

HOUSE BILL REPORT

E2SHB 1439

As Passed Legislature

Title: An act relating to regulating the institutions of higher education, including for-profit institutions and private vocational schools, to protect students from unfair business practices.

Brief Description: Regulating the institutions of higher education, including for-profit institutions and private vocational schools, to protect students from unfair business practices.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Pollet, Haler, Tarleton, Fey, Sells, Orwall, Ryu, Stanford and Dolan).

Brief History:

Committee Activity:

Higher Education: 2/1/17, 2/17/17 [DPS];
Appropriations: 2/24/17 [DP2S(w/o sub HE)].

Floor Activity:

Passed House: 3/6/17, 56-42.
Passed House: 2/7/18, 63-35.
Senate Amended.
Passed Senate: 3/1/18, 31-18.
House Concurred.
Passed House: 3/6/18, 50-48.
Passed Legislature.

Brief Summary of Engrossed Second Substitute Bill

- Makes it an unfair practice for such schools to, among other things: (a) provide misleading endorsements; (b) use the US military logo on advertising; and (c) for certain institutions and schools, engage in selling consumer student loan products that financially benefit the institution.
- Creates requirements for degree granting institutions and private vocational schools regarding reporting performance data and disclosing investigations.
- Requires the Department of Licensing and the Student Achievement Council (WSAC) to create and administer tuition recovery trust funds and authorizes the agencies to impose fees on the institutions and schools.
- Requires the creation of a single portal for student complaints and authorizes the WSAC to continue the study on for-profit schools.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

HOUSE COMMITTEE ON HIGHER EDUCATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Hansen, Chair; Pollet, Vice Chair; Orwall, Sells and Tarleton.

Minority Report: Do not pass. Signed by 4 members: Representatives Holy, Ranking Minority Member; Van Werven, Assistant Ranking Minority Member; Haler and Stambaugh.

Staff: Trudes Tango (786-7384).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Higher Education. Signed by 19 members: Representatives Ormsby, Chair; Robinson, Vice Chair; Bergquist, Cody, Fitzgibbon, Haler, Hansen, Hudgins, Jinkins, Kagi, Lytton, Pettigrew, Pollet, Sawyer, Senn, Springer, Stanford, Sullivan and Tharinger.

Minority Report: Do not pass. Signed by 13 members: Representatives Chandler, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Assistant Ranking Minority Member; Buys, Caldier, Condotta, Harris, Nealey, Schmick, Taylor, Vick, Volz and Wilcox.

Minority Report: Without recommendation. Signed by 1 member: Representative Manweller.

Staff: Lily Sobolik (786-7157).

Background:

Regulation of Degree Granting Institutions and Private Vocational Schools.

For-profit post secondary institutions are regulated by federal and state laws. The two agencies in Washington that regulate most for-profit schools are: (1) the Washington Student Achievement Council (WSAC), which regulates degree-granting institutions; and (2) the Workforce Training and Education Coordinating Board (WTB), which regulates private vocational schools. The Department of Licensing (DOL) regulates and licenses other school, such as cosmetologists and barber schools.

Degree-granting institutions, which includes for-profit schools, and private vocational schools must be authorized or licensed by the appropriate regulating agency, meet certain minimum standards regarding academic standards and financial stability, and not engage in unfair or deceptive practices set forth in the statutes. Certain degree-granting institutions, such as the public universities and private institutions that meet specific criteria from the WSAC, are exempt from the regulatory statutes.

The WSAC and the WTB may investigate student complaints and issue civil penalties. A violation of the regulations constitutes an unfair or deceptive practice in violation of the Consumer Protection Act (CPA).

Tuition Recovery Trust Fund Under the Workforce Training and Education Coordinating Board.

The WTB administers a tuition recovery trust fund for the purposes of settling student complaints and claims related to school or program closures. In order for a private vocational school to be licensed, the owner of the school must make cash deposits on behalf of the school into the tuition recovery trust fund. The WTB sets the fee schedule in rule. If the annual tuition recovery trust fund fee is a hardship for the school, the WTB may grant an alternate payment schedule. The amount of liability that can be satisfied by the fund on behalf of each individual school is the amount of unearned prepaid tuition in the possession of the school owner.

Study.

In the 2016 Supplemental Operating Budget, money was appropriated for the WSAC, the WTB, and the Department of Licensing to design and oversee a study that objectively analyzes and makes recommendations about systemic overlaps and gaps in jurisdiction over for-profit degree-granting institutions and private vocational schools. The WSAC contracted with the William D. Ruckelshaus Center (Center) to conduct the study, and the Center issued a report in December 2016.

