
SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair
2021 - 2022 Regular

Bill No:	SB 566	Hearing Date:	March 10, 2021
Author:	Leyva		
Version:	February 18, 2021		
Urgency:	No	Fiscal:	Yes
Consultant:	Ian Johnson		

Subject: Public postsecondary education: California State University: support staff employees: merit salary adjustments.

SUMMARY

This bill requires each support staff employee of the California State University (CSU) to receive an annual five percent merit salary adjustment upon meeting the standards for satisfactory performance in their position.

BACKGROUND

Existing law establishes the Higher Education Employer-Employee Relations Act (HEERA) to provide a statutory framework to regulate labor relations at the University of California, CSU, and Hastings College of Law, and their employees. The Public Employment Relations Board has the authority to enforce HEERA.

Employees at CSU are explicitly exempt from civil service, and their salary terms are a negotiated item in collective bargaining agreements and subject to approval by the Trustees.

ANALYSIS

This bill:

- 1) Requires the CSU, upon completion of each CSU support staff employees' first year and after completion of each subsequent year, to provide a 5 percent merit salary intermediate step adjustment.
- 2) Specifies that the merit adjustment may only occur when employees meet the standard for satisfactory performance in the position, as determined by the employees' appropriate administrator pursuant to a uniform employee evaluation process.
- 3) Requires that on or after the operative date of this measure, any language that effectuates its provisions shall automatically be incorporated into any pertinent memorandum of understanding or collective bargaining agreement entered into, or renewed, by the CSU.
- 4) Mandates that any costs the CSU incurs to implement this measure shall be paid for by existing CSU resources.

- 5) Makes the provisions of this measure inoperative on July 1, 2032.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “In 1996, following an impasse in contract negotiations, the CSU Board of Trustees took an unprecedented action by unilaterally abolishing employee salary steps that were in place for 50 years. For 25 years, the CSU has now been unwilling to reinstate salary steps. It remains the only state agency that eliminated salary steps for its support staff and is the only state agency that does not provide salary steps for its support staff.

Over the years, CSU employee salaries have not progressed in an equitable manner to their counterparts and attempts to address this inequity have been futile.

The inability by support staff to move through salary ranges has resulted in new hires earning higher salaries than existing employees. On average, new hires earn \$780 per month more than existing employees who work in the same classification. This disparity has created a nearly \$110 million inversion gap between the salaries of newly-hired and long-employed CSU employees.

As CSU staff salaries became marginalized, a 2017 state audit determined that CSU management positions grew at twice the rate of support staff, with annual earnings of half a billion dollars for those management positions. The California State Auditor concluded that the CSU could not justify the growth in management positions or their compensation.

SB 566 will correct the inequities that have existed for CSU support staff for 25 years and ensure that they have the right to earn a wage that is competitive and on par with their counterparts. By restoring 5 percent salary steps, this bill will ensure that 20,000 CSU employees have the same wage opportunities as every other state employee.”

- 2) ***Salary step increases at other state agencies.*** State law charges the California Department of Human Resources (CalHR) with establishing and adjusting salary ranges for each position class in state civil service, with each salary range consisting of minimum and maximum salary limits and intermediate steps within the limits to govern salary adjustments. State law also establishes the merit salary adjustment (MSA), an annual salary increase for employees below the maximum step of their salary range. The MSA is contingent on satisfactory job performance and is effective on the employee’s anniversary date. The amount of each step increase—defined for most represented employees in a Memorandum of Understanding and in CalHR regulations for non-represented employees—is five percent.

While CSU employees are exempt from civil service, they received MSAs consistent with civil service employees until the mid-1990s. The 1986 state budget eliminated CSU’s dedicated funding stream for MSAs and CSU was no longer able to support them out of their general fund by 1996.

