Date of Hearing: August 22, 2022

ASSEMBLY COMMITTEE ON HIGHER EDUCATION
Jose Medina, Chair
SB 410 (Leyva) – As Amended August 15, 2022

SENATE VOTE: Not relevant

SUBJECT: Public postsecondary education: California State University: nonfaculty staff employees: merit salary system.

SUMMARY: Requires the California State University (CSU), utilizing existing CSU resources, to implement a merit nine-step salary system for all CSU nonfaculty staff employees that runs for 15 years, as specified. Specifically, **this bill**:

1) Requires the CSU to implement a merit nine-step salary system for all represented CSU nonfaculty staff employees that runs for 15 years.

2) Requires that the nine-step system, as enumerated in (1) above, will be as follows:

   a) After completion of the first year in a position, and after completion of each subsequent year for a total of five years, each represented CSU nonfaculty staff employee shall receive a merit salary intermediate step adjustment of 5% when the employee meets the standards for satisfactory performance in the position, as determined by the employee's appropriate administrator pursuant to a uniform employee evaluation process;

   b) After completion of year seven, and each subsequent two years, each represented CSU nonfaculty staff employee shall receive a merit salary intermediate step adjustment of 5% when the employee meets the standards for satisfactory performance in the position, as determined by the employee's appropriate administrator pursuant to a uniform employee evaluation process; and,

   c) After completion of year 15, each represented CSU nonfaculty staff employee shall receive a merit salary intermediate step adjustment of 5% when the employee meets the standards for satisfactory performance in the position, as determined by the employee's appropriate administrator pursuant to a uniform employee evaluation process.

3) Requires that under the established nine-merit step salary system, each represented CSU nonfaculty staff employee shall be placed in the step based on their existing years of employment as a represented CSU nonfaculty staff employee.

4) Requires that language that effectuates this measure shall automatically be incorporated into any pertinent memorandum of understanding (MOU) or collective bargaining agreement entered into, or renewed, by the CSU on or after January 1, 2023.

5) Requires that any costs associated with the implementation of this measure shall be incurred by the CSU and shall be paid for using existing resources of the CSU.

6) Finds and declares the following intent of the Legislature:

   a) The CSU is comprised of 23 campuses and the CSU Office of the Chancellor;

   b) The CSU educates more than 480,000 students each year;

   c) CSU faculty and nonfaculty staff employees are key to the success of the CSU and its mission to provide world-class educational opportunities and serve as California's engine of opportunity;

   d) There are nearly 30,000 CSU nonfaculty staff employees across 13 bargaining units;

   e) In 2021, the Legislature passed and the Governor signed Senate Bill 129 (Chapter 69, Statutes of 2021) and Senate Bill 170 (Chapter 240, Statutes of 2021), which appropriated $2 million to the CSU to evaluate the salary structure of nonfaculty staff employees. The comprehensive review would evaluate the existing salary structure, examine issues of salary inversion and compression, and provide recommendations, if applicable, for alternative salary models for CSU nonfaculty staff employees;

   f) The CSU Chancellor, in coordination with the California State University Employees Union (CSUEU), Service Employees International Union (SEIU) Local 2579, and Teamsters Local 2010, selected Mercer Consulting (Mercer) as the independent consultant to assess and complete a review of CSU's wage structure for nonfaculty staff employees;

   g) In April 2022, Mercer completed their research and found all of the following:

      i) Mercer identified significant wage compression, meaning that new hire salaries are often extremely close to salaries of senior nonfaculty staff employees;

      ii) Mercer determined that, on average, CSU nonfaculty staff employees salaries are 12% behind the market average. The market assessment looked at regional public and private employers for similar occupations and higher education institutions in and out of the state; and,

      iii) Mercer found that over 80% of employees and their managers favored a return to a predictable, equitable step system and had a low degree of confidence in the Open Range system;

   h) To address these wage issues, Mercer recommended implementing a nine-step salary system that will help support wage growth and a living wage for CSU nonfaculty staff employees. The proposed system includes five annual steps that an employee progresses through with satisfactory completion of job duties, three additional steps assessed every two years, and a final step after three years; and,

   i) After the release of the salary study by Mercer, CSUEU completed an assessment that found that the merit salary steps would significantly reduce pay equity concerns at the CSU for women and workers of color.

7) Express the following intent of the Legislature:

a) That each represented CSU nonfaculty staff employee reach market median for that campus by year five in the merit nine-step salary system;

b) That the CSU take action to implement the salary step system consistent with the findings of the salary study authorized and completed for represented CSU nonfaculty staff employees that was developed, pursuant to (6)(e) above; and,

c) That the CSU work with the authorized employee representatives of each bargaining unit to implement this measure.

