
5B

Action

Legislative Committee

Analyses of Bills

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

Recommended Action: Staff will recommend a position in each bill analysis submitted for the Commission's consideration.

Presenters: Anne L. Padilla, Consultant, Office of Governmental Relations

Strategic Plan Goal: 2

Support policy development related to educator preparation, conduct and professional growth

- ◆ Inform key legislators and policy makers on issues and ideas relevant to the Commission's scope of action

Bill Analysis

AB 229 (Lara)

(Coauthor: Senator Steinberg)

Commission on Teacher Credentialing: enforcement program monitor

Recommended Position: Seek Amendments

Sponsor: Author

Bill Version: As Amended July 11, 2011^a

Analysis of Bill Provisions

Assembly Bill 229^b would require the State Auditor to appoint an enforcement program monitor to the Commission on Teacher Credentialing (Commission) to monitor and evaluate the Division of Professional Practices (Division). The bill would also require the enforcement program monitor to submit reports, as specified.

AB 229 provides that the State Auditor appoint the enforcement program monitor no later than January 1, 2012 and that the monitoring continue for a period not to exceed two years from the appointment date. The bill specifies that the enforcement program monitor shall make his or her highest priority the reform and overall efficiency of the Division. Enforcement program monitor duties shall include, but not be limited to:

- improving the quality and consistency of reviewing reported educator misconduct by holders and applicants
- reducing misconduct review timeframes and backlogs
- ensuring the establishment and use of comprehensive written procedures for reviewing reported misconduct
- effectively tracking cases, and
- fostering an overall professional workplace environment at the Division and the Commission.

The enforcement program monitor is required to submit an initial report of findings and conclusions to the State Auditor and the Legislature no later than July 1, 2012 and every six months thereafter. A final report is due to the State Auditor, the Legislature and the Joint Legislative Audit Committee by January 1, 2014.

AB 229 is an urgency measure and would take effect upon the Governor's signature.

^a Note: AB 229 did not pertain to the Commission prior to July 1, 2011

^b Legislative bill information can be accessed at: <http://www.leginfo.ca.gov/bilinfo.html>

Commission Activity

On April 7, 2011 the Bureau of State Audits (BSA) issued a report, *Despite Delays in Discipline of Teacher Misconduct, the Division of Professional Practices has not Developed an Adequate Strategy or Implemented Processes That Will Safeguard Against Future Backlogs* (<http://www.ctc.ca.gov/audit/2010-119-BSA-report.pdf>). Although the BSA recognized that previously existing processes had undergone enhancements and had changed significantly before and during the time period of the audit, it made several recommendations to improve the current process and ensure that all cases are completed in a timely manner.

The Commission takes very seriously its responsibility to California's six million school children, their parents and teachers, and is taking immediate steps to address and correct the recent findings of the BSA. In response to the BSA recommendations as well as direction from the Commission, the Division initiated a Teacher Discipline Improvement Initiative (TDII) to streamline workload processing and reporting capabilities, clarify delegation authority and revise personnel policies to address recommendations made in the State Auditor's report.

The TDII evolved to address the Auditor's eleven recommendations around four broad issues:

1. **Legality of the Committee of Credentials (COC) delegating its discretionary authority to staff:** In May, the Commission formally requested an Attorney General's opinion concerning the COC delegation of authority to staff. Once an opinion is received from the Attorney General, we will take the steps necessary to comply with the attorney general's advice and undertake all necessary procedural and statutory changes to increase the number of cases the COC can review each month. (BSA Recommendations 4 and 5)
2. **Individuals for whom the Commission needs subsequent misconduct reports:** The Department of Justice (DOJ) currently provides copies of the "Reports of Arrest and Prosecution" (RAP) for all individuals who currently hold or have ever held a teaching/services credential, a 30 day substitute permit, certificate of clearance or submitted fingerprints to the Commission in preparation for applying for a credential or certificate of clearance. If the Commission receives RAPs for only those individuals who are currently authorized to provide service in the public schools, the division's RAP processing workload would be significantly reduced. (BSA Recommendation 1)
3. **Division of Professional Practices.** The processing of reports of misconduct must be analyzed and clear criteria and procedures must be developed for timely, accurate processing of all reports. The procedures need to be documented and centrally located, staff needs to be trained on the procedures, and an oversight system must be developed to ensure that the procedures are followed. Incoming reports of misconduct must be entered into a database and each report must be monitored as the discipline process is followed with triggers in place to move mandatory actions forward immediately and with attention to tracking cases by type, the person(s) responsible for the case, length of time at each stage of review, reasons for delays and final disposition. The data needs to be complete, accurate and consistently entered into the database. An oversight process needs to be developed to ensure the accuracy of data entered into the database and useful as a management tool. The time elapsed in the processing of misconduct needs to be reduced

including prompt requests for information from law enforcement agencies, courts, schools, and knowledgeable individuals. Once clear division procedures with expected timelines are in place, data must be collected to identify the staffing levels necessary to accommodate the workload. The strategic plan for the division needs to be reviewed and revised to identify the programmatic, organizational, and external challenges that face the division and the COC. While not included in the BSA recommendations, the early pursuit of information related to more serious cases should be examined. The staff at the Commission is working hard to correct problems in aforementioned areas and will continue to report to the JLAC, members of the Legislature, the BSA, and stakeholders on the progress that we are making in all areas. (BSA Recommendations 2, 3, 6, 7, 8, and 9)

