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Hastings Law News

SPECIAL EDITION

San Francisco, California

September 18, 1989

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Legislature Passes Student Bill

By John C. Andrews
EXECUTIVE EDITOR

THE CALIFORNIA ASSEMBLY PASSED AB 1276 late Friday evening, during the final hours of this year's legislative session, making it a virtual certainty that a Hastings student will become a member of the College's Board of Directors by next year.

The bill, which creates a student director position on the Hastings Board, will now go to Governor Deukmejian to be signed into law. The Governor has indicated his support for the legislation, and his approval is expected by negotiators for the legislation within the next few weeks.

THE BILL'S PASSAGE MARKS THE END of a long legislative odyssey, beset by an unexpected Constitutional challenge. Extensive negotiations resulted in a bill which enjoys the support of the Governor, the Legislature, the Hastings Board, and student leaders.

Phyllis Bursh, President of the Associated Students of Hastings, and James Ballantine, Editor-in-Chief of the *Law News*, represented the student body in actively lobbying for the legislation.

The *Law News* has editorially supported and actively worked for the passage of the legislation, and has prepared legal research and legislative history in support of the legislation.

SPONSORED BY ASSEMBLYMAN RUSTY AREIAS, D-Los Banos, the bill was passed on the floor of the Senate, by a vote of 22-9 on midday Friday, from which it went to the Assembly for concurrence. The vote in the Assembly was 41-22.

The bill was almost killed in the Senate on Wednesday evening, due to concerns over its constitutionality raised by Senator Nick Petris, D-Oakland. Strenuous efforts by Senator Milton Marks, D-San Francisco, Assembly Speaker Willie Brown, and Robert Scarlett, Brown's legal counsel, revived the bill, and were instrumental in its passage.

Senator Marks, who in 1976 sponsored SB 1786, which would have created a student director position on the Hastings Board, helped pass a last minute amendment Wednesday night to meet any constitutional concern. Senator Marks then

acted as "floor jockey" to ensure the bill's passage Friday afternoon.

CONCERNS RAISED BY SENATOR PETRIS stem from a legislative counsel opinion written, at his request, on August 23. The opinion criticizes as unconstitutional 1980 legislation reflecting the process by which members are appointed to the Hastings Board. In response to this opinion, which has no legal force, Senator Petris has refused to confirm any appointments to the Hastings Board until this issue has been resolved to his satisfaction (see story in the August 31, 1989 *Law News*).

An analysis by the *Law News* of the legislative council opinion indicates that there were several significant legal points not accurately examined in the opinion, and that the 1980 legislation is in fact constitutional and is good policy by providing a means for public accountability by the Board.

When cornered in the capitol on Tuesday by the *Law News*, Senator Petris indicated that while he supports a student director, he would oppose any further legislation until the issue was resolved. Senator Petris's opposition required the amendment Wednesday making the establishment of the student director permissive, rather than mandatory, thus avoiding any constitutional concerns. This amendment came after earlier efforts by the College to include other amendments making appointments to the entire board permissive, similarly avoiding constitutional concerns for the board on a short-term basis.

Parties involved in the legislation, including the College, legislators and student negotiators indicated that the permissive language was a temporary measure, until a solution to the concerns regarding the appointment process for the entire board could be worked-out.

THE HASTINGS BOARD UNANIMOUSLY SUPPORTED the establishment of a student director position at its meeting Friday, September 1. "I am very pleased that the legislation has been passed by the legislature, and I know that the entire Board looks forward to a fruitful relationship with the student director," declared Board Chairman James Mahoney Saturday. Chairman Mahoney also indicated that the Board would amend its bylaws to reflect the addition of the

student director position.

Hastings Dean Tom Read is quoted supporting the bill in a story in *The Recorder* Tuesday. "Our board unanimously endorsed the concept of a student on the board, and so do I," Dean Read stated.

AB 1276 was introduced into the Assembly during the spring by Assemblyman Areias, and deals primarily with fee caps for higher public education in the state. The provisions regarding the student director were added to the bill when it was amended in August. These amendments were later amended to reflect various concerns.

IN ITS FINAL FORM, THE BILL'S PROVISIONS dealing with Hastings amend the statutes governing the Hastings Board to expand the size of the Board by one director position, from 11 to 12, to include a student director appointed by the Governor from a list of 4 students selected by a vote of the student body during its spring elections. The legislation also provides that the Governor may request an additional list of 4 students, which would then be selected by the ASH Council.

The student would serve as a full and voting director for a one-year term beginning June 1 of the year in which he or she is elected. The student director must be a third-year student in good standing enrolled at Hastings, and may not serve as an Executive Officer of ASH during his or her tenure.

The idea and specific statutory language for this legislation was recommended in the February 2, 1989 editorial of the *Law News*. A meeting between Speaker Brown and Editor-in-Chief Ballantine resulted in Brown's backing of the legislation.

PRESIDENT BURSH INDICATED that she was pleased that the student director legislation had passed, noting that the ASH Council had unanimously supported such legislation. "I am very excited that after 13 years of working toward a student director, this goal has finally been reached," she stated. I appreciate the efforts of all of the people who have worked to make the legislation possible, and I look forward to seeing a student sitting at a Board meeting as a member as soon as possible."

Editor-in-Chief James P. Ballantine provided information for the preparation of this article.

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