EXISTING LAW:

1) Establishes the CSU, governed by the Board of Trustees, and provides that the Trustees are responsible for the rule of government of their appointees and employees (Education Code Section 89500, et seq.).

2) Provides that officers and employees of the University of California (UC) and CSU are exempt from civil service (California Constitution, Article VII, Section 4(h)).

3) Establishes the Higher Education Employer-Employee Relations Act (HEERA) to provide a statutory framework to regulate labor relations between UC, CSU, and Hastings College of Law and their employees; provides the Public Employment Relations Board (PERB) authority to enforce HEERA (Government Code Section 3560-3599).

FISCAL EFFECT: Unknown

COMMENTS: *Gut and amend*. The former version of this measure sought to address an occupational safety and health issue; however, on August 15, 2022, the aforementioned contents of this measure were stricken entirely.

This measure now seeks to establish a merit salary system for all nonfaculty (sometimes referred to as classified) staff employees of the CSU.

Background. In 1945, the Merit Salary Adjustment (MSA) system was created in statute for state civil service employees. The MSA is a 5% 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.

Until the early 1990s, pay increases at CSU mirrored those provided to state civil service employees, thus CSU employees received MSAs. However, 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 unilaterally withdrew salary steps on April 1, 1996. The MSA was replaced with the Service Salary Increase (SSI), which was set at 2.5%. Unlike MSAs, SSIs are not automatic and are awarded only in years when they are funded.

Numerous collective bargaining attempts to bring back the MSA have not been successful over the span of many years. Additionally, legislative measures in the past few years (as described in the Prior Legislation section of this analysis) to re-create a MSA for CSU's classified staff employees have either been vetoed or failed to complete the Legislative Process. Further, Governor Gavin Newsom, when weighing in on one of the measures that sought to re-create the MSA, urged the CSU to continue to work with the appropriate entities and collectively bargain the MSA.

The prior legislative attempts to establish the MSA for CSU's classified staff employees made it evident that in order to establish a MSA, it would be prudent to understand the existing challenges faced by the CSU and their struggle to recruit, hire, and retain classified staff employees. Moreover, the CSU and other involved stakeholders would need to understand how the wages of existing CSU classified staff employees appeared to be below market rate.

Legislative budget response. Desiring to learn more and collaborate on the critical issue of equitable and competitive pay for CSU classified staff employees, in 2021, the CSU Chancellor's Office, the CSUEU, SEIU, and Teamsters Local 2010, partnered to advocate for funding for a comprehensive classified staff salary study.

The aforementioned entities were successful in their efforts; in 2021, the Legislature passed, and Governor Newsom signed into law, SB 129 (Chapter 69, Statutes of 2021). This Budget Act measure appropriated $2 million for the CSU to evaluate the CSU's existing salary structure, examine issues of salary inversion and compression, and provide recommendations, if applicable, for alternative salary models for CSU's classified staff employees.

The CSU Chancellor's Office, CSUEU, and Teamsters selected Mercer to the conduct the comprehensive research and study. Mercer, an international consulting firm with expertise in employment services, including compensation, began its process to conduct the study in November 2021and in April 2022, released its findings and recommendations.

Purpose of this measure. According to the author, "SB 410 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."

The author contends that, "By implementing the nine-step merit salary system at the CSU, it will significantly improve the wage structure at the CSU and it will also begin to close the gap on wage inequities among nonfaculty staff groups."

Mercer findings. The Mercer study and analysis made, in part, the following findings and recommendations:

1) *Significant wage compression.* This means that new hire salaries are often extremely close to the salaries of senior staff.

2) *Wage stagnation*. Staff salaries are 12% behind the market average. The market assessment looked at regional public and private employers for similar occupations, as well as higher education institutions located within the State and other states.

3) *Lack of job framework*. Job frameworks are outdated and inconsistent. The variety of disciplines makes determining an equitable range of pay difficult. Currently, there is no step structure.

Recommendations:

1) *Step salary structure aligned with the market median*. Implementing a nine-step salary system that will help support wage growth and a living wage for CSU's classified staff employees. The proposed system includes five annual steps that an employee will progress through with satisfactory completion of job duties, three additional steps assessed every two years, and a final step after three years.

2) *Modernized job framework*. Create new job classifications and properly classify or re-classify employees.

3) *Annual salary budget increases*. An additional salary structure increase of at least 1% per year to maintain the market competitiveness of the salary structures.

Mercer indicated that if all of the recommendations were implemented, the CSU would need a total estimated cost of $287 million ongoing funding.

