

HOUSE BILL REPORT

HB 1124

As Reported by House Committee On:
College & Workforce Development

Title: An act relating to regulating degree-granting institutions not exempt under chapter 28B.85 RCW, private vocational schools not exempt under chapter 28C.10 RCW, schools under chapter 18.16 RCW, and other for-profit schools, for the purposes of promoting accountability and providing consumer protection to students and the public.

Brief Description: Regulating degree-granting institutions, private vocational schools, and other for-profit schools.

Sponsors: Representatives Pollet and Frame.

Brief History:

Committee Activity:

College & Workforce Development: 1/16/19, 2/12/19 [DPS].

Brief Summary of Substitute Bill

- Requires the Washington Student Achievement Council (WSAC), the Workforce Training and Education Coordinating Board, and the Department of Licensing (DOL) to adopt rules requiring degree-granting institutions and private vocational schools to meet gainful employment standards.
- Creates an Ombuds Office to provide advocacy and support to students of for-profit degree-granting institutions and private vocational schools and requires the WSAC student loan advocate to act as the Ombuds.
- Extends the timeframe in which the WSAC and the DOL have to reach sufficient fund thresholds in their Tuition Recovery Trust Funds, and allows the funds to be used to reimburse students for damages caused by school violations.

HOUSE COMMITTEE ON COLLEGE & WORKFORCE DEVELOPMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass.
Signed by 10 members: Representatives Hansen, Chair; Entenman, Vice Chair; Leavitt, Vice Chair; Bergquist, Mead, Paul, Pollet, Ramos, Sells and Slatter.

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.

Minority Report: Do not pass. Signed by 5 members: Representatives Van Werven, Ranking Minority Member; Gildon, Assistant Ranking Minority Member; Graham, Assistant Ranking Minority Member; Kraft and Rude.

Staff: Trudes Tango (786-7384).

Background:

Regulation of Private Degree-Granting Institutions and Vocational Schools.

Private degree-granting institutions and vocational schools are regulated by federal and state laws. The two state agencies that regulate most of these 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 cosmetology schools. 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.

All three agencies require the schools they regulate to, among other things: be authorized or licensed; meet certain minimum academic standards; not engage in unfair or deceptive practices; and demonstrate financial stability. The WSAC and the WTB may investigate student complaints and issue civil penalties.

Surety Bonds and Tuition Recovery Trust Funds.

The WTB administers a tuition recovery trust fund (TRTF) for the purposes of settling student complaints and claims related to school or program closures. The WSAC and the DOL require their schools to have surety bonds or other security in lieu of a bond.

Legislation enacted last year (Second Engrossed Substitute House Bill 1439) requires the WSAC and the DOL to establish and administer their own TRTFs, funded by the schools, to provide relief to students in the event of a school closure. The agencies must determine an amount that would be sufficient in the trust fund and collect fees to reach that amount within five years from the enactment of the legislation.

Student Complaint Portal.

The legislation also requires the WSAC, the WTB, and the DOL to collaborate in creating a single portal to receive 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.

Gainful Employment.

Under federal laws, certain schools are eligible to participate in the federal financial aid program (Title IV) only if it can demonstrate that its program prepares the student for "gainful employment in a recognized occupation." In general, gainful employment rules look at the debt-to-earnings ratio of students who have completed the program. The federal Department of Education is rescinding the gainful employment rule, as written, and is engaged in a stakeholder process for new rulemaking.

Summary of Substitute Bill:

Tuition Recovery Trust Fund.

The WSAC and the DOL have seven years, rather than five years, to achieve sufficient amounts in their TRTFs. The WSAC may collect fees beyond the minimum threshold amounts and from newly authorized degree-granting institutions even if the threshold amount has been met. The WSAC may eliminate the surety bond requirement for any degree-granting institution if the threshold amount for the TRTF has been met and the WSAC determines that students of the degree-granting institution would be adequately protected without a surety bond.

The WSAC and the DOL TRTF funds may be used to provide relief to students impacted by program closures, loss of accreditation, or other actions or events for which students may file complaints against schools. Relief for students may include direct damages if appropriate.

The WSAC, the WTB, and the DOL may require a student to reimburse the TRTF if the student received relief through a source other than the TRTF, such as through a loan forgiveness program or a Consumer Protection Act cause of action. A technical correction is made to codify the TRTFs in the appropriate statutes for the State Treasurer.

Gainful Employment.

The WSAC, the WTB, and the DOL must require that programs offered by the institutions and schools prepare students for gainful employment in a recognized occupation.

