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School oversight measure advances

With watchdog agency for for-profit colleges gone, legislators argue about path to reform.

By Judy Lin - Bee Capitol Bureau

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Democrats in an Assembly committee advanced a bill Thursday that would revive oversight of California's career-oriented schools despite the Schwarzenegger administration's continued criticism that it's too heavy-handed.

The Assembly Higher Education Committee approved Senate Bill 823 by Senate President Pro Tem Don Perata on a partisan vote of 5-2. Assemblyman Anthony Portantino, who chairs the committee, stressed the urgent need to restore oversight after a state law requiring review of 1,500 for-profit postsecondary and vocational schools expired Saturday.

"If we don't let this bill out, we're in an even more precarious situation," said the Democrat from La Cañada Flintridge.

Gov. Arnold Schwarzenegger and lawmakers have been unable to agree on how best to reform the California Bureau for Private Postsecondary and Vocational Education. The bureau had been criticized for being ineffective at protecting students from so-called diploma mills and for being choked with red tape that made it difficult for schools to comply with state regulations.

State leaders had tried to push through a stopgap measure to prevent the bureau from being dismantled, but that bill didn't make it to the governor's desk in time.

Assembly Bill 1525 by Assemblyman Paul Cook, R-Yucca Valley, was administration-sponsored legislation that would have extended the bureau's life for seven months during work on a permanent overhaul bill. However, AB 1525 has suffered much of the same criticism as Perata's bill and isn't expected to come up for a vote in the Senate until Monday.

"There is an urgency to get AB 1525 down to the governor's office, so he can sign it as quickly as possible while we continue to work diligently with the Legislature on a larger reform measure," said gubernatorial spokeswoman Gena Grebitus.

On Thursday, Perata's SB 823 advanced -- despite being criticized from all sides -- because lawmakers worried that doing nothing would be worse. Currently, there is no state oversight of an industry serving some 400,000 students.

Students owing as much as \$160,000 told lawmakers how they enrolled in schools believing

they could easily get high-paying jobs upon graduation.

Sara Bachman-Williams, 27, and Michelle Freeman, 29, both attended a Career Education Corp. school in Los Angeles.

"When we met the admissions officer, we were told lie after lie about the schools, including two of the most important reasons to attend: job placement and short graduation time," Bachman-Williams said.

After completing her course work in interior design, Bachman-Williams said, she was unable to find a job and now owes \$50,000 in loans, one of which carries an 18 percent interest rate.

Freeman, who also studied interior design, said she too was unsuccessful at finding a job and owes \$70,000 in school loans.

"We were all under the impression that we would graduate with businesses fighting for us to work for them," she said. "We would be making so much money that our loans would be paid off. ... We were lied to, and now we are terrified, jobless and in a scary amount of debt."

The state Consumer Affairs Department has issued a reminder to potential students to do their homework before spending thousands of dollars on professional training and education.

Student advocates accused schools of inflating career placement and graduation rates. Some schools, they say, fail to inform students that their course work would not transfer to other institutions.

"We need this bill," said Ed Howard of the Center for Public Interest Law at the University of San Diego. He said no regulation would leave students without any protection.

Representatives of schools countered that Perata's bill was crafted by lawyers who make a career out of suing schools. Robert Johnson, executive director of the California Association of Private Postsecondary Schools, said the 128-page bill is unreadable, full of errors and meant to punish schools.

"We're getting to the end where someone needs to stand up and say this bill needs to read right," Johnson said.

Cook, who also serves on the Assembly Higher Education Committee, suggested breaking up the bill into pieces because it's so cumbersome.

But Portantino said the Legislature is running out of time on the legislative calendar. He said the committee had to let the bill out despite it not being veto-proof.

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Debate Under Duress in California

A California law regulating the state's for-profit education industry became inoperable July 1 and is set to expire January 1, [essentially leaving the state without any regulatory authority over a sector serving 400,000 students](#). Under intense pressure to find a last-minute legislative solution, the California State Assembly [Committee on Higher Education](#) approved a contentious bill Thursday that would replace the former regulatory structure and enforcement mechanism — though not without significant reservations.

In fact, after hours of debate in which virtually no one could offer unqualified support for the bill, the committee members seemingly passed it only because of their desperate timeline.

“This is clearly a work in progress,” Anthony J. Portantino, the Democratic chair of the Assembly higher education committee, said before recommending that the panel approve the bill with 13 amendments. “There are clear challenges to this bill, including the governor's [possible] veto.”