Partnership. Equipped with the Mercer recommendations, the CSU, CSUEU, SEIU, Teamsters and other stakeholder groups submitted the CSU 2022-23 Budget request, *Fair and Competitive Compensation*. The request stated the following:

> "While the CSU was able to mitigate layoffs during the pandemic through prudent fiscal management, most employees have not received compensation increases for the past two years. The CSU's operating budget request includes $223 million ($209 million for salary and $14 million for salary-related benefits) which would cover a 4.5% compensation pool for all employee groups. However, compensation increases are contingent on the state providing adequate funding to support this."
>
> "Given the state's historic financial position, we ask that the Governor and the Legislature provide $287 million in recurring funding to implement the recommendations of the CSU staff salary study."

Committee Staff notes that the Legislature approved the aforementioned request; $287 million ongoing was included in the Legislature's two-way budget agreement. However, the $287 million ongoing was not included in the final agreement with the Governor and the Department of Finance.

This measure, in part, seeks to codify portions of the Mercer recommendations and ensure that merit salary steps are implemented for classified staff employees at the CSU.

Existing MOU with CSU and bargaining units. As a sign of commitment to continue to work together in implementing the Mercer recommendations, in April of 2022, CSU and CSUEU signed an MOU agreeing to the following:

1) Bargaining over any implementation of the Mercer recommendations shall be a separate process from the bargaining over a successor collective bargaining agreement, however, salary increases resulting from the successor bargaining could impact the needs outlined in the Mercer study.

2) Any new, incremental, one-time or recurring funds appropriated in the State of California's Budget Act of 2022 to the CSU for the specific purpose of implementation of the study recommendations shall be used only for the purpose specified in the appropriation.

3) No employees shall suffer a loss of pay or benefits as a result of the implementation of the Salary Study. To ensure the forgoing, the parties shall establish a mutually agreed upon process for correcting individual errors that may occur as a result of the implementation of the study.

It is unclear if this measure will disrupt the terms and intent of the signed MOU.

While the issue of pay parity for classified staff employees of the CSU is of utmost importance, given the signed MOU between CSU and CSUEU, the Committee may wish to determine whether this measure is premature. Will this measure disrupt or take away from an agreement or potential process that may already have begun to address the salary pay steps?

Unintended consequences. As drafted, this measure requires the CSU to implement the provisions contained therein, utilizing existing resources. It is presently unclear what revenue sources the CSU will have to draw down from, but it is likely that funds could be taken from services that support students. Further, it is likely that some faculty and other academic support staff could be terminated. Additionally, to offset the cost pressures directly caused by this measure, it is likely that CSU could increase tuition. Lastly, it is probable that revenue currently used to support CSU's Graduation Initiative 2025 (an initiative that is on track to surpass its goals of increasing overall graduation rates of all its students) would need to be used.

While the Cal State Student Association (CSSA) has not taken a formal position, CSSA submitted a letter of concern to the Committee. According to the CSSA, "Any new policy recommendations, such as the nine step salary system recommended by the Mercer Study, and in this legislation, should identify funding sources that will not cause harm to students."

Additionally, CSSA states, "Raising tuition or cutting essential student support services is an unacceptable way to fund a step salary increase system. As written, this bill cannot guarantee harmful measures, such as stated above, will not be implemented to provide funding. We implore all parties involved, including the state, the CSU, and employee unions to work together to identify a funding stream that will do no harm."

The Committee may wish to examine whether or not it is prudent to pass a measure without a new funding source. Further, the Committee may wish to discuss if it wishes to pass a measure that could have devastating consequences to current and future CSU students.

Committee comments and amendments. As currently drafted, this measure does not appear to completely align with the Mercer recommendations. As noted above, the Mercer recommendations call for a nine-step salary system that includes five annual steps that an employee will progress through with satisfactory completion of job duties, three additional steps assessed every two years, and a final step after three years. The percent of increase over the span of 15 years, changes as the number of years of service increases. However, this measure requires a 5% increase for every step.