- 3) ***CSU collective bargaining history and status.*** In April 1994, during collective bargaining, the CSU Trustees proposed that MSAs be replaced with discretionary performance pay. Labor fought this proposal, but after exhausting the statutory impasse procedures of mediation and fact-finding, the CSU withdrew salary steps on April 1, 1996. The MSA was replaced with the Service Salary Increase (SSI), which was set at 2.5 percent. Unlike MSAs, SSIs are not automatic and are awarded only in years when they are funded.

As part of the bargaining to eliminate MSAs, CSU widened its salary ranges to accommodate compensation flexibility. When the CSU had salary steps in effect, the range spread varied from 15 to 35 percent. Today, those ranges are much more expansive. For example, the salary range for CSU Employees Union (CSUEU) classifications can vary from 32 to 170 percent.

In January 2020, the CSU and CSUEU began bargaining for a successor agreement to the existing contract that was set to expire on June 30, 2020. The parties mutually agreed on May 15, 2020 to a 2-year extension to the existing agreement, with no other changes. The agreement now expires on June 30, 2022, and the parties will resume successor bargaining around January 2022.

According to CSUEU, the 2020 contract negotiations were disrupted by the coronavirus pandemic, and the CSU argued the pandemic removed its obligation to negotiate salary steps. It was under this bargaining climate that CSUEU agreed to extend its existing contract for two years, while continuing to encourage the CSU administration to reconvene salary step negotiations.

- 4) ***Wages are within the mandatory scope of the Higher Education Employer-Employee Relations Act.*** California's Higher Education Employee-Employer Relations Act (HEERA) is the law that governs labor relations between public institutions of higher education and their employees. Under HEERA, terms and conditions of employment, such as wages, hours, and working conditions are considered to be within the mandatory scope of bargaining or scope of representation. Matters that are not within the scope of representation include: "consideration of the merits, necessity, or organization of any service, activity, or program established by statute or regulations adopted by the trustees, except for the terms and conditions of employment of employees who may be affected thereby."

The Public Employer-Employee Relations Board (PERB) is responsible for enforcing HEERA. PERB has issued thousands of decisions regarding what matters are within the scope of HEERA, which generally are those matters that: (1) are reasonably related to wages, hours, or conditions of employment, (2) areas where management and employees are likely to conflict, and (3) areas that would not significantly abridge the employer's freedom to exercise managerial choices.

- 5) ***Audit of California State University (CSU) management growth and compensation.*** In stating the need for this bill, the sponsors cite an April 2017 report by the California State Auditor concerning the growth and compensation of

CSU management personnel. The report finds that stronger oversight is needed for hiring and compensating management personnel and for monitoring campus budgets. The report specifically cites the following:

- a) Staffing levels and compensation for CSU management personnel have increased at a faster rate than for other employee groups. While staffing levels and compensation for CSU employees have grown over a nine-year period, the number and compensation of management personnel significantly outpaced those of other types of employees.
 - b) Campuses do not adequately oversee their budgets, of the six campuses audited none had written policies in place that require periodic comparisons of spending levels to budget limits and only two documented the results for their budget oversight.
 - c) State law exempts CSU from many of the budget oversight mechanisms that apply to other state agencies; CSU does not need authorization to establish new employee positions.
 - d) CSU has recently granted minimal raises to its executives, but board policy does not cap reimbursements of relocation costs. CSU granted nominal raises to its executives who also receive substantial amounts of other compensation, such as car and housing allowances.
- 6) The report also makes the following recommendations:
- a) The Legislature should require the CSU to submit annual information that demonstrates how its activities meet the State's goals for students.
 - b) The Chancellor's Office should take action to:
 - i) Require that its departments and campuses prepare and maintain written justifications for any proposed new management positions.
 - ii) Ensure campus create, implement and adhere to written merit evaluation plans for management personnel.
 - iii) Work with the board to develop, approve, and implement an executive compensation policy that prohibits the use of foundation funds to pay campus presidents and establish caps on the relocation reimbursements it pays to executives as well as require campuses to establish similar caps for nonexecutive staff.
- 7) **CSU response to audit recommendations.** In response to the recommendations made by the California State Auditor, the California State University (CSU) Chancellor's Office adopted two policies relative to management personnel. The adopted policies require:
- a) Written justifications for both the purpose and the specific number of proposed additional management positions. The justification should

include the number of management personnel to be hired for a specific position as well as information about assessments of skills, knowledge and other qualifications outlined in regulations.