Still, moving forward the bill — which representatives of Gov. Arnold Schwarzenegger's administration spoke out against during Thursday's hearing — ultimately prevailed as the lesser of two evils, at least from the committee's perspective. California, after all, was well known as a relatively unregulated haven for diploma mills back in the 1980s, and few policy makers would want to be seen as responsible for rewriting that particular chapter in state history.

“Certainly,” Portantino said, “if we don't let this bill out [of committee], we're in an even more precarious situation.”

The stage was set for a showdown Thursday when even Michael Miller, a consultant representing the Democratic Senate President Pro Tem and sponsor of the bill, Don Perata, conceded in his opening remarks that, “Essentially, in trying to find a middle ground and reach consensus, this bill is opposed by all. In an issue this contentious, that means we're probably going in about the right direction.”

But, in some ways, the ensuing debate seemed to be going in reverse, or at least whirring in neutral, with little progress forward or back. Many of the underlying arguments espoused by the bill's supporters and opponents Thursday were nothing new: The intransigence of the issue is precisely what got the California Legislature to this desperate position in the first place.

After failing last year to pass either of two bills intended to reform what all sides agree, though for different reasons, was a flawed system, the legislature sent a bill simply extending the much-hated Private Postsecondary and Vocational Education Reform Act of 1989 to Schwarzenegger. He vetoed it in September, writing that “Simply extending the existing governing statute ... does nothing to enhance protections for students, allows problems that have been well documented to continue to exist and merely allows mediocrity for California’s students.”

The governor has been lambasted for vetoing the measure shortsightedly, as critics have pointed out that due to statutory limits on “urgency” legislation, no regulatory agency could be bestowed with the power to enforce any law during the six-month gap between when the law became inoperable Sunday and when it goes off the books January 1 ([a stopgap resolution](#) sponsored by Republican Assemblyman Paul J. Cook that relies on voluntary compliance and aims to provide continuity also has not received legislative approval yet, though Cook said Thursday he is hopeful it will be passed next week).

But now it seems that the governor’s strategy — of effectively holding the legislature’s “feet to the fire” to find a better solution, as Miller described it Thursday — might backfire not only in the short term, but also potentially in the long term if no legislative solution can be found this year.

As the various sides continue their debate, real questions are being asked *right now* about what a lack of regulation will do — and, more importantly, is doing — to the value of certain California degrees. [Oregon’s Office of Degree Authorization, for one, has already communicated](#) that, in absence of state regulation, degrees from unaccredited California institutions awarded after July 1 will be invalid in that state.

“Oregon law (ORS 348.609) requires that to be valid here, an unaccredited degree must be issued by a college that has formal approval to operate and issue degrees in the state where it is located,” Alan L. Contreras, administrator of the Oregon office, wrote in a Monday letter to Governor Schwarzenegger.

“It is our understanding that similar laws regarding unaccredited degrees are in place in nine other states.”

Thursday’s Debate

The reasons for the opposition to [Senate Bill 823](#) are varied. Lawyers advocating for students who have racked up tens of thousands of dollars in debt after allegedly being misled by college representatives about completion and job placement rates generally support the bill, which preserves the extensive consumer protections in the former act.

But even the bill’s supporters take exception to one of the bill’s exceptions: Its exemption of institutions regionally accredited by the Western Association of Schools and Colleges, or WASC, from the state’s private college oversight system, which has historically focused on unaccredited, or nationally (rather than regionally) accredited for-profit colleges. Institutions accredited by WASC likewise enjoyed an exemption from the previous law regulating private education in the state.

“Accreditation is not a proxy for state oversight. It is one of the three prongs of the triad that’s been around for decades overseeing proprietary schools,” Betsy Imholz, of Consumers Union, said, referencing the combination of federal oversight of financial aid funds, state regulation and accreditation. Citing the backlash against accreditation on the federal level, where the U.S. secretary of education is perceived as reining accreditors in rather than letting them loose, Imholz said: “It just seems like an odd moment to be falling back on reliance on accreditation when in fact the federal government,

which set up the whole structure with accreditation as one of the prongs, is itself questioning it.”

While consumer advocates want more institutions included in the bill, others want more excluded. Several witnesses argued that nationally accredited schools should be placed on an equal playing field with those with WASC accreditation.

And, on top of that, private WASC-accredited institutions that wouldn't typically be lumped in with career colleges don't like the bill because they don't feel their current exemption is clearly articulated or continued in the proposal. Among other things, the bill calls for a study to be completed by the end of 2009 assessing the extent “to which accreditation by accrediting bodies provides sufficient assurance that the various goals of this chapter have been met.” The report would then provide recommendations as to whether the existing exemptions (as outlined by the proposed legislation) should be perpetuated.