Summary of Engrossed Second Substitute Bill:

Requirements for Degree Granting Institutions and Private Vocational Schools.

New requirements and prohibitions are established for nonexempt degree granting institutions and private vocational schools ("institutions"). It is a violation for institutions to: (1) provide prospective students with testimonials or information that a reasonable person would find was likely to mislead or deceive regarding such things as postgraduation employment or probable earnings; and (2) use any official United States military logo in advertising or promotional materials. In addition, certain institutions are prohibited from engaging in any practice regarding the sale of consumer student loan products that financially benefit any person with ownership interest in the institution, unless the student has exhausted all federal aid options and has been denied noninstitutional private commercial loan products. This prohibition applies to institutions that have 150 or more students enrolled in the state in any given year or that have been operating in the state for less than two consecutive years.

If an institution is under investigation by an oversight body, such as an accreditation organization, the institution must disclose that to their respective regulatory state agency. In addition, data about completion rates, employment rates, and other data posted by the institution must be consistent with data presented by the WTB or the United States Department of Education.

The WSAC may not delegate its authority to oversee degree granting institutions to any other state, regardless of whether the institution has its home in another state.

Student Complaint Portal.

Within existing resources, the WSAC, WTB, and DOL must collaborate to create a single portal for student complaints. The staff of the portal must refer complaints to the appropriate agency, work as a liaison to assist in resolving complaints, and report to the Legislature annually the number of complaints received.

Tuition Recovery Trust Fund.

No later than January 2019, the DOL and the WSAC must each establish and administer tuition recovery trust funds. The agencies must determine an amount that would be sufficient in the trust fund to provide relief to students in the event of a closure. The agencies must adopt a schedule for collecting fees to reach the amount determined within five years from the effective date of the bill. Money from the tuition recover trust funds may be used for: (1) providing refunds to students affected by closures; (2) securing and administering student records; and (3) any other response the agency determines is necessary to mitigate impacts of a potential or actual closure.

Study.

Subject to the availability of amounts appropriated for this specific purpose, the WSAC must continue administering the study that was authorized in the 2016 Supplemental Operating Budget bill. The study must contain findings and recommendations regarding the creation of an ombuds to serve students of degree-granting institutions and private vocational schools, including a recommendation on which state agency should house an Office of the Ombuds.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony (Higher Education):

(In support) There are some great career and private degree-granting institutions, and because of the actions of a few high-profile bad actors, there is a need for a "Good Housekeeping Seal" of approval. One such actor sold private loans with interests rates as high as 16 percent. It is important to ban the practice of selling loans to students when the school has a self-interest in those loans. The Center's report recommended unified data collection with consistent definitions and metrics. This bill will provide more information to students and provide consumer protection for students who are investing in their education. Students of schools that have been investigated are left not knowing if they will get their degrees. For-profit schools target the most vulnerable students. They look at students through a "for-profit" lens. Students do not know who regulates their school and where to turn to. The bill has the same disclosures for student financial aid as in the transparency bill.

(Opposed) This bill is an attack on private businesses. There are already multiple agencies that oversee these schools. This bill creates another way to report data, but there already exists ways to report data.

(Other) Some clarifying technical corrections are needed. There are some long-standing for-profit schools that have been operating in Washington for more than 15 years and they are exempt from the degree-granting institution statutes. The WSAC looks at the financial status and other factors when authorizing schools. The WSAC receives student complaints and refers them to the AGO when appropriate.

Staff Summary of Public Testimony (Appropriations):

(In support) When a school is a for-profit business, there are going to be some bad actors. Weak regulations offer little protection. Students, who are paying high tuition, deserve consumer protection rights.

(Opposed) None.

Persons Testifying (Higher Education): (In support) Representative Pollet, prime sponsor; Benjamin Rowe, Associated Students of Eastern Washington University; Anna Nepomuceno, University of Washington-Tacoma; and Ariel Speser, Northwest Justice Project.

(Opposed) Dion McNeeley, Northwest Career Colleges Federation.

(Other) Maddy Thompson, Student Achievement Council; and Jim Parker, Workforce Training and Education Coordinating Board.

Persons Testifying (Appropriations): Anna Nepomuceno, Associated Students of the University of Washington Tacoma.

Persons Signed In To Testify But Not Testifying (Higher Education): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.