
5B

Action

Legislative Committee

Analyses of Bills

AGENDA INSERT

Executive Summary: Staff will present analyses of educator preparation or licensing bills introduced by Legislators. The analyses will summarize current law, describe the bills' provisions, estimate their costs and recommend amendments if applicable.

Recommended Action: Staff recommendation on agenda insert as needed.

Presenter: Governmental Relations Staff

Strategic Plan Goal: 4

Continue effective and appropriate involvement of the Commission with policymakers on key education issues.

- ♦ Influence legislation regarding the preparation and certification of professional educators

LEGISLATIVE GUIDELINES OF THE CALIFORNIA COMMISSION ON TEACHER CREDENTIALING

Adopted February 3, 1995

1. The Commission supports legislation that proposes to maintain or establish high standards for the preparation of public school teachers and other educators in California and opposes legislation that would lower standards for teachers and other educators.
2. The Commission supports legislation that proposes to maintain or establish high standards of fitness and conduct for public school educators in California and opposes legislation that would lower standards of fitness or conduct for public school educators.
3. The Commission supports legislation that reaffirms that teachers and other educators have appropriate qualifications and experience for their positions, as evidenced by holding appropriate credentials, and opposes legislation that would allow unprepared persons to serve in the public schools.
4. The Commission supports the maintenance of a thoughtful, cohesive approach to the preparation of credential candidates and opposes legislation that would tend to fragment or undermine the cohesiveness of the preparation of credential candidates.
5. The Commission supports legislation that strengthens or reaffirms initiatives and reforms that it previously has adopted and opposes legislation that would undermine initiatives or reforms that it previously has adopted.
6. The Commission supports alternatives to existing credential requirements that maintain high standards for the preparation of educators and opposes alternatives that do not provide sufficient assurances of quality.
7. The Commission opposes legislation that would give it significant additional duties and responsibilities if the legislation does not include an appropriate source of funding to support those additional duties and responsibilities.
8. The Commission supports legislation that affirms its role as an autonomous teacher standards board and opposes legislation that would erode the independence or authority of the Commission.

Possible Bill Positions for Commission Consideration

The Commission may adopt a position on each bill considered for action. The following chart describes the bill positions. The Commission may choose to change a position on a bill at any subsequent meeting.

Sponsor: Legislative concepts are adopted by the Commission and staff is directed to find an author for the bill and to aid the author's staff by providing background information and seeking support for the bill.

Support: The Commission votes to support a bill and directs staff to write letters of support to Legislative Committee members and to testify in support of the bill at Legislative Committee hearings. The Commission's support position will be recorded in the Legislative Committee's bill analysis. If the bill is successful in the Legislature, staff writes letters of support to the Governor.

Support if Amended: The Commission expresses support for the overall concept of a bill, but objects to one or more sections. The Commission votes to direct staff to contact the author with suggested amendments. If the bill is amended to reflect the Commission's recommendations, the Commission's position automatically becomes "Support."

Seek Amendments: The Commission expresses concern over one or more sections of the bill and votes to direct staff to contact the author with suggested amendments. If the bill is amended to reflect the Commission's recommendations, staff will inform the Commission at a subsequent meeting and ask if the Commission would like to adopt a new position.

Watch: The Commission expresses interest in the content of the bill but votes to direct staff to "watch" the bill for future amendments or for further movement through the Legislative process. Early in the Legislative session, the Commission may wish to adopt a "watch" position on bills that are not yet fully formed.

Oppose Unless Amended: The Commission objects strenuously to one or more sections of the bill and votes to direct staff to contact the author with suggested amendments. If the bill is not amended to reflect the Commission's recommendations, the Commission may vote to adopt an "Oppose" position at a subsequent meeting. If the bill is amended to reflect the Commission's recommendations, staff will inform the Commission at a subsequent meeting and ask if the Commission would like to adopt a new position.

Oppose: The Commission expresses opposition to the overall concept of a bill and votes to direct staff to write letters of opposition to Legislative Committee members and to testify in opposition to the bill at Legislative Committee hearings. The Commission's "oppose" position will be recorded in the Legislative Committee bill analysis. If the bill is successful in the Legislature, staff writes letters of opposition to the Governor.

