

Date of Hearing: July 8, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Marc Berman, Chair

SB 790 (Cabaldon) – As Amended June 26, 2025

NOTE: This bill is double referred and previously passed the Assembly Higher Education Committee, 9-1.

SENATE VOTE: 34-0

SUBJECT: Postsecondary education: interstate reciprocity agreements for distance education: out-of-state postsecondary educational institutions

SUMMARY: Authorizes the Governor to enter into an instate reciprocity agreement for the authorization and oversight of distance education pursuant to specified conditions; requires the Governor to designate a portal entity to administer an interstate reciprocity agreement; requires public and accredited nonprofit postsecondary institutions to register with the Bureau for Private Postsecondary Education (BPPE or bureau) beginning January 1, 2028, unless the institution has approval to operate in California pursuant to an interstate reciprocity agreement; requires out-of-state schools registered with the bureau to notify the bureau of investigations resolved by settlement agreements; modifies the bureau’s protocol for suspending student enrollments during an investigation of an institution; and prohibits out-of-state postsecondary institutions from engaging in enumerated deceptive business practices.

EXISTING LAW:

- 1) Enacts the California Private Postsecondary Education Act (Act) to provide for the regulation and oversight of private postsecondary schools, subject to repeal on January 1, 2027. (Education Code (EDC) §§ 94800 *et seq.*)
- 2) Establishes the Bureau for Private Postsecondary Education (BPPE or bureau) within the Department of Consumer Affairs to regulate private postsecondary educational institutions. (EDC § 94820)
- 3) Defines “private postsecondary educational institution” as a private entity with a physical presence in California that offers postsecondary education to the public for an institutional charge. (EDC § 94858)
- 4) Exempts the following institutions from the Act:
 - a) An institution offering programs solely for the purpose of personal entertainment, pleasure, or enjoyment.
 - b) An institution offering educational programs sponsored by a bona fide trade, business, professional, or fraternal organization, solely for that organization’s membership.
 - c) A postsecondary educational institution established, operated, and governed by the federal government or by the government in California.

- d) An institution offering either test preparation for postsecondary education admissions examinations, or continuing education or license examination preparation.
- e) An institution owned, controlled, and operated and maintained by a religious organization lawfully operating as a nonprofit religious corporation, limited to education relevant to the beliefs and practices of the church, religious denomination, or religious organization.
- f) An institution that does not award degrees and that solely provides educational programs for total charges of \$2,500 or less when no part of the total charges is paid from state or federal student financial aid programs.
- g) A law school that is accredited by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association or that is subject to the approval, regulation, and oversight of the Committee of Bar Examiners.
- h) A nonprofit school organized specifically to provide workforce development or rehabilitation services that is accredited by the Department of Rehabilitation.
- i) An institution that is accredited by the Accrediting Commission for Senior Colleges and Universities, Western Association of Schools and Colleges, or the Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges.
- j) Flight instruction providers or programs that provide flight instruction pursuant to Federal Aviation Administration regulations.
- k) An institution owned by a nonprofit community-based organization that does not award degrees and does not offer educational programs designed to lead to licensure, and that would not have been subject to oversight if it did not receive funding under the federal Workforce Innovation and Opportunity Act.

(EDC §94874)

- 5) Prohibits the bureau from verifying an exemption, or contract for the complaint handling for, a nonprofit institution that operated as a for-profit institution during any period on or after January 1, 2010, unless the Attorney General verifies specified information. (EDC § 94874.1)
- 6) Requires institutions exempt from the Act to still comply with laws relating to school closure and laws relating to fraud, abuse, and false advertising. (EDC § 94874.9(a))
- 7) Defines “out-of-state private postsecondary educational institution” as a private entity without a physical presence in this state that offers distance education to California students for an institutional charge, regardless of whether the institution has affiliated institutions or institutional locations in California. (EDC § 94850.5)
- 8) Requires the BPPE to adopt regulations establishing minimum operating standards for private postsecondary educational institutions. (EDC § 94885)

- 9) Prohibits a person from opening, conducting, or doing business as a private postsecondary educational institution in this state without obtaining an approval to operate from the bureau. (EDC § 94886)
- 10) Authorizes the BPPE to grant approval to operate only after an applicant has presented sufficient evidence to the bureau, and the bureau has independently verified the information provided by the applicant through site visits or other methods deemed appropriate by the bureau, that the applicant can satisfy the minimum operating standards; requires the BPPE to deny an application for an approval to operate if the application does not satisfy those standards. (EDC § 94887)
- 11) Provides that a standard approval to operate shall be valid for five years. (EDC § 94888)
- 12) Requires the BPPE to grant an institution that is accredited an approval to operate by means of its accreditation. (EDC § 94890)
- 13) Prohibits a private postsecondary educational institution from doing any of the following:
 - a) Use of the Great Seal of the State of California on a diploma.
 - b) Promising or guaranteeing employment, or overstating the availability of jobs upon graduation.
 - c) Advertising concerning job availability, degree of skill, or length of time required to learn a trade or skill, unless the information is accurate and not misleading.
 - d) Advertising, or indicating in promotional material, without including the fact that the educational programs are delivered by means of distance education.
 - e) Advertising, or indicating in promotional material, that the institution is accredited if it is not.
 - f) Soliciting students for enrollment by causing an advertisement to be published in “help wanted” columns in a magazine, newspaper, or publication, or using “blind” advertising that fails to identify the institution.
 - g) Offering to compensate a student to act as an agent of the institution with regard to the solicitation, referral, or recruitment of any person for enrollment in the institution.
 - h) Paying any consideration to a person to induce that person to sign an enrollment agreement.
 - i) Using a name in any manner improperly implying that the school is affiliated with a government agency, is a public institution, or grants degrees if it does not.
 - j) In any manner making an untrue or misleading statement related to a test score, grade or record of grades, attendance record, record indicating student completion, placement, employment, salaries, or financial information.