- b) The creation and implementation of and adherence to a written merit evaluation plan for management personnel. In addition campuses and the Chancellor's Office must comply with their written merit evaluation plans and grant raises to management personnel based on merit as evidenced by current, documented performance evaluations.
- 8) ***Similar measures have been vetoed by previous Governor and held at the directive of the current Governor.*** In 2018, a substantially similar measure, AB 1231 (Weber, 2018) was vetoed by former Governor Brown, who stated:

"While the bill is laudable in its goals of trying to raise wages and create salary progression for support staff at the CSU, most of whom are within lower paid classifications, collective bargaining should be the tool to effectuate such changes. I do believe, however, that the CSU should undertake a diligent examination of pay disparities and opportunities for upward mobility for its lowest wage workers.

As I stated in a message to the University of California last year, "As the UC prides itself on being an agent of social mobility for students, it might follow that UC could similarly be an agent of social mobility for lower-wage workers at its campuses." I believe that CSU can and should strive to do the same."

In 2019, another substantially similar measure, AB 369 (Weber, 2019) was held on the Senate Floor pending further attempts by CSUEU to negotiate a salary steps agreement per a written directive by Governor Newsom, who stated:

"...I urge the CSU to address a longstanding inequity faced by dedicated and skilled employees who are facing stagnant wages and declining market rate salaries due to a lack of merit steps...it is my expectation that the CSU tackle this issue head on during upcoming collective bargaining negotiations.

"The upcoming negotiations should result in an agreement with our labor partners that erases the inversion gap, provides salary steps, and fairly and justly compensates these staff for their hard work."

- 9) ***Arguments in support.*** Proponents of this bill argue that salary steps are foundational to public service, and can be found at every state agency, as well as the other public higher education systems. For 25 years, the CSU has been unwilling to reinstate salary steps, despite the failure of the existing salary structure and the inability of employees to earn a fair and equitable wage. As employee salaries have become marginalized, a 2017 state audit showed CSU management positions grew at twice the rate of support staff, with a half-billion dollars per year total compensation that far outpaced the salary increases of other employees.

- 9) ***Arguments in opposition.*** The CSU has conceded that salary compression and inversion are real issues, but staff and faculty have addressed these issues differently through collective bargaining. As part of the bargaining process, the CSU has the ability to provide General Salary Increases, Service Salary Increases (designed to address specific pay inequities), and In Range Progression (IRP) (pay increases initiated by either the employee or the CSU).

The IRP process, in particular, has been a tool used by CSU and its employees to address salary inversion. Since 2014-15, nearly 9,500 employees have been approved for over 12,000 IRP requests totaling \$37.5 million annually. Of these, 7,259 were CSUEU employees representing about \$28 million in annual costs.

Further, CSU notes that they use an open range salary structure that allows campuses to compensate employees at competitive market value and account for geographical differences. The CSU ranges are very wide and some positions have a 100 percent or more range, which is different from state civil service. For example, an analyst could increase their salary by 146% under this bill. The minimum salary is \$52,464 per year and they would get 5 percent steps until they reach \$129,504 per year, in addition to any negotiated pay increases. Narrowing the ranges for CSU positions in response to this bill would have to be done through additional collective bargaining.

Lastly, CSU has stated that discussions about salary steps would have begun last year with CSUEU had the coronavirus pandemic not created more pressing issues for CSU and its employees to address.

SUPPORT

California State University Employees Union (co-sponsor)
Service Employees International Union (co-sponsor)
American Federation of State, County and Municipal Employees
California Labor Federation
California Nurses Association
California School Employees Association
California State Council of Service Employees
California Teamsters Public Affairs Council

OPPOSITION

California State University

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