No Position: The Commission may choose to delay taking a position on a bill and may vote to direct staff to bring the bill forward at a subsequent meeting. The Commission may also choose to direct staff not to bring the bill forward for further consideration.

Analyses of Bills

Bill Number:	Assembly Bill 469
Author:	Assemblywoman Shirley Horton
Sponsor:	Author
Subject of Bill:	Credential Issuance/Fingerprinting and Fitness Reviews
Date Introduced:	February 20, 2007
Status in Leg. Process:	Assembly Education Committee
Recommended Position:	Oppose
Date of Analysis:	February 28, 2007
Analysts:	Mary Armstrong and Rod Santiago

Summary of Current Law

Education Code §44225 requires the Commission on Teacher Credentialing (CTC) to award credentials to applicants whose preparation and competence satisfy all CTC's standards for the following types of credentials:

- (1) Basic teaching credentials for teaching in kindergarten, or any of the grades 1 to 12, inclusive, in public schools in this state.
- (2) Credentials for teaching adult education classes and vocational education classes.
- (3) Credentials for teaching specialties, including, but not necessarily limited to, bilingual education, early childhood education, and special education.
- (4) Credentials for school services, for positions including, but not limited to, administrators, school counselors, speech-language therapists, audiologists, school psychologists, library media teachers, supervisors of attendance, and school nurses.

Education Code §44227 allows the CTC to approve any institution of higher education to recommend to the CTC the issuance of credentials to persons who have successfully completed a teacher education program of the institution if the program meets the standards approved by the commission. This section also requires institutions of higher education to electronically submit credential applications to the commission.

Education Code §44332 allows county offices of education to issue temporary certificates for the purpose of authorizing salary payments to certified employees whose credential applications are being processed by CTC and who have demonstrated basic skills proficiency. A county office of education is required to cancel the temporary certificate upon receipt of notification from the CTC that the applicant either does not academically qualify or has a criminal record or other misconduct that could disqualify her/him.

Education Code §44340 requires each applicant for a credential or for the renewal of a credential to submit duplicate personal identification cards (now electronically completed). This section also requires the CTC to establish regulations necessary for the administration of this section.

For situations in which a person is an applicant for employment or is employed on a part-time or substitute basis in a position requiring certification in multiple school districts within a county or within contiguous counties, Education Code §44830.2 allows the districts to designate a single district or a county superintendent to act on behalf of the participating districts for purposes of performing the following functions:

- 1) Sending fingerprints to the Department of Justice (DOJ).
- 2) Receiving reports of convictions of serious and violent felonies.
- 3) Reviewing criminal history records and reports of subsequent arrests from the DOJ.
- 4) Maintaining common lists of persons eligible for employment.

Commission Current Activity

In recent years the Commission has utilized technology to implement procedures that have significantly reduced credential processing time. As of January 1, 2007, 46% of all credential applications are now processed online. This includes submissions from institutions of higher education. Of the remaining 54%, about 40% are substitutes or emergency staffing applications. The remaining applications include applications that require more specialized review to verify experience or required coursework such as career technical education, child development permits and credentials granted to applicants from out of state or out of country. The CTC recently began working with school districts to automate the process for recommending candidates for a professional clear credential following completion of Commission approved induction programs. In addition to reviewing and approving applications for credentials, the CTC's Certification Assignments and Waivers Division (CAW) is responsible for credentialing communications for all credential counselors and analysts in the state along with communications with out of state teachers and prospective teachers. The lines of communication available include responding to questions via phone, email, or letter. In 2006, CAW received over 27,000 emails, over 55,000 phone calls and over 1,200 letters related to credentialing questions. The CTC also provides workshops in the spring and one in the fall where any changes in credentialing law are presented and discussed with credential counselors and analysts throughout the state.