- k) Willfully falsify, destroy, or conceal any document of record.
- l) Using the terms such as “approval” without stating clearly and conspicuously that approval to operate means compliance with state standards.
- m) Directing any individual to perform an unlawful act, to refrain from reporting unlawful conduct to the BPPE, or to engage in any unfair act to persuade a student not to complain.
- n) Compensating an employee involved in recruitment, enrollment, admissions, student attendance, or sales of educational materials to students based on a commission, commission draw, bonus, quota, or other similar method related to the recruitment, enrollment, admissions, student attendance, or sales of educational materials to students.
- o) Requiring a prospective student to provide personal contact information to obtain, from the institution’s website, educational program information that is required to be contained in the school catalog.
- p) Offering an associate, baccalaureate, master’s, or doctoral degree without disclosing to prospective students prior to enrollment whether the institution or the degree program is unaccredited and any known limitations of the degree.

(EDC § 94897)

- 14) Establishes the Student Tuition Recovery Fund (STRF) to relieve or mitigate economic loss suffered by a student while enrolled in an institution at the time that institution, location, or program was closed or discontinued. (EDC § 94923)
- 15) Establishes the Office of Student Assistance and Relief (OSAR) to advance and promote the rights of prospective students, current students, or past students of private postsecondary educational institutions. (EDC § 94949.7)
- 16) Allows a public institution of higher education that is operated by another state, and that maintains a physical presence in California to apply for an approval to operate from the bureau. (EDC § 94949.8)
- 17) Defines “independent institutions of higher education” as nonpublic higher education institutions that grant undergraduate degrees or graduate degrees and are accredited by an agency recognized by the United States Department of Education. (EDC § 66010(b))
- 18) Authorizes an independent institution of higher education that is exempt due to its accreditation status to execute a contract with the bureau for the bureau to review and, as appropriate, act on complaints concerning the institution. (EDC § 94874.9(b))
- 19) Requires an out-of-state private postsecondary educational institution, except an accredited nonprofit, as specified, to register with the bureau, pay a fee, provide specified information, and comply with certain reporting requirements. (EDC § 94801.5)
- 20) Specifies that an institution, as described, is legally authorized by a State if the State has a process to review and appropriately act on complaints concerning the institution including

enforcing applicable State laws, and the institution meets specified provisions. (34 Code of Federal Regulations § 600.9)

THIS BILL:

- 1) Defines the following:
 - a) “Commission” means the Western Interstate Commission for Higher Education, including the Western State Authorization Reciprocity Agreement steering committee of the commission, or another group of states or United States territories organized in an interstate reciprocity agreement.
 - b) “Interstate reciprocity agreement” means an interstate reciprocity agreement for the authorization and oversight of distance education.
 - c) “National coordinating council” means the National Council for State Authorization Reciprocity Agreements, or its successor.
 - d) “Participating institution” means an institution of higher education with a physical presence in the state that has been approved to operate under an interstate reciprocity agreement.
 - e) “Portal entity” means the agency, department, or office designated to service as the portal entity if the Governor enters into an interstate reciprocity agreement.
- 2) Authorizes the Governor to enter into one or more reciprocity agreements through a compact on behalf of the state upon completion of both of the following:
 - a) Issuing a written finding of all of the following:
 - i) The interstate reciprocity agreement and its implementation will not interfere with, and does not affect, the authority of the Attorney General or any other state or local agency to enforce any statutes or regulations prohibiting consumer fraud and unfair or deceptive business practices or the authority of the state to suspend or terminate the operation in the state of any entity subject to the interstate reciprocity agreement pursuant to state law.
 - ii) The interstate reciprocity agreement does not prevent the Attorney General or any other state or local agency from applying and enforcing Section 94897 with respect to out-of-state postsecondary educational institutions that participate in the reciprocity agreement.
 - iii) The interstate reciprocity agreement allows the state, notwithstanding any reciprocal authorization, to require an out-of-state postsecondary educational institution, upon providing notice of at least six months, to register and be subject to the provisions of Section 94801.5, in order to protect students, prevent misrepresentation to the public, or prevent the loss of funds paid from public resources or student tuition.