“We agree that the primary focus [of the former and proposed California law on private education] is on vocational issues,” said Jonathan Brown, who, as president of the Association of Independent California Colleges and Universities, represented such institutions Thursday at Stanford University and the University of Southern California (which also sent a representative of its own to oppose the bill). “But ultimately we cannot be supportive of an effort that fundamentally changes the relationship that the state of California has had with non-profit, WASC-accredited institutions.”

“While we appreciate the efforts to exempt WASC-accredited institutions, we do not feel that the exemption is clear,” added Ralph Wolff, president and executive director of the accrediting agency. “We do not feel that these institutions should be brought under the regulatory provisions.”

The other main point of contention of the day centered on the private right of action, or the ability of individuals to sue institutions, allowed in the proposed bill. It is no coincidence, several for-profit college representatives indicated or implied, that many of those supporting the legislation are lawyers. “The way this law is drafted, it is drafted through the lens of a person who spends their career suing schools,” said Robert W. Johnson, executive director of the California Association of Private Postsecondary Schools, which represents career-focused institutions.

The bill does allow for a private right of action against non-WASC institutions and, for the first time, WASC-accredited junior colleges, if individuals can demonstrate a violation of the law even in absence of harm. However, Miller, the consultant for the bill's sponsor, pointed out that the right is consistent with the right granted under the previous act, and said concerns about frivolous lawsuits are unfounded, given the tenor of cases brought forward in the past. “What I'm finding is the students can't [even] find lawyers to take their cases,” Miller said, arguing that the cases tend to be cumbersome and time-consuming, with relatively small rewards.

“We have worked with all sides, listened to everybody's concerns, and as much as possible tried to work concerns out where we can, but the author [Senator Perata] will not compromise on basic issues where at-risk students are asked to be placed more at risk,” Miller said.

Ultimately, Republican Assemblyman Roger Niello described the main problem in play as being a difference in philosophy, with the proposed bill focusing too much on consumer protections and too little on developing the private higher education industry and expanding the state's economy and workforce.

But while Assemblyman Cook, the Republican author of the stopgap legislation, suggested a need to break down the bill, with its “so many contentious items” into pieces that could be voted upon

separately, the chair ultimately ruled that there was no time for that. Over Cook's and Niello's objections, in a 5 to 2 vote, the higher education committee cleared the bill for consideration by the appropriations committee, just the next step in its uncertain future.

— [Elizabeth Redden](#)

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Failing vocational students

California students will have few protections from bogus schools.

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You may not have noticed, but California's Private Postsecondary and Vocational Education Reform Act has expired. So the bureau that oversees the state's 1,600 private trade schools has shut down, which means that schools no longer need to seek or maintain approval or registration to operate in California. That's dumb.

All the major players agree that the state should have a law protecting the 400,000 students who attend these schools.

In September, Gov. Arnold Schwarzenegger rejected a bill to extend the law, citing a 2005 report, which said the bureau overseeing trade schools had a record of "fundamental problems" that needed fixing.

Schwarzenegger promised to offer a comprehensive reform package and would work with the Legislature to get it passed. That never happened.

Senate Pro Tem Don Perata has a bill but it is poorly drafted and encompasses far more than needed to cover schools that are not part of the public college and university system or are not private independent institutions accredited by the Western Association of Schools and Colleges.

Perata's bill has drawn significant opposition from important groups and failed to pass before the July 1 sunset of the old law. A stopgap bill to bridge the old bureau and a new bureau through Feb. 1, 2008, also hasn't passed.

Schwarzenegger and legislators have had nine months to work out a deal on a reform package to enhance protections for students that will ensure that they get what they pay for when they attend a for-profit trade school. Their failure to do so is inexcusable.

The problems with the expired law were real. California is considered to be a state where it's easy to operate poor quality, unaccredited schools, because the state has had a weak agency structure and limited enforcement.

While politicians haggle, the bureau has closed and California students have few protections from schools offering bogus certificates and degrees. The lapse of the bureau marks a return to the days when California was known for being the nation's worst center for "diploma mills," turning a blind eye to schools that provide neither an education nor a usable credential.

The Assembly Higher Education Committee held a hearing Thursday on the latest bill. Members noted all of the problems with Perata's flawed bill and passed amendments on the fly.

Chairman Anthony Portantino's view is that "so much work has to be done" on the bill to get it into a form that the governor will accept. Yet the committee pushed the bill to the next committee because, as Portantino said, "we need some kind of law" in place to protect students.

This stinks. Schwarzenegger and legislators have done a serious disservice to students. They shouldn't have let the clock run out on the bureau. How long will it take them to do this right? Tell us what you think. Comment on this editorial by going to <http://www.fresnobee.com/opinion>, then click on the editorial.

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