Currently, the CTC's Division of Professional Practices (DPP), working with the statutorily created Committee of Credentials (COC), reviews all initial criminal history information furnished by the DOJ and the Federal Bureau of Investigation (FBI) as a result of the fingerprint information submitted when an application is filed. In addition, DPP receives reports of

subsequent criminal activity by credential holders from the DOJ. The COC also reviews other allegations of credential holder misconduct stemming from victim affidavits as well as reports from education employers and state and federal licensing agencies. These reviews are conducted according to strict statutory guidelines established to afford applicants and credential holders maximum due process while still maintaining the safety of California's public school children.

Over the last five years CTC has processed over 200,000 applications per year for all credential types with the exception of 2004-2005 when the number dipped to over 170,000. In addition, CTC handles approximately 7,000 to 8,000 new educator discipline cases per year.

Analysis of Bill Provisions

AB 469 would devolve the responsibility of the review and approval of credential applications from the CTC to institutions of higher education and county boards of education, as applicable. The bill would require CTC to develop procedures requiring applicants for teaching credentials to initiate all requests for criminal record summary information through the county office of education pursuant to Section 44340.5.

Accredited institutions of higher education would be required to electronically submit credential applications to the CTC and the CTC would be required to issue credentials to these applicants. The bill states that it is the intent of the Legislature that the CTC not duplicate the efforts of the institutions of higher education in reviewing the applications and would require the CTC to adopt regulations to implement this section of the bill.

AB 469 would also require the CTC to issue credentials to applicants who have been issued a temporary certificate by a county office of education and whose credential application has been reviewed by the county board of education equivalent to the review conducted by an institution of higher education pursuant to Section 44227 and determined that the applicant meets all applicable requirements for the issuance of the type of credential for which he or she is applying.

The bill states that it is the intent of the Legislature that the CTC not duplicate the efforts of the county boards of education in reviewing the applications and would require the CTC to adopt regulations to implement this section of the bill.

The bill would also require county offices of education to perform the following school personnel certification functions for all school districts within its jurisdiction:

- (1) Sending fingerprints to the DOJ and the FBI.
- (2) Receiving reports of convictions of serious and violent felonies.
- (3) Reviewing criminal history records and reports of subsequent arrests from the DOJ and the FBI.
- (4) Maintaining common lists of persons eligible for employment.

AB 469 would also require county offices of education, upon receipt of a criminal history record of an applicant, to remove the affected employee from the common list of persons eligible for employment. County offices of education, upon receipt of a criminal history record or report of subsequent arrest of any person on the eligibility list, would be required to notify district

superintendents and make the report available for inspection, on a confidential basis, for a period of 30 days following the receipt of notice, to enable the school district to determine whether the employee meets the criteria for continued employment. The bill would require that the county office of education would be considered the employer for purposes of subdivisions (a), (d) and (g) of Education Code Section 44830.1 pertaining to criminal record summaries and statutory employment prohibitions.

The bill requires county offices of education to establish interagency agreements with the DOJ and FBI for the purpose of submitting and receiving information about credential holders and applicants. County offices of education would be required to ensure and maintain the confidentiality of all information obtained and would be charged with compliance responsibilities for the proper handling of such information as prescribed in the California Code of Regulations and the Penal Code. The bill would authorize the designation of a single county responsible for performing the specified personnel functions for individuals who may be employed by multiple school districts within the county or contiguous counties.

Fiscal Impact

Unknown. It is unclear whether the bill would maintain the application processing fee currently paid to the CTC at its current level or if a reduction or shift would occur because of the shift in the application review and approval from the CTC to the COEs and IHEs. It is also unclear which entities would be responsible for responding to certification questions via phone, email or letter; reviewing and approving appeal and waiver requests; providing training to each COE and IHE related to application review and analysis; providing training when changes occur to credentialing laws; reviewing and approving applications for Certificates of Clearance, Child Development Permits, Provisional Internship Permits and Short Term Staffing Permits; and reviewing and approving credential applications from persons out of state or out of country, private school teachers and non-employed credential applicants. The CAW Division would also continue to be responsible for document data entry, mailing the printed credential document, and digitally scanning of application and document.

The bill also creates a State-mandated local program.

Relevant Commission Legislative Policies

Policy 1: The Commission supports legislation that proposes to maintain or establish high standards for the preparation of public school teachers and other educators in California and opposes legislation that would lower standards for teachers and other educators.