- iv) The interstate reciprocity agreement does not apply to a course offered onsite to students at a military installation in the state, even if the course at that physical location is offered to students in other locations.
 - v) The commission and national coordinating council are committed to preserving standards and protections that have been promulgated by the federal government and are the basis of the interstate reciprocity agreement, even if those standards or protections are subsequently diminished or withdrawn by federal law or action of the United States Department of Education, and the commission is committed to developing meaningful performance metrics and frameworks for best practices with regard to individual state authorization activities.
 - vi) Within one year of the effective date of the state's entry into the interstate reciprocity agreement, the Bureau for Private Postsecondary Education will establish a process to ensure that postsecondary educational institutions exempt from the California Private Postsecondary Education Act of 2009 (Chapter 8 (commencing with Section 94800) of Part 59 of Division 10) pursuant to Section 94874, may participate in the interstate reciprocity agreement without impacting the postsecondary educational institution's exempt status.
 - vii) Participating states have the necessary authority and resources to investigate complaints and take appropriate action.
 - viii) The reciprocity agreement does not prohibit the state from accepting complaints from California students that have not first been submitted to the institution that is the subject of the complaint.
 - ix) The interstate reciprocity agreement does not delegate independent legal authority over the state or its participating postsecondary educational institutions to any other entity or otherwise authorize assumption of that legal authority by any other entity other than the state or its subdivisions, including by providing any nonstate entity with the authority to reverse or veto a decision by the state to suspend or terminate an in-state's institution's certification to participate in a reciprocity agreement.
 - x) The interstate reciprocity agreement may be modified by the commission only with the approval of the Governor.
- b) After issuing the findings required by subdivision (a), a joint hearing on the agreement held by the Assembly Committee on Business and Professions, the Assembly Committee on Higher Education, the Senate Committee on Business, Professions and Economic Development, and the Senate Committee on Education at which a representative from the commission shall testify and members of the public shall be encouraged to testify on the agreement and the Governor's written findings.
- 3) Requires the Governor to designate a state agency, department, or office for the implementation of an interstate reciprocity agreement, to serve as the portal entity if the Governor enters into an interstate reciprocity agreement.

- 4) Authorizes a postsecondary educational institution to apply to the portal entity for approval to operate under an interstate reciprocity agreement using a standard application developed pursuant to the interstate reciprocity agreement.
- 5) Authorizes the portal entity to establish a reasonable fee to be paid by a participating postsecondary educational institution. The amount of the fee must be limited to the reasonable regulatory costs incurred by the portal entity.
- 6) Requires the portal entity to enter into a memorandum of understanding with the Chancellor of the California State University, the Chancellor of the California Community Colleges, the presidents of the independent California colleges and universities as represented by the state association representing the largest number of those members, and, if appropriate, the BPPE.
- 7) Requires, upon resolution of the Regents of the University of California, the portal entity to enter into a memorandum of understanding with the President of the University of California.
- 8) Specifies that a memorandum of understanding must delegate functions and responsibilities among the parties, provide for reimbursement of expenses, and not weaken existing student privacy and confidentiality protections.
- 9) Requires the Board of Governors of the California Community Colleges to investigate and resolve complaints involving participating community colleges that may arise pursuant to the interstate reciprocity agreement.
- 10) Requires the bureau to investigate and resolve complaints that may arise pursuant to the interstate reciprocity agreement involving participating private postsecondary educational institutions that are either of the following:
 - a) Approved to operate pursuant under current law.
 - b) Exempt from the California Private Postsecondary Education Act of 2009 but elect to participate in the interstate reciprocity agreement pursuant to terms and conditions established by the bureau to implement the memorandum of understanding and this bill.
- 11) Requires the portal entity to ensure that it and participating postsecondary educational institutions have clear and well-documented policies for addressing catastrophic events in a manner that protects students as consumers, including the protection of student records. The California Private Postsecondary Education Act of 2009 (Chapter 8 (commencing with Section 94800) of Part 59 of Division 10), and regulations adopted pursuant to that act, constitute those policies for participating private postsecondary educational institutions approved to operate by the bureau
- 12) Requires the portal entity to work cooperatively with other states in the interstate reciprocity agreement and the commission to enable the success of the interstate reciprocity agreement. The Chancellor of the California State University, the Chancellor of the California Community Colleges, and the presidents of the independent California colleges and universities, and, if appropriate, the BPPE, must document all formal complaints received, complaint notifications provided to participating postsecondary educational institutions and

accrediting agencies, actions taken that are commensurate with the severity of the violations, and complaint resolutions. Each entity must promptly report a complaint or concern to the postsecondary educational institution, the portal entity, and, where appropriate, the accrediting agency.

- 13) Strikes “private” from the term “out-of-state private postsecondary education institution” and revises the definition to include public entities without a physical presence in California that offer distance education to California students for an institutional charge.
- 14) Requires out-of-state public postsecondary institutions to register with the bureau, pay a fee, and comply with specified requirements. Exempts public and nonprofit postsecondary institutions from the requirement to register with the bureau until January 1, 2028. Beginning January 1, 2028, exempts public or nonprofit institutions approved pursuant to an interstate reciprocity agreement to which the state is a party.
- 15) Requires out-of-state postsecondary institutions to report, at the time of initial registration by the bureau, whether or not the institution, or a controlling officer of, or a controlling interest or controlling investor in, the institution or its parent company has been subject to an investigation resolved via a settlement agreement. Registered institutions must report investigations resolved via settlement agreement within 30 days of the occurrence and provide the bureau with a copy of the settlement agreement.
- 16) Repeals the existing process for the bureau to permit or suspend the enrollment of new students during an investigation of an out-of-state postsecondary education following notice of specified events and instead authorizes the bureau, after receipt of such notice, or after determining that such notice should have been provided, to seek additional information and notify the institution regarding whether the institution must suspend enrolling new students, and whether other actions are needed to protect California residents.
- 17) Repeals an outdated operative date and makes other technical, non-substantive changes.