4. **Office of Human Resources.** Information about staff and staff concerns must be clearly documented, current, and shared with the appropriate staff at the appropriate intervals. This includes information on 1) hiring and promotions, 2) making sure supervisors and managers are appropriately documenting their hiring processes, and 3) ensuring that staff understands the grievance and EEO complaint processes. (BSA Recommendations 10 and 11)

Agenda Item 1H provides an update on the Commission's progress toward meeting these recommendations, to date.

To keep our stakeholders and the public informed of our progress, the Commission issues frequent "Updates to the Field." All documents and communications related to the audit are housed on a dedicated page on the Commission's website: [TDII—Teacher Discipline Improvement Initiative](#).

On July 13, 2011, Commission Chair, Dr. Ting Sun, Vice Chair, Charles Gahagan and Acting Executive Directors Patty Wohl and Teri Clark presented the Commission's progress to date to the Joint Legislative Audit Committee. At the hearing, State Auditor Elaine Howle stated that the Commission had started to take steps in the right direction. Audit Committee Chair, Ricardo Lara said that while he was pleased with the Commission's 60 day progress report, his legislation (AB 229) was crafted to ensure that the progress continues.

Background

Over the years, the Legislature has created "enforcement monitor" positions at several occupational licensing agencies, including the [California Medical Board](#) and [Contractors State License Board](#). An enforcement program monitor is an external independent auditor charged with conducting an in-depth study of a specific regulatory program, making findings and recommendations and proposing legislative, regulatory or administrative changes to improve the efficiency, effectiveness and quality of the program. Entities such as the [Center for Public Interest Law \(CPIL\)](#) at the University of San Diego have served as program enforcement monitors.

The Department of Consumer Affairs (DCA) has recently initiated an agency wide [Consumer Protection Enforcement Initiative \(CPEI\)](#) to overhaul the enforcement processes at the healing

arts boards under its jurisdiction. DCA believes that this initiative will enable healing arts boards to more efficiently investigate and prosecute consumer complaints against licensees under their regulation through administrative improvements, increased enforcement resources and changes in statute where enforcement authorities have not kept up with legal trends.

Legislation pending in the Assembly Appropriations Committee, Senate Bill 706 (Price)^c, contained a provision that would have required the Secretary of the Business, Transportation and Housing Agency to appoint a Department of Real Estate (DRE) enforcement program monitor to examine and evaluate DRE's disciplinary system and procedures, as specified. This bill was recently amended to delete this provision in favor of an amendment to require that DRE's disciplinary system be reviewed first by the Joint Legislative Audit Committee.

Fiscal Impact

AB 229 requires the Commission to reimburse the State Auditor for all costs associated with the enforcement program monitor. As presently drafted, the bill specifies broad duties of the enforcement program monitor, similar to the DRE's program enforcement monitor provision in the prior version of SB 706 (Price).

The Senate Appropriations Committee analysis of SB 706 estimated that costs associated with the DRE enforcement monitor would be: \$83,000 in 2011-12 (half-year); \$166,000 in 2012-13; and \$166,000 in 2014. Because of the similar language in AB 229 and SB 706 related to an enforcement program monitor, we estimate that the cost to the Commission to implement AB 229 would be approximately the same as the enforcement monitor provisions in SB 706.

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.

Organizational Positions

Support

None noted at this time.

Opposition

None noted at this time.

Reason for Suggested Position

As stated above, at the July 13, 2011 Joint Legislative Audit Committee hearing, State Auditor Elaine Howle remarked that the Commission had started to take steps in the right direction on progress towards implementing the audit recommendations since the April 7, 2011 report was released. Audit Committee Chair, Ricardo Lara, said that while he was pleased with the Commission's 60 day progress report, his legislation (AB 229) was crafted to ensure that the progress continues. As such, staff recommends that the bill be amended to reflect that the

^c Legislative bill information can be accessed at: <http://www.leginfo.ca.gov/bilinfo.html>

purpose of the enforcement program auditor is to provide oversight and further the implementation of the recommendations from the State Auditor's report, 2010-119.

Analyst: Anne L. Padilla

Date of Analysis: July 18, 2011

APPENDIX A

Legislative Guidelines And Possible Bill Positions

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.