Policy 8: The Commission supports legislation that affirms its role as an autonomous teacher standards board and opposes legislation that would erode the independence or authority of the Commission.

Organizational Positions

None known at this time

Reason for Suggested Position:

Staff recommends an “Oppose” position on AB 469 because the bill:

- Compromises student safeguards afforded in current law
- Deletes current due process procedures for educators
- Provides no clear benefit to students, teachers, local education agencies, or the state in devolving the current fingerprinting process
- Is premature, given the imminent work group recommendations on the Supplemental Report of the 2006 Budget Act: streamlining the credentialing process

Discussion

In April 2006 the Legislative Analyst’s Office (LAO) released a report entitled *Modernizing the Functions of the Commission on Teacher Credentialing*. The LAO report served as the impetus language in the Supplemental Report of the 2006 Budget Act, 2006-07 Fiscal Year, to require the Assembly Education Committee and Senate Education Committee to convene a working group to undertake the study of major teacher credential and accreditation reform. The group was required to develop a report with recommendations by January 2007. The group is completing their work with the report scheduled to be released in Spring 2007. AB 469 mandates specified action ahead of the recommendations of the working group required by the supplemental budget report.

It is not clear what benefit, if any, would be had by decentralizing the existing process. It appears that the bill would allow the CTC to continue to review, approve and issue other documents (emergency permits, waivers, certificates like the CLAD or BCLAD) while shifting responsibility of reviewing and approving applications for other credential types. It seems that this would create unnecessary confusion. It would create a system that lacks oversight, lacks consistency, lacks accountability and provides no recourse for applicants who are denied credentials. Although oversight is in place for Institutions of Higher Education through the Commission’s accreditation process, there is currently no similar oversight in place for County Offices of Education.

In addition to the review of academic and experiential qualifications, current credential applications also require a criminal background and fitness review. Candidates must pass both reviews to qualify for and receive a credential that authorizes them to provide instruction in California public schools. The LAO report noted that the credential review process is burdened by redundancies that result in a labor-intensive and time consuming process and additional costs to candidates. The LAO noted that many candidates are fingerprinted two or three times to obtain their first teaching job (once for student teaching and once prior to employment). Local agencies, the Department of Justice, and Federal Bureau of Investigation charge various services fees to cover the costs of scanning fingerprints and conducting the criminal background check. As part of the LAO’s recommendation to simplify and devolve credential responsibilities, the LAO recommended that the Legislature retain county-level fingerprinting activities but eliminate CTC and district fingerprinting activities.

While the redundancies noted in the LAO report do result in additional costs to candidates, they also provide certain protections to school children. Current law prohibits any individual convicted of a violent or serious felony from working in a California public school. Current law also requires all candidates for school employment and others who may come in contact with students to undergo a background check prior to employment. AB 2102 (Chapter 840, Stats. 1998) added to the credential candidate screening, already done by the Commission for licensing purposes, local employment fingerprint screening for employment purposes that included certificated and classified employees as well as outside employees who work on a school campus. (This bill was part of a package of bills known as the “Michelle Montoya Law” developed in response to the murder of a high school student by a school employee.)

The Commission as a licensing agency has “permissive authority” and thus greater latitude than that granted to employers to investigate all allegations of misconduct. Further, Section 11105 of the Penal Code states: (b) The Attorney General shall furnish state summary criminal history information to any of the following, if needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any other entity, in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply. According to the DOJ, only the Attorney General can furnish criminal history information; there is no statute that allows an agency authorized to receive criminal history to provide this information to a third party. It is unclear if the fingerprinting and receipt of criminal history information rested solely in the county offices of education whether such information would be allowed by law to be shared with the Commission. This would result in a lack of statewide oversight and action in cases where a credential should be subject to discipline. In addition, the Commission investigates non-criminal allegations of misconduct on the part of both applicants and holders which is not addressed by this bill.

Some portions of the bill are consistent with language in last year’s AB 950 (Pavley). AB 950 was a bill that was opposed by the CTC as well as numerous other education stakeholders.

For this reason, staff recommends an **Oppose** position on AB 469.