FISCAL EFFECT: According to the Senate Appropriations Committee, the prior version of this bill was anticipated to have the following fiscal effect:

1. Unknown ongoing significant costs to the agency, department, or office the Governor designates as the portal entity. The bill states legislative intent for the portal entity to adopt as many of the duties and responsibilities of the former CPEC. For comparison, the 2011-12 Governor’s Budget proposed approximately \$1.9 million to support CPEC’s operations at that time before funding for the commission was ultimately vetoed. The designated portal entity will likely require similar resources, but total costs will depend on, among other things, the extent additional workload to implement an IRA and oversee distance education may be absorbed within the entity’s current resources. Fees from participating educational institutions will offset the portal entity’s regulatory costs to some extent; however, initial costs will likely be borne from the General Fund (GF) until sufficient revenue is collected to support ongoing operations.

While the bill does not specify what state agency may be designated as the portal entity, the Bureau for Private Postsecondary Education (BPPE) is most similar in related mission

to the stated intent of the proposed portal entity. If BPPE were to be designated as the portal entity, it would incur significant costs that may exacerbate the bureau's main fund, the Private Postsecondary Education Administration Fund (Fund), which faces a substantial structural deficit.

2. The BPPE reports total administrative and enforcement costs of approximately \$1,002,000 beginning in Fiscal Year (FY) 2027-28 and \$954,000 ongoing (Fund) to process additional applications and investigate complaints from both private and public out-of-state institutions. Initial application revenue may offset BPPE's administrative workload to some extent, however costs for any significant increase in registrations and ongoing enforcement workload cannot be supported by BPPE's Fund (see staff comments).

The bill does not specify that BPPE be designated as the portal entity, but does require all out-of-state postsecondary educational institutions that are not part of an IRA by January 1, 2028 to register with the BPPE. BPPE estimates up to 599 institutions would be required to register with the bureau if IRA requirements are not met; however, it is unknown how many of these institutions would actually meet IRA requirements and become members. BPPE's estimate assumes all 599 institutions would be required to register with the bureau. To the extent this number is lower, BPPE's administrative and enforcement costs will likely decrease accordingly.

3. Unknown costs for the UC, CSU, and CCC to join and enter into memoranda of understandings (MOUs) with the designated portal entity. Total costs would depend on, among other things, how often the body would meet and the level of support staff or other resources required by the UC, CSU, and CCC to support their participation.
4. Unknown total potential cost savings for all participating institutions (University of California (UC), California State University (CSU), California Community Colleges (CCC), and independent colleges and universities) to participate in an IRA through the portal entity. For example, the UC estimates \$1 million in ongoing savings once an IRA is made. The UC currently pays a total of approximately \$1.3 million in fees to individual states' postsecondary education programs that it enters into agreements with. Under an IRA, UC notes that it could join the National Council for State Authorization Reciprocity Agreement (NC-SARA), which has a participation fee of \$217,000.

COMMENTS:

Purpose. This bill is sponsored by the author. According to the author:

Tens of thousands of Californians study online through institutions in other states. However, California is the only state not participating in the State Authorization Reciprocity Agreement, which gives students in member states protection, institutional oversight, and rights even when the educational institution is approved in another state. Instead, out-of-state schools must register with California's Bureau of Private Postsecondary Education, where they are subject to limited regulation. Meanwhile, California institutions face major disadvantages. They must apply and pay fees for every

single online program they offer to out-of-state students. At times, it only takes a few out-of-state students enrolling in a CSU or community college class to help meet class minimums, so excluding out-of-state students can mean that courses are not available for California students. [This bill] requires the Governor to designate a new state entity to oversee postsecondary education policy and authorizes the Governor to join an interstate reciprocity agreement for distance education if the agreement meets specific consumer protection standards. Joining an interstate reciprocity agreement would promote educational access, regulatory efficiency, and economic growth while allowing California to better safeguard its students enrolled online in out-of-state schools.

Background.

State Authorization and State Authorization Reciprocity Agreements. Postsecondary education institutions must be authorized by any state in which they operate and have a student complaint process to be eligible for Title IV federal financial aid. Schools that do not have a physical presence in a state but are enrolling students from that state in their online programs can satisfy the state authorization requirement without obtaining approval from each state if they participate in a state authorization reciprocity agreement. The State Authorization Reciprocity Agreement (SARA), governed by the National Council for State Authorization Reciprocity Agreements (NC-SARA), was developed by a group of institutions, states, and policy organizations in response to concerns about needing authorization in each state where a school wishes to operate.

SARA provides that accredited, degree-granting institutions (public, private, for-profit, and nonprofit schools alike) approved by a SARA member state may offer distance education in other SARA member states without having to individually apply to state authorization. SARA establishes consistent national standards for distance learning and streamlines the process for institutions to offer online courses in multiple states. Proponents of joining SARA argue that participation in SARA reduces the time, complexity, and cost associated with obtaining authorization in individual states. This committee is unaware of the arduousness of the process in each state or the associated costs.

According to NC-SARA, there are more than 2,400 institutions in 49 member states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands participating in SARA. The Western Interstate Commission for Higher Education (WICHE) coordinates the participation of SARA member states in the Western United States through the WICHE State Authorization Reciprocity Agreement (W-SARA). As of June 15, 2025, thirteen states are participating in W-SARA: Alaska, Arizona, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, South Dakota, Utah, Washington, and Wyoming.

This bill would authorize the Governor to enter California into an interstate reciprocity agreement for the authorization and oversight of distance education, such as W-SARA, if specified conditions are met. In particular, the Governor would be required to issue written findings that the interstate reciprocity agreement adhere to enumerated principles. The relevant policy committees of the Legislature would be required to convene a joint hearing on the interstate reciprocity agreement after the Governor issues the aforementioned findings.

