

Item 8

(Action Item)

Consideration of authorization to commence rulemaking process for the California National Guard Education Assistance Award Program

SUMMARY:

This item provides an outline of the proposed steps to complete and the required documents needed for the regulatory process, including an attachment with the relevant change in law.

RECOMMENDATION:

Authorize staff to commence rulemaking process for adoption of amendments to regulations, Sections 30730-30741, Title 5, California Code of Regulations, Division 4, to interpret, implement and make specific Sections 69999.10-69999.24 of the Education Code, implementing the changes to these sections established by Assembly Bill 2722 (Chapter 547, Statutes 2019) to the California National Guard Education Assistance Award Program, including drafting the proposed regulation and accompanying documents, request that the effective date of the regulations be the date of filing, and authorize staff to take the necessary steps to complete the regulatory process.

BACKGROUND:

The California National Guard Education Assistance Award Program (CNG EAAP) is a state-funded, competitive incentive program jointly administered by the California Student Aid Commission (CSAC) and the California Military Department. The CNG EAAP provides funding for active members of the California Army or Air National Guard, the California State Guard (formerly the State Military Reserve), or the California Naval Militia who seek a certificate, degree, or diploma that he or she does not hold at the time of application.

Assembly Bill 2722 (Medina, Chapter 547, Statutes of 2018) was signed by the Governor and chaptered into law on September 19, 2018. Assembly Bill 2722 makes the following modifications to the CNG EAAP, which will apply to new or renewal applicants first accepted to the program during or after the 2020-2021 academic year:

- Revises the name of the CNG EAAP, to the “California Military Department GI Bill Assistance Award Program”;
- Deletes a two-year prior service requirement for participants;
- Adds a post two-year service commitment for participants;
- Limits participants to obtaining one undergraduate, graduate, or doctoral degree;
- Requires participants to complete their studies within ten years, unless extended due to military

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activation or other unexpected circumstances;

- Removes an allowance for books and supplies for graduate school participants;
- Extends the program indefinitely; and
- Deletes a provision to prepare a 2016 report by the Legislative Analyst.

These provisions of Assembly Bill 2722 became effective on January 1, 2019. Staff is proposing to amend the California Code of Regulations to update the revised and renamed program and incorporate the above legislative changes. The proposed regulatory amendments will detail the procedures the Commission and the Military Department will follow to administer this educational funding program for service members and increase program clarity and specificity.

Staff is requesting the authority to commence the formal rulemaking process required to implement regulations under the Administrative Procedure Act. This will include the development of the proposed text, the Initial Statement of Reasons, the STD 399 Fiscal Impact Statement, and the Notice of Proposed Regulatory Action. These forms would then be submitted to the Office of Administrative Law (OAL) for review and publication. These documents would also be published on the Commission's website.

The rulemaking process requires, at a minimum, a 45-day public comment period. The Commission may also elect to hold a public hearing on a proposed rulemaking action. If the Commission does not schedule a public hearing, any interested person can submit a written request for one to be held. The written request for a hearing must be submitted at least 15 days prior to the close of the written public comment period, and the agency must give notice of and hold a public hearing.

After the initial 45-day public comment period, the Commission may decide to change its initial proposal either in response to public comments received or on its own initiative. If changes to the initial regulations are made, the Commission would have to decide whether the changes necessitate an additional public comment period. Depending on whether the change is nonsubstantial or substantial, an additional comment period of either 15-days or 45-days may be required.

The Commission must summarize and respond on the record to timely comments that are directed at the proposal or at the procedures followed by the agency during this process. With each comment, the agency must either (1) explain how it has amended the proposal to accommodate the comment, or (2) explain the reasons for making no change to the proposal. The summary and response to comments are part of the rulemaking file and are included in the Final Statement of Reasons that is submitted to OAL.

Once the complete rulemaking file is submitted to OAL, OAL has 30 working days to conduct its review. OAL must review the rulemaking record to determine whether it demonstrates that the Commission satisfied the procedural requirements of the APA and complied with the appropriate legal standards. Once OAL has completed its review, and assuming the Commission has met its obligations, OAL files the regulation with the Secretary of State and the regulations become effective.

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RESPONSIBLE PERSON(S):

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ATTACHMENT(S):

Assembly Bill 2722 (Chapter 547, Statutes 2018)