CONCURRENCE IN SENATE AMENDMENTS
AB 2121 (Berman)
As Amended August 13, 2026
Majority vote

SUMMARY

Allows a community college district (CCD) to exclude, as part of its current expense of education calculation, any unrestricted general fund expenditures on student support functions previously funded through federal discretionary grants that have been terminated, nonrenewed, or defunded due to federal action on or after September 10, 2025.

Senate Amendments
1) Removed the Urgency Clause.

2) Requires community college districts, who elect to use state funds to backfill federal grants, to approve of the backfill during a public hearing of the governing board of the community college district. Requires the public meeting where the action will take place to be publicly noticed and for the action to be done in compliance with the Ralph M. Brown Act.

COMMENTS

Fifty Percent Law. In California, every community college district is subject to a law (Education Code Section 84362) that governs how the district is to expend its nondiscretionary funds. This statutory requirement is colloquially known as the Fifty Percent Law. A simplistic definition of the Fifty Percent Law, as described by Chancellor's Office of the CCC, states the Fifty Percent Law requires all community colleges districts to spend at least half of their "Current Expense of Education" on the salaries and benefits for classroom instructors. "Expenses of education" includes all expenditures the community college district undertakes minus expenditures for sites, building, library books, media, new equipment, leasing sites, buildings, student transportation, food services, community services, state and federal funds designated for specific purposes.

In addition to containing the formula for the Fifty Percent Law, Education Code Section 84362 includes a method for how a community college district demonstrates compliance with the Fifty Percent Law and if necessary, a method for the community college to ask for an exemption if the community college district is unable to meet the requirements. The specific parameters for authorizing an exemption are low – a community college district must demonstrate to the California Community College (CCC) Board of Governors (BOG) that meeting the fifty percent threshold for instructional salaries would result in a serious financial hardship for the district or that meeting the fifty percent threshold for instructional salaries would result in salaries which exceed comparable district salaries for their instructors.

The CCC BOG has the authority to: 1) provide an exemption to the fifty percent law in the amount provided by the community college district, 2) reduce the amount of the requested exemption, or 3) to deny the exemption. If the exemption is denied the community college district must develop a plan to "pay back" whatever fiscal amount was short of the fifty percent calculation, or the district will risk having funds removed from future state general fund allocations. In recent years, exemptions have been granted to community college districts who had extenuating financial circumstances resulting in the district being financially unable to meet the Fifty Percent Law requirements for instructional salaries. These extenuating circumstances have included ransomware attacks and state of emergencies due to fires.

Concerns have been raised that the measure circumvents the existing processes in the Education Code for how a community college district seeks an exemption to the Fifty Percent Law. While the measure does provide a new avenue for community college districts to exclude funding from the calculation, it seems reasonable to interpret that these funds were already exempt from the equation as all federal funds are excluded from the Fifty Percent Law. This bill is a measured approach and allows community college district to make real-time fiscal decisions without having to wait for approval for an exemption months after the expenditure.

According to the Author
The need for the measure is ardently expressed by the author, as "the Trump administration's assault on higher education is an attack on historically marginalized students who rely on these critical programs to stay in school and succeed. When President Trump pulls the rug out from under our most vulnerable students, California must fight back, holding firm to our values of equity and access to higher education. AB 2121 responds to the Trump administration's systematic dismantling of federal student success programs by removing barriers that prevent community colleges from backfilling this loss in federal funding. Specifically, this bill would enable community colleges to backfill the federal cuts provided by the Minority Serving Institutions discretionary grants and the TRIO discretionary grants. By temporarily excluding those backfill dollars from the Fifty Percent Law, community colleges can preserve these federally-defunded student support programs."

Furthermore, the author expands on the need for the measure as "AB 2121 includes transparency requirements and annual district certifications, with a sunset after five years or upon restoration of federal funding, whichever occurs first. This bill maintains safeguards for faculty, such as not reducing spending on classroom instructors. Further, this bill does not request new state funding or create any state backfill requirement."

Arguments in Support
The sponsoring community college district, West Valley Mission, expresses support for the measure, "AB 2121 resolves this problem through a narrow, temporary mechanism so that any local unrestricted dollars a district spends to backfill federally defunded student support programs are treated as neutral under the Fifty Percent Law, excluded from the current expense of education calculation rather than inflating the denominator and pushing a district toward noncompliance. The bill requests no new state funding, creates no state backfill obligation, and provides the upfront budget certainty that governing boards need to responsibly commit resources during the annual planning cycle. Critically, the bill contains robust safeguards. It holds faculty completely harmless and prohibits any use of the exclusion to reduce instructional spending, diminish the quality of instruction, or circumvent the Faculty Obligation Number and 75/25 full-time faculty goals. It bars the use of this exclusion to create administrative positions or increase administrator salaries beyond those otherwise authorized by existing contracts. Decisions affecting instructional assignments, faculty load, and course offerings remain subject to collective bargaining. The exclusion sunsets automatically after five fiscal years or upon restoration of federal funding, whichever comes first, and requires annual district certifications and public reporting to the Chancellor's Office. The students most affected by these federal cuts are disproportionately low-income, first-generation, and students of color at open-access institutions that lack the endowments or alternative revenue streams to absorb the loss. Without

AB 2121, the Fifty Percent Law becomes a second-order barrier to equity, penalizing districts for using their own funds to serve their most vulnerable populations."

Arguments in Opposition
The Faculty Association of California Community Colleges respectfully oppose AB 2121 (Berman) because, "The Fifty Percent Law requires districts to spend at least half of their unrestricted general fund on instructional costs to ensure that colleges can fulfill their primary function: educating students. While we recognize that the loss of the Hispanic-Serving Institutions (HSI), Minority-Serving Institutions (MSI), and other federal grants could have an impact on the budgets of some colleges, AB 2121 would undermine this longstanding safeguard without sufficient justification. Weakening the Fifty Percent Law would shift funding away from the classroom and the students our system serves. We appreciate the Legislature's effort to mitigate the impact of federal funding disruptions; however, this issue would be better addressed within existing system processes rather than by weakening instructional funding protections, as stakeholders discussed at the March California Community College Consultation Council. Moreover, recent federal budget actions have reduced some of the immediate uncertainty around these programs, calling into question the need for this proposal."

FISCAL COMMENTS

According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

VOTES:

ASM HIGHER EDUCATION: 9-1-0
YES: Fong, Boerner, Jeff Gonzalez, Jackson, Irwin, Patel, Bennett, Sharp-Collins, Tangipa
NO: DeMaio

ASM APPROPRIATIONS: 14-0-1
YES: Wicks, Hoover, Aguiar-Curry, Caloza, Dixon, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache, Ta, Tangipa
ABS, ABST OR NV: Arambula

ASSEMBLY FLOOR: 72-1-7
YES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Castillo, Chen, Connolly, Davies, Dixon, Elhawary, Ellis, Fong, Gabriel, Gallagher, Gipson, Jeff Gonzalez, Mark González, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Johnson, Kalra, Krell, Lackey, Lee, Lowenthal, Macedo, McKinnor, Nguyen, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ta, Tangipa, Valencia, Wallis, Ward, Wicks, Wilson, Rivas
NO: DeMaio
ABS, ABST OR NV: Arambula, Flora, Garcia, Hadwick, Muratsuchi, Celeste Rodriguez, Zbur

UPDATED

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