States must apply to join SARA. If approved, the state becomes a SARA member. Postsecondary institutions located in California may apply to become SARA-participating institutions via their

home state's designated SARA portal entity, which is responsible for reviewing applications, verifying eligibility and compliance with SARA standards, and ultimately approving or denying applications. The portal agency must forward approved applications to NC-SARA. Approved institutions must pay an annual fee to NC-SARA based on total full-time enrollment and renew annually.

This bill would additionally require the Governor to designate a state agency, department, or office to serve as the portal entity. Postsecondary institutions would apply to the portal entity for approval to operate under an interstate reciprocity agreement and pay a fee, established by the portal entity to cover the portal entity's expenses. The portal entity would also be required to enter into memoranda of understanding with the Chancellor of the California State University, the Chancellor of the California Community Colleges, the Association of Independent California Colleges and Universities, the President of the University of California, and, if appropriate, the bureau.

The Bureau for Private Postsecondary Education. The BPPE is responsible for overseeing postsecondary institutions that have a physical presence in California and out-of-state institutions that enroll California students in online distance learning programs. Additionally, the bureau is responsible for enforcing the Act, which prohibits false advertising and inappropriate recruiting and requires disclosure of specific information about the educational programs being offered, graduation and job placement rates, and licensing information. Specifically, the Act directs the BPPE to, in part, review and approve private postsecondary educational institutions; establish minimum operating standards to ensure educational quality; provide an opportunity for student complaints to be resolved; and ensure private postsecondary educational institutions offer accurate information to prospective students about school and student performance. The BPPE also investigates and combats unlicensed activity, conducts research and outreach to students and postsecondary educational institutions, and administers the STRF.

Private and out-of-state nonprofit institutions with a physical presence in California are currently required to seek an approval to operate, which requires compliance with minimum operating standards and numerous other requirements such as an annual report to the BPPE and the publishing of School Performance Fact Sheets that contain specified information. An approval to operate is valid for five years. Out-of-state public institutions with a physical presence in California are not required to, but may, seek approval to operate from the BPPE so that their students are eligible for federal financial aid.¹ Out-of-state for-profit institutions that want to enroll California students for distance learning (online programs) must register with the bureau.

Registration of Out-of-State For-Profit Schools Enrolling California Students for Online Education. Out-of-state private postsecondary institutions without a physical presence in California that offer distance education (i.e., online) to California students must register with the bureau every five years. Public and U.S. Department of Education-accredited nonprofit institutions are exempt. However, under this bill, public and accredited nonprofit schools would only be exempt until January 1, 2028, after which those schools would be required to register

¹ Federal law requires for state authorization entitling students to federal financial aid, to have a process for reviewing and action on complaints concerning the institution. With an approval to operate, the BPPE would provide that service for out-of-state public institutions.

with the bureau or operate in California pursuant to their participation in an interstate reciprocity agreement. According to the Senate Appropriations Committee's analysis of this bill, the bureau estimates that 599 schools would be required to register with the bureau if the state does not enter into a reciprocity agreement, if schools choose not to participate, or if they are not approved to participate in an interstate reciprocity agreement. This bill would charge the bureau with investigating and resolving complaints that may arrive pursuant to an interstate reciprocity agreement involving out-of-state institutions with an approval to operate from the bureau or that are exempt from the bureau's oversight by electing to participate in an interstate reciprocity agreement.

Unlike institutions with an approval to operate, registered institutions are not required to meet minimum operating standards or adhere to other requirements that come with an approval to operate. Although the bureau may approve, deny, or place conditions on a school's registration. Applicants for registration are required to provide the bureau with specified information, including evidence of accreditation, evidence that the school is approved to operate in the state in which it is headquartered, the agent for service of process, a copy of the school's catalog, and a copy of a sample enrollment agreement, if applicable. Additionally, they must report specified disciplinary information, including whether or not the school, or a controlling officer of, or a controlling interest or investor in, the school or in the parent entity of the school, had been subject to any education, consumer protection, unfair business practice, fraud, or related enforcement action, by a state or federal agency in the five years preceding the application. This bill would require schools to disclose investigations resolved via a settlement agreement and provide a copy of the settlement agreement.

Under current law, the bureau, after being notified of relevant disciplinary action, must, within 30 days, request that the school explain in writing why it should be permitted to continue enrolling California residents. Institutions may continue enrolling students if, after reviewing the school's explanation and consulting with the California Attorney General, the bureau issues a written finding that there is no immediate risk to California residents from the school's continued enrollment of new students. The bureau may also limit student enrollment at its discretion. However, according to bureau staff, the requirements for doing so have prevented the bureau from taking action to pause student enrollments. This bill would repeal the existing requirements and instead authorize the bureau, upon notification of disciplinary action, or after determining that such a notification should have been provided, to seek additional information, and notify the school whether the institution much suspend enrolling new students and other actions are needed to protect California students while the bureau investigates the matter. By eliminating some of the existing barriers, these changes may increase the likelihood that the bureau will take action to pause student enrollments.

Deceptive Business Practices. Under current law, schools with an approval to operate from the bureau are prohibited from engaging in specified business practices. For example, a school cannot promise or guarantee employment, falsely advertise that the school is accredited, collect any payment school charges that are not authorized by an enrollment agreement, or require a prospective, current, or former student or employee to sign a nondisclosure agreement, except as specified. This bill would similarly prohibit out-of-state postsecondary institutions that are required to register with the bureau from engaging in deceptive business practices.