The regulatory agencies must determine acceptable debt-to-earnings rates, or where necessary, cost-to-earnings rates, for programs and institutions. The WSAC and the DOL must consult with the WTB in establishing methods of calculation and types of student-level data that is needed.

The agencies must require the institutions or schools they regulate to collect student-level data, including the student's Social Security number, if available to the institution or school, birth date, and financial aid awards. Institutions and schools must make that data available to the WTB for analysis and calculation. The Department of Revenue and the Education Data Center must work with the WTB to maximize data collection, and data shared remains privileged, confidential, and exempt from disclosure under the Public Records Act.

By July 1, 2021, and every year thereafter, the institutions and schools must publish the debt-to-earnings or cost-to-earnings rates of its programs on its websites. The WTB must also publish that information on its website.

Noncompliance with the agency's gainful employment requirements is a violation of the law and an institution or school is subject to denial, suspension, or revocation of its authority to operate or participate in the state's financial aid program. The agencies may adopt rules to implement the provisions, including rules for providing probationary or graduated sanctions for violations.

Ombuds Office.

An Ombuds Office is created for purposes of providing advocacy, support, and assistance to students of for-profit and formerly for-profit degree-granting institutions, private vocational schools, and other for-profit schools. The Ombuds Office is housed within the WSAC, and the student loan advocate must act as the Ombuds. The Ombuds must:

- assist students in submitting complaints to the appropriate oversight agency and, when appropriate, be an advocate for students filing complaints;
- provide consultation, information, or other assistance to the regulatory agencies, the Attorney General's Office (AGO) and other agencies;
- coordinate and share information with the AGO regarding Consumer Protection Act violations;
- coordinate with the oversight agencies on administering the complaint portal;
- track the status of complaints and collect data about complaints;
- participate in meetings with students and agencies regarding school closures; and
- develop and maintain resources for students affected by school closures.

Beginning December 1, 2020, the Ombuds must submit a report every six months to the regulatory agencies. The report must contain information such as the number of students who contacted the Ombuds in the prior six months, the number of complaints for which the Ombuds provided assistance and advocacy, and the outcome of the complaints.

The Ombuds is not liable for the good faith performance of the Ombuds' duties.

The WSAC, the WTB, and the DOL must ensure the institutions and schools they regulate provide prominent and clear notice to students about the complaint portal and the Ombuds' office.

Substitute Bill Compared to Original Bill:

The substitute bill made the following changes regarding gainful employment: (1) allows debt-to-earnings factors to be based on earnings from other employment (not just employment in the field for which the student sought training); (2) specifies that the WSAC must rely on notification from the WTB and the DOL regarding a school's compliance with gainful employment reporting; (3) specifies that collecting students' Social Security numbers (SSNs) is required if SSNs are available to the institution or school; (4) clarifies that cost-of-attendance to earnings rates are to be considered when debt-to-earnings rates cannot be established; (5) requires the Department of Revenue and the Education Data Center to work with the WTB to maximize data collection, and provides that data shared remains privileged, confidential, and exempt from disclosure under the Public Records Act; and (6) provides rulemaking authority for the agencies to collect data and provide probationary or graduated sanctions for violations of the gainful employment requirements.

The substitute bill also: (1) requires the WSAC student loan advocate to act as the Ombuds; (2) makes it explicit that the WSAC may collect fees for the fund from newly authorized institutions and beyond the minimum threshold required; (3) adds student reimbursement language to the WTB's TRTF statute; (4) provides that funds in the TRFT may not be transferred or diverted to any other fund; and (5) makes technical changes for language consistency.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 14, 2019.

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

Staff Summary of Public Testimony:

(In support) Reports show that students of for-profit schools are less likely to be employed than students from public institutions of higher education, and that students from for-profit schools have higher debt. Certificates from these programs do not always pay off. Recent practices by some schools make it clear that students of for-profit schools need to have an advocate. The bill compromises on the work group's recommendations regarding how long it should take to reach sufficient amounts in TRTFs. The gainful employment rule is vital because the federal law is no longer enforced. The federal Department of Education is rolling back protections.

(Opposed) None.

(Other) Extending the timeframe for the TRTFs will help smaller schools who are under pressure. The data collection provisions need clarification, and it is unclear whether gainful employment requirements are needed. Gainful employment requirements were not part of the work group recommendations. There are many students in programs who become self employed, and there is no way to track wage data for them. Using data from the Department of Revenue could help with capturing the self-employed folks. There needs to be flexibility in enforcing the gainful employment requirements.

Persons Testifying: (In support) Representative Pollet, prime sponsor.

(Other) Amy Brackenbury, Northwest Career Colleges Federation; and Nova Gattman, Workforce Board.

Persons Signed In To Testify But Not Testifying: None.