,000 Cal-Grant B recipients, CATC adds at between \$1.50 and \$2 to each grant.

Historically Black Colleges and Universities (HBCUs). According to the National Center for Education Statistics (NCES), HBCUs are institutions established prior to 1964 with the principal mission of educating Black individuals. These institutions were founded and developed in an environment of legal segregation and, by providing access to higher education, they have contributed substantially to the progress Black Americans made in improving their status.

HBCUs include public and private institutions that vary in size and degree programs and are located primarily in the South and on the East Coast. Specifically, per the NCES, as of 2022, there are over 100 HBCUs located in 19 states, the District of Columbia, and the U.S. Virgin Islands. Of the over 100 HBCUs, at least 50 are public institutions and at least 49 are private nonprofit institutions. There are no HBCUs in California.

Although HBCUs were originally founded to educate Black students, they enroll students of other races as well. The composition of HBCUs has changed over time. In 2020, non-Black students made up 24% of enrollment at HBCUs, compared with 15% in 1976.

In November 2013, the El Camino Community College District initiated a pilot program to explore the possibility of formalizing transfer pathway agreements between HBCU institutions

and the California Community College (CCC) system, using Associate Degrees for Transfer (ADTs), as the framework to support the agreements. The pilot represented the CCC system's first attempt beyond the California State University (CSU) system to forge new partnerships. Before ADTs, the CCC system's relationship with HBCUs comprised of individual college efforts using traditional methods. The pilot has grown over the span of several years; the name has changed to the California Community Colleges Transfer Guarantee to HBCUs Program. The objective of the CCC Transfer Guarantee to HBCUs Program is to develop transfer pathways to facilitate a smooth transition for students from a CCC campus to partnered HBCUs. These pathways will simplify the transfer process and reduce students' need to take unnecessary or duplicative courses, thereby shortening the time to degree completion and saving student costs.

According to the CCC Chancellor's Office, 39 HBCUs have MOUs in place with the CCC. All of these institutions are regionally accredited by an agency recognized by the United States Department of Education. While data for the 2022-23 academic year is still being collected, the most recent data shows how many California students with ADTs transferred to participating HBCUs: 93 in 2019-2020, 73 in 2020-21, and 60 in 2021-2022.

Seeking to improve overall returns on contributions to the College Access Tax Credit Fund, the Commission wants to redirect the money from Cal Grants to awards for students attending HBCUs.

Proposed Law

Assembly Bill 1400 redirects proceeds from the College Access Tax Credit Fund that are currently continuously appropriated to supplement other moneys funding Cal Grants, to instead be made available to the Commission for purposes of making grants to students who have completed ADTs for the costs of attending an HBCU. The bill makes the change effective for the 2024-25 fiscal year, and repeals previous law directing CATC Fund proceeds to Cal Grants.

The Commission may make disbursements of awards for the specified allocation directly to partnered HBCUs for postsecondary costs of their participating students and requires the Commission to determine award amounts based on the financial need of the student, not to exceed \$5,000, with grants limited to one per student.

The Commission must inform each recipient that the award is a one-time grant, and in making awards, give priority to students with the greatest unmet financial need who do not exceed the maximum household income and asset level for an applicant for a Cal Grant B award. Students must file a statement of intent form stating they will enroll at a partnered HBCU and return to California after graduation from a partnered HBCU. The bill allows the Commission to make disbursements in any fiscal year in which it determines there are sufficient funds and provides if the Commission determines it would be in the best interest of the program, it can roll over moneys for disbursement in future fiscal years. Moneys remain in the fund for allocation in future fiscal years.

The bill allows the Commission to adopt regulations for purposes of implementing and administering the bill's provisions, defines several terms, makes conforming changes, and makes legislative findings and declarations supporting its purposes.

State Revenue Impact

No estimate.

Comments

1. Purpose of the bill. According to the author, “The many programs established under the California Student Aid Commission (CSAC) and by other legislation seek to provide pathways to higher education that are responsive to the unique backgrounds and barriers faced by California students, such as the California Chafee Grant for Foster Youth, the Law Enforcement Personnel Dependents Grant Program (LEPD), the California Dream Act, and others. Decades of studies show the persistent social and economic barriers Black students face resulting in overall lower academic performance and educational attainment than their peers as well as the long-term effects of lower income and less professional stability and growth. Attendance at an HBCU is one of the clear positive influences on these academic and professional outcomes for Black students. They provide culturally responsive, racially sensitive environments where they can fully engage with confidence. Today, in part due to changes in Federal tax law, the College Access Tax Credit (CATC) as currently structured provides only \$1.50 to each eligible student. AB 1400 would allocate this existing funding stream in a more targeted fashion, providing meaningful financial support (a \$5,000 award per eligible student) to Californians transferring from Community College to HBCUs. By refocusing this support on students committed to returning to California after graduation, we will help build a valuable educational and economic pipeline from California to HBCUs nationwide – and back to California.”

2. Right target? The federal Higher Education Act of 1965 defines an HBCU as “...any historically black college or university that was established prior to 1964, whose principal mission was, and is, the education of black Americans.” According to the President’s Board of Advisors on Historically Black Colleges and Universities (2005), HBCUs were formed to eliminate the adverse residue from slavery, plus a century of legally sanctioned discrimination, against United States citizens of African descent. While the social and economic benefits are HBCUs are well documented, there are no HBCUs in California. While AB 1400’s grants can only be awarded to California community college students who complete ABTs, and who sign a declaration of intent to return to California, the bill would shift funds contributed by state taxpayers from in-state institutions to out-of-state ones.

3. Double-referred. The Senate Rules Committee has ordered a double-referral of AB 1400—first to the Senate Education Committee, which has jurisdiction over higher education policy and the California Student Aid Commission, and then to the Senate Governance & Finance Committee which has policy jurisdiction over tax policy. The Senate Education Committee approved AB 1400 by a vote of 7 to 0 at its June 28, 2023, hearing.

Assembly Actions

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| Assembly Higher Education Committee: | 11-0 |
| Assembly Revenue and Taxation Committee: | 11-0 |
| Assembly Appropriations Committee: | 14-0 |
| Assembly Floor: | 76-0 |

Support and Opposition (7/7/23)

Support: California Student Aid Commission (Sponsor)

Eleni Kounalakis - Lieutenant Governor

African American Community Services Agency

California Community Colleges

California Community Colleges Transfer Guarantee Agreement to Historically Black Colleges & Universities

California Faculty Association

Campaign for College Opportunity

Cerritos Community College District

Citrus Community College District

College of The Desert

College of the Sequoias

Community College League of California

Compton College

Compton Community College District

Cosumnes River College

El Camino Community College District

Foothill-de Anza Community College District

Genup

Los Angeles Community College District

Monterey Peninsula College

Norco College

Public Advocates INC.

Rio Hondo College

San Diego City College

San Diego Miramar College

Student Senate for California Community Colleges

Uaspire

Umoja Community Education Foundation

West Hills Community College District

Opposition: None received.

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