Student Tuition Recovery Fund. Students of postsecondary institutions that are registered with the bureau are required to pay into the STRF. The STRF relieves or mitigates economic loss suffered by students due to a school closure or program closure, a school's failure to pay refunds or reimburse loan proceeds, or a school's failure to pay a student's restitution award for a violation of the Act. Students enrolled in institutions that are exempt from or not covered by the Act are not eligible for STRF.

The STRF is financed by assessments paid by students, collected by institutions, and remitted to the BPPE. Under current law, when the STRF balance exceeds \$25 million, the BPPE is required to temporarily reduce the assessment rate to \$0.00, effectively stopping collection for the STRF. Due to the fund reaching its statutory cap, institutions are currently not required to collect STRF fees from students. Prior to the rate change on April 1, 2024, the assessment rate was \$2.50 per \$1,000 of institutional charges. For example, a student paying \$10,000 in tuition and fees would have paid \$25.00 towards the STRF. When the STRF balance drops below \$20 million, the STRF assessments will resume.

Current Related Legislation. SB 861 (Senate Business, Professions and Economic Development Committee), as it relates to this bill, prohibits an institution from directing any individual to perform an act that violates the Postsecondary Education Act of 2009 or to refrain from reporting unlawful conduct to the bureau or another governmental agency. *SB 861 is pending in this committee.*

Prior Related Legislation. SB 634 (Block) of 2014 would have, to the extent authorized by federal law, applied the Postsecondary Education Act of 2009 to an accredited private entity with no physical presence in this state that offers and awards degrees to the public in this state by means of distance education for an institutional charge if the entity does not participate in a regional state authorization reciprocity agreement entered into or recognized by the state. *SB 634 was held by the author in the Senate Education Committee.*

SB 81 (Committee on Budget and Fiscal Review), Chapter 22, Statutes of 2015, in part, authorized private, nonprofit colleges and universities to contract with the bureau to review and act on complaints concerning the institution.

SB 1192 (Hill), Chapter 593, Statutes of 2016, in part, created an out-of-state registration system to allow California students in distance education to be eligible for STRF.

AB 1344 (Bauer-Kahan), Chapter 520, Statutes of 2019, required that out-of-state institutions registering with the bureau, either at the time of registration, or within 30 days if currently registered, to notify the bureau if specific actions are taken against the institution; allowed the bureau to suspend the enrollment of new students after consultation with the Attorney General and issuing a written finding that there is no immediate risk to California residents from the institution continuing to enroll new students; and authorized the bureau to take enforcement action against an institution's registration.

AB 1346 (Medina), Chapter 521, Statutes of 2019, in part, expanded the definition of "economic loss" for the purposes of recovery through the STRF to include all amounts paid to the institution and amounts paid in connection with attending the institution.

AB 70 (Berman), Chapter 153, Statutes of 2020, prohibited the bureau from approving an exemption or handling complaints for a nonprofit institution that the AG determines does not meet specified criteria of a nonprofit corporation.

SB 1433 (Roth), Chapter 544, Statutes of 2022, in part, allowed an out-of-state public institution of higher education that maintains a physical presence in this state to apply for an approval to operate from the BPPE for purposes of the bureau handling complaints against the institution.

ARGUMENTS IN SUPPORT:

The Association of Independent California Colleges and Universities writes in support:

California's lack of participation in interstate reciprocity for distance education creates significant burdens and barriers. Currently, if an institution wishes to offer an online academic program in another state, it must submit extensive paperwork, pay thousands of dollars in fees, respond to sometimes lengthy questionnaires and supplemental requests for information. This process must currently be completed for any program an institution wants to offer outside California and must be completed for every state in which they want to offer it. Additionally, if a student enrolled in a program moves from California elsewhere, that institution must then determine whether they are authorized to offer distance education in the student's new state, and if not, they must either choose to go through this process and pay thousands in fees to continue educating that student or disenroll the student.

The implementation of [this bill] will facilitate a more streamlined process for our institutions to offer distance education programs to out-of-state students by participating in interstate reciprocity agreements. This will reduce redundant regulatory burdens, allowing our member institutions to allocate resources more effectively toward enhancing educational quality and student support services.

Moreover, it will simplify the ability of institutions to continue serving students who move outside the state and will broaden educational access to students seeking high-quality programs across the country. By creating a pathway for California to streamline this process, the state can expand the opportunities for California's colleges and universities, public and private nonprofit alike, to compete in the national marketplace and offer their programs to more students. This provides an opportunity to help supplement and increase enrollment at California's institutions of higher education, which will help fuel program and faculty growth.

The University of California writes in support:

In addition to online education, state authorization regulations apply to out-of-state clinical placements for students in health sciences programs. These pose significant hurdles to making out-of-state clinical placements at the seven UC campuses that offer health sciences instruction. Out-of-state clinical placements and externships are a routine and essential part of clinical education. For medical students, participating in clinical rotations outside of California is essential to placement for their residency training, and

expands their understanding of medical treatment and disease management since some institutions are experts in specific fields. The benefits of out-of-state clinical placements apply to other professional health fields as well, including nursing, physical therapy, and public health. Clinical placements and externships are essential to students gaining more knowledge and experience and are routinely undertaken in other states so that the student can gain exposure to different conditions, populations, and issues.

