SENATE BILL   No. 1146

Introduced by Senator Lara
(Coauthor: Senator Leno)

February 18, 2016

An act to amend Section 66271 of, and to add Sections 66290.1, 66290.2, ~~66292.5,~~ and 66292.8 to, the Education Code, relating to postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

SB 1146, as amended, Lara. Postsecondary education: nondiscrimination.

The Equity in Higher Education Act, among other things, prohibits a person from being subjected to discrimination on the basis of specified attributes, including sex, in any program or activity conducted by a postsecondary educational institution that receives, or benefits from, state financial assistance or enrolls students who receive state student financial aid. Existing federal law, known as Title IX of the Education Amendments of 1972, prohibits a person, on the basis of sex, from being excluded from participation in, being denied the benefits of, or being subject to discrimination under, any education program or activity receiving federal financial assistance. Both the federal and state laws do not apply to an educational institution that is controlled by a religious organization if the application would not be consistent with the religious tenets of that organization. Title IX provides a private right of action

for violation of its provisions by a public postsecondary educational institution.

This bill would limit the religious exemption from the Equity in Higher Education Act to certain educational programs and activities of a postsecondary educational institution that is controlled by a religious organization. The bill would require an institution that claims an exemption from either the Equity in Higher Education Act or Title IX to make specified disclosures to the institution's current and prospective students, faculty members, and employees, and to the Student Aid Commission, concerning the institution's claim for the exemption. The bill would require the commission to collect the information it receives and post and maintain a list on the commission's Internet Web site of all institutions claiming the exemption and their respective bases for claiming the exemption. ~~The bill would specify that an individual who is denied equal rights or opportunities on the basis of gender identity, gender expression, or sexual orientation by a postsecondary educational institution that claims the Title IX exemption may seek appropriate remedies through civil action for violations of the Equity in Higher Education Act.~~ The bill would specify that ~~its provisions shall not be construed to alter how state financial assistance is granted or denied to any postsecondary educational institution or students attending that institution.~~ *an educational institution that is controlled by a religious organization and has participated in the Cal Grant Program continuously since January 1, 2016, shall not lose its Cal Grant Program eligibility for its failure to comply with the Equity in Higher Education Act.* The bill would make the provisions of the Equity in Higher Education Act severable.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 66271 of the Education Code is amended
2 to read:
3 66271. This chapter shall not apply to educational programs
4 or activities offered by an educational institution that is controlled
5 by a religious organization to prepare students to become ministers
6 of the religion, to enter upon some other vocation of the religion,
7 or to teach theological subjects pertaining to the religion, if the

1 application of this chapter would not be consistent with the
2 religious tenets of that organization.
3 SEC. 2. Section 66290.1 is added to the Education Code, to
4 read:
5 66290.1. (a) Each postsecondary educational institution in this
6 state that claims an exemption pursuant to Section 901(a)(3) of
7 the federal Title IX of the Education Amendments of 1972 (20
8 U.S.C. Sec. 1681(a)(3)) or Section 66271 shall disclose to current
9 and prospective students, faculty members, and employees the
10 basis for claiming the exemption.
11 (b) The disclosure required in subdivision (a) shall be made in
12 all of the following ways:
13 (1) The disclosure shall be displayed in a prominent location of
14 the campus or school site. "Prominent location" means that
15 location, or those locations, in the main administrative building or
16 other area where notices regarding the institution's rules,
17 regulations, procedures, and standards of conduct are posted.
18 (2) The disclosure shall be included in written materials sent to
19 prospective students seeking admission to the postsecondary
20 educational institution.
21 (3) The disclosure shall be provided as part of orientation
22 programs conducted for new students at the beginning of each
23 quarter, semester, or summer session, as applicable.
24 (4) The disclosure shall be provided to each faculty member,
25 member of the administrative staff, and member of the support
26 staff at the beginning of the first quarter or semester of each school
27 year. The disclosure shall be provided to each new employee upon
28 his or her hire.
29 (5) The disclosure shall be included in any publication of the
30 institution that sets forth the comprehensive rules, regulations,
31 procedures, and standards of conduct for the institution.
32 SEC. 3. Section 66290.2 is added to the Education Code, to
33 read:
34 66290.2. (a) Each postsecondary educational institution in this
35 state that claims an exemption pursuant to Section 901(a)(3) of
36 the federal Title IX of the Education Amendments of 1972 (20
37 U.S.C. Sec. 1681(a)(3)) or Section 66271 shall submit to the
38 Student Aid Commission copies of all materials submitted to, and
39 received from, a state or federal agency concerning the granting
40 of the exemption.

1   (b) The Student Aid Commission shall collect the information
2 received pursuant to subdivision (a) and post and maintain a list
3 on the commission's Internet Web site of the institutions that have
4 claimed the exemption with their respective bases for claiming the
5 exemption.
6   ~~SEC. 4.~~ ~~Section 66292.5 is added to the Education Code, to~~
7 ~~read:~~
8   ~~66292.5.~~ ~~(a) Any individual who is denied equal rights or~~
9 ~~opportunities on the basis of gender identity, gender expression,~~
10 ~~or sexual orientation by a postsecondary educational institution~~
11 ~~that claims an exemption pursuant to Section 901(a)(3) of the~~
12 ~~federal Title IX of the Education Amendments of 1972 (20 U.S.C.~~
13 ~~Sec. 1681(a)(3)) may seek appropriate remedies both at law and~~
14 ~~in equity through a civil action, including the award of monetary~~
15 ~~damages, for intentional violations of this chapter.~~
16   ~~(b) Nothing in this section shall be construed to impair or impede~~
17 ~~any other rights, causes of action, claims, or defenses available~~
18 ~~under other law. The remedies provided in this section are~~
19 ~~cumulative with any other remedies available under other law.~~
20   ~~SEC. 5.~~
21   *SEC. 4.* Section 66292.8 is added to the Education Code, to
22 read:
23   ~~66292.8.~~ ~~(a) The changes to this chapter made by the act~~
24 ~~adding this section shall not be construed to alter how state~~
25 ~~financial assistance is granted or denied to any postsecondary~~
26 ~~educational institution or students attending that institution.~~
27   *66292.8. (a) An educational institution that is controlled by*
28 *a religious organization and has participated in the Cal Grant*
29 *Program established pursuant to Chapter 1.7 (commencing with*
30 *Section 69430) continuously since January 1, 2016, shall not lose*
31 *its eligibility to participate in the Cal Grant Program as a result*
32 *of its failure to comply with the provisions of this chapter.*
33   (b) The provisions of this chapter are severable. If any provision
34 of this chapter or its application is held invalid, that invalidity shall
35 not affect other provisions or applications that can be given effect
36 without the invalid provision or application.

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