The table below shows the comparison of the Mercer recommendation and this measure:

Mercer

	1 year/step				2 year/step			3 year/step	
Years of Service	0	1	2	3	5	7	9	12	15
Step Number	1	2	3	4	5	6	7	8	9
Percent Increase		5%	5%	5%	4%	4%	4%	4%	3.40%

SB 410

	1 year/step						2 year/step				
Years of Service	0	1	2	3	4	5	7	9	11	13	15
Step Number	1	2	3	4	5	6	7	8	9	10	11
Percent Increase		5%	5%	5%	5%	5%	5%	5%	5%	5%	5.00%

With the aforementioned in mind, and for the sake of clarity of the Mercer recommendations and the intent of the author to align the measure to the recommendations, *Committee Staff recommends, and the author has accepted, the following amendments*:

Section 1. (h) To address these wage issues, Mercer recommended implementing a nine-step salary system that will help support wage growth and a living wage for California State University nonfaculty staff employees. ~~*The proposed system includes five annual steps that an employee progresses through with satisfactory completion of job duties, three additional steps assessed every two years, and a final step after three years.*~~

Section 2. 89521. Notwithstanding any other law:

(a) The California State University shall implement a merit nine-step salary system for all represented California State University nonfaculty staff employees that runs for 15 years~~.~~**, consistent with the findings of the study described in subdivision (f).** ~~*The nine-step system shall be as follows:*~~

~~*(1) After completion of the first year in a position, and after completion of each subsequent year for a total of five years, each represented California State University nonfaculty staff employee shall receive a merit salary intermediate step adjustment of 5 percent when the employee meets the standards for satisfactory performance in the position, as determined by the employee's appropriate administrator pursuant to a uniform employee evaluation process.*~~

~~*(2) After completion of year seven, and each subsequent two years, each represented California State University nonfaculty staff employee shall receive a merit salary intermediate step adjustment of 5 percent when the employee meets the standards for satisfactory performance in the position, as determined by the employee's appropriate administrator pursuant to a uniform employee evaluation process.*~~

~~*(3) After completion of year 15, each represented California State University nonfaculty staff employee shall receive a merit salary intermediate step adjustment of 5 percent when the employee meets the standards for satisfactory performance in the position, as determined by the employee's appropriate administrator pursuant to a uniform employee evaluation process.*~~

Additionally, this measure is silent as to how future salary increases or cost-of-living adjustments (COLA) would be treated. It is unclear if this measure could affect collective bargaining on these issues in the future.

Moving forward, the author may wish to work with the CSU, CSUEU, and other stakeholders in order to ensure this measure does not jeopardize the ability for salary increases or COLAs in future years.

Arguments in support. According to the several labor organizations and representatives of CSU's classified staff employees (including but, not limited to, CSUEU, the Teamsters, SEIU, and California Labor Federation), "The CSU has struggled to attract and retain talent, as wages have not kept up with the market rate and employees have faced growth potential challenges in their public service careers." Further, "the CSU is the nation's largest 4-year public university, where nonfacutly staff are essential to helping students and campuses thrive and grow, but stagnating wages have left many of these dedicated employees struggling to make ends meet."

The entities contend that, "The CSU must ensure that employees are paid a competitive, living wage, especially as the CSU continues to grow. The implementation of salary steps for nonfaculty staff at the CSU will begin to correct wage stagnation issues that have persisted and worsened for 25 years."

Arguments in opposition. According to the CSU, while the CSU recognizes that their dedicated faculty and staff are essential to the mission of the CSU, "despite comprehensive, systemwide advocacy efforts in direct partnership with our staff unions, we were unable to secure funding in this year's state budget to implement the Mercer study recommendations."

The CSU contends that, "While we understand the author's and sponsor's intent, SB 410 would create the following problematic issues: 1) Imposes a significant cost mandate to the system without a funding source; 2) Requires the CSU to make cuts that will negatively impact students; 3) Circumvents the collective bargaining process; and, 4) Does not align with the Mercer study recommendations."

Prior legislation. AB 369 (Shirley Weber) of 2019, in part, required the CSU to provide a 5% merit salary intermediate step adjustment to CSU employees, as specified. AB 369 was held on the Senate Floor pending further attempts by CSUEU to negotiate a salary steps agreement per a written directive by Governor Gavin 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."

AB 1231 (Shirley Weber) of 2017-18, was substantially similar to AB 369 (Shirley Weber) as described above. Governor Jerry Brown vetoed AB 1231 with the following veto message:

> "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."

SB 566 (Leyva) of 2021, which was held on the Suspense File in the Senate Committee on Appropriations, was similar in nature AB 369 and AB 1231 as referenced above.

REGISTERED SUPPORT / OPPOSITION:

Support

Academic Professionals of California
American Federation of State, County and Municipal Employees (AFSCME) California
California Faculty Association
California Labor Federation
California State University Employees Union (CSUEU)
California Teamsters Public Affairs Council
SEIU State Council
Statewide University Police Association
Union of American Physicians and Dentists

Opposition

California State University

Analysis Prepared by: Jeanice Warden / HIGHER ED. / (916) 319-3960