Since all states except California have joined SARA, UC and other California colleges and universities are at an extreme disadvantage in offering online courses, degrees, and clinical placements to residents of other states. States that had previously exempted online educational offerings from California have established more stringent requirements for institutions in states that are not part of SARA. UC has already had to withdraw from clinical placements in some states because California is not a SARA member.

[This bill] would ensure that students have greater access to curriculum and ensure that students who need clinical placements have more choices when it comes to their training. This bill puts California's colleges and universities on an equal playing field with other states and would reduce burdensome staff workloads and costs for our campuses.

ARGUMENTS IN OPPOSITION:

The *California Association of Private Postsecondary Schools (CAPPS)* writes in opposition:

We support California's efforts to join an interstate reciprocity agreement and expand online learning opportunities. However, while [this bill] ostensibly aims to facilitate California's participation in an interstate distance education reciprocity agreement such as the State Authorization Reciprocity Agreements (SARA), the bill imposes costly new regulatory burdens on for-profit institutions that are unjustified and inconsistent with the spirit and standards of the National Council for State Authorization Reciprocity Agreements (NC-SARA). Therefore, this legislation in its current form should be rejected.

CAPPS further cites concerns regarding additional regulation of out-of-state for-profit institutions, disparate treatment of for-profit institutions, implications for California-based institutions, and increases costs and administrative burdens for the portal entity as reasons for opposing the bill and concludes, "While we support efforts to protect students and ensure educational quality, we believe [this bill] imposes unnecessary burdens on for-profit institutions and creates fiscal and operational challenges for California's agencies."

The *University of Phoenix, Inc.* writes in opposition:

[This bill] contains provisions that are unworkable, costly, and inconsistent with its primary intent of California potentially joining an interstate reciprocity agreement for the purposes of its institutions to offer distance education nationally in other states. There is a way forward for California to be in SARA, but it must abandon the discriminatory structure and non-uniform entry and operation standards for institutions that are set forth in this bill.

The *California Federation of Teachers*, *Consumer Federation of California*, and the *Institute for College Access & Success* collectively write in opposition, unless the bill is amended:

We have serious concerns about SARA’s current lack of sufficient consumer protections, its coordinating entity’s (NC-SARA) ongoing refusal to build out stronger protections, the broad exemption of critical California laws that currently protect students from fraud and abuse for schools that participate in SARA, and the student populations who would be targeted by aggressively marketed online programs entering California and whether those students will be siphoned away from safer traditional public institutions.

From 2021-2023, twenty-two state Attorneys General have sounded the alarm about SARA’s limitations, especially regarding states’ abilities to enforce their own higher education-specific consumer protection laws. Furthermore, the State of Washington is actively exploring alternatives to SARA that provide stronger safeguards for students via House Bill 1279—clearly signaling that California should not consider SARA a turnkey solution without first ensuring it retains the power to enforce critical protections.

[...]

California students enrolling in online programs offered by out-of-state SARA institutions may not be protected by the state’s robust consumer laws that apply to in-state, brick-and-mortar schools. These institutions are only required to meet SARA’s minimal standards, which fall far short of California’s protections. While a school’s home state may have stronger regulations, it is unclear whether those standards are extended to students in other states. California has long declined to join SARA for these reasons. Joining would hinder the state’s ability to safeguard its students.

POLICY ISSUES:

Enforceability of California’s Higher Education Consumer Protection Laws. In 2021, the Attorneys General of 25 states co-authored a letter to NC-SARA advocating for SARA policy changes to improve student protections, asserting that “NC-SARA’s current policies do not contain sufficient consumer protections to assure that students are well served, undermine states’ ability to protect their residents, and create the race to the bottom that NC-SARA seeks to prevent.” California is the only state that has not joined SARA, due mainly to the fact that California would not be able to enforce student protections specific to the Act. While SARA does not prevent states from enforcing consumer protection, fraud, and unfair business practice laws that apply to all businesses, SARA does limit member states’ ability to enforce state laws or regulations that are specific to higher education. For example, California cannot impose its own higher education laws and regulations on an out-of-state school that enrolls California students, but it can sue the school under California’s general consumer protection laws. Moreover, the home state of an institution is responsible for regulating and overseeing the school’s compliance with SARA policies. Institutions that participate in SARA are approved for participation by their home state, and states that join SARA must accept that approval, regardless of the effectiveness of the home state’s oversight.

Financial Relief for Harmed Students. While the SARA Policy Manual requires member states to have laws, regulations, policies, and/or processes in place to deal with the unanticipated closure of an institution and to make every reasonable effort to assure that students receive the services for which they have paid or reasonable financial compensation for those not received, it is unclear to what extent these requirements are enforced, if at all, or whether adequate resources are available.

Verification of Nonprofit Status by the Attorney General. In response to several for-profit colleges transitioning to nonprofit status, AB 70 (Berman), Chapter 153, Statutes of 2020, sought to prevent covert for-profit colleges from using devious financial maneuvers to claim nonprofit status and evade state oversight by prohibiting the bureau from verifying an exemption for a nonprofit that previously operated as a for-profit institution unless the Attorney General verified the institution's nonprofit status. This bill does not require verification of the nonprofit status of any nonprofit institution operating in California that is part of an interstate reciprocity agreement.

IMPLEMENTATION ISSUES:

Cost and Workload Implications for the Bureau. Under this bill, as of January 1, 2028, out-of-state public and nonprofit institutions that are currently exempt from the requirement to register with the bureau will only continue to be exempt if they are approved to operate in California pursuant to an interstate reciprocity agreement. It would significantly increase the bureau's workload if an additional 599 public and nonprofit institutions were required to register with the bureau. Out-of-state schools registering with the bureau are only required to pay a \$1,500 registration fee (every five years), which covers the bureau's processing of that application, but does not cover enforcement-related expenses. As noted in this committee's analysis of AB 3167 (Chen), which sought to establish a nearly identical registration process for certain nonprofit schools, "Bureau staff report that while it has the ability to deny or place conditions on a registration, the cost of an appeal is so burdensome that the bureau has yet to do so. Moreover, fear of costly litigation that the bureau cannot afford has also placed the bureau in a difficult position to decide between allowing registered institutions to commit minor infractions without consequence and taking more severe measures (e.g., revocation of registration) at the risk of them being overturned through costly litigation."

Effective Date of Exemption Changes. As noted above, under this bill, out-of-state public and nonprofit institutions that are currently exempt from the requirement to register with the bureau will be required to register with the bureau beginning January 1, 2028. After January 1, 2028, those institutions would only be exempt from the registration requirement if approved to operate in California pursuant to an interstate reciprocity agreement. The implementation of the exemptions for public and nonprofit institutions is based on an arbitrary date, but should be contingent upon California entering SARA or another interstate reciprocity agreement.

Purpose of Legislative Hearing. It is unclear what the purpose of the joint hearing is, as there does not appear to be any requirement that the Governor incorporate feedback into the findings or that legislative approval of the findings is necessary before the Governor enters an interstate reciprocity agreement. Similarly, there is currently no requirement that the Governor incorporate public feedback into their findings.

AMENDMENTS:

The author has agreed to amendments that do all of the following:

- 1) For clarity,
 - a) Revise the definition of “commission,” as follows:

“Commission” means the Western Interstate Commission for Higher Education, including the Western State Authorization Reciprocity Agreement steering committee ~~of the commission~~, or another group of states or United States territories organized in an interstate reciprocity agreement.
 - b) Specify that the Governor has until January 1, 2028, to enter into one or more interstate reciprocity agreements and make the exemption from bureau registration for out-of-state public and nonprofit institutions effective upon the state entering an interstate reciprocity agreement, rather than January 1, 2028.
 - c) Add a cross-reference to EDC § 66922(c)(2) to specify that the memorandum of understanding between the bureau and the portal entity is pursuant to EDC § 66922(a)(1).
- 3) Authorize the state to require an out-of-state postsecondary institution to register with the bureau with three months’ notice instead of six.
- 4) Strike the following provision due to a lack of specificity regarding which standards and protections are being referenced:

EDC 66920(a)(5):

~~(5) The commission and national coordinating council are committed to preserving standards and protections that have been promulgated by the federal government and are the basis of the interstate reciprocity agreement, even if those standards or protections are subsequently diminished or withdrawn by federal law or action of the United States Department of Education, and the commission is committed to developing meaningful performance metrics and frameworks for best practices with regard to individual state authorization activities.~~
- 5) In recognition that there are numerous kinds of institutions identified in EDC § 94874 that are exempt from the bureau’s oversight that would not be eligible to participate in SARA, clarify that exempt institutions meet the requirements of EDC § 94801.5(c) (i.e., they are public or accredited nonprofit, as specified, or a non-degree granting program that costs less than \$2,500).
- 6) In recognition that the Governor could enter into an interstate reciprocity agreement that is not W-SARA:
 - a) Strike “by the commission” from the provision allowing the interstate reciprocity agreement to be modified with the approval of the Governor.

The interstate reciprocity agreement may be modified ~~by the commission~~ only with the approval of the Governor.

- b) Clarify that the portal entity shall work cooperatively with other states in the interstate reciprocity agreement and the commission, *or the governing body of an alternative interstate reciprocity agreement*, to enable the success of the interstate reciprocity agreement (emphasis added to distinguish between existing bill language and amended language).
- 7) Specify that the public must have 30 days to provide written comment on the Governor's findings.
- 8) Authorize the bureau to seek additional information and notify an institution regarding whether the institution must suspend enrolling students, and whether other actions are needed to protect California residents, in response to a complaint received by bureau.

REGISTERED SUPPORT:

American Jewish University
Association of Independent California Colleges & Universities
Azusa Pacific University
Biola University
California Association of Christian Colleges and Universities
California Baptist University
California College of the Arts
California Indian Nations College
California State University, Office of the Chancellor
Claremont Lincoln University
Concordia University Irvine
Dominican University of California
EDvance College
Golden Gate University
Jessup University
John Paul the Great Catholic University
Keck Graduate Institute
Life Pacific University
Loma Linda University Health
Los Angeles Pacific University
Loyola Marymount University
Minerva University
National University
Notre Dame De Namur University
Otis College of Art and Design
Palo Alto University
Pepperdine University
Point Loma Nazarene University
Reach University
Saint Mary's College of California

Samuel Merritt University
Santa Clara University
Saybrook University
Southern California University of Health Sciences
Stanford University
The Chicago School
University of Antioch
University of California
University of La Verne
University of Massachusetts Global
University of Redlands
University of San Diego
University of San Francisco
University of Southern California
University of the Pacific
Vanguard University of Southern California
Western University of Health Sciences
Westmont College

REGISTERED OPPOSITION:

California Association of Private Postsecondary Schools
California Federation of Teachers (unless amended)
Consumer Federation of California (unless amended)
The Institute for College Access & Success (unless amended)
University of Phoenix, INC.

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