

HOUSE BILL REPORT

ESHB 2423

*As Passed House
February 13, 1992*

Title: An act relating to vocational schools.

Brief Description: Changing provisions relating to private vocational schools.

Sponsor(s): By House Committee on Higher Education (originally sponsored by Representatives Jacobsen, May, Ogden, Wood and R. Fisher).

Brief History:

Reported by House Committee on:
Higher Education, January 20, 1992, DPS;
Appropriations, February 4, 1992, DPS(HE-A APP);
Passed House, February 13, 1992, 96-0.

**HOUSE COMMITTEE ON
HIGHER EDUCATION**

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 10 members: Representatives Jacobsen, Chair; Ogden, Vice Chair; Wood, Ranking Minority Member; May, Assistant Ranking Minority Member; Ludwig; Miller; Prince; Sheldon; Spanel; and Van Luven.

Staff: Marilee Scarbrough (786-7196).

**HOUSE COMMITTEE ON
APPROPRIATIONS**

Majority Report: *The substitute bill by Committee on Higher Education be substituted therefor and the substitute bill as amended by Committee on Appropriations do pass.* Signed by 28 members: Representatives Locke, Chair; Inslee, Vice Chair; Spanel, Vice Chair; Silver, Ranking Minority Member; Morton, Assistant Ranking Minority Member; Appelwick; Belcher; Bowman; Braddock; Brekke; Carlson; Dorn; Ferguson; Fuhrman; Hine; Lisk; Mielke; Nealey; Peery; Pruitt; Rust; D. Sommers; H. Sommers; Sprenkle; Valle; Vance; Wang; and Wineberry.

Staff: Sherie Story (786-7142).

Background: In 1986, the Legislature enacted provisions regulating private vocational schools. The act was intended to assist students in evaluating private vocational school programs and obtaining refunds in the event of their withdrawal or school cancellation or closure.

The act provided that all private vocational schools were required to have an approved surety bond or other security on file with the Commission for Vocational Education (CVE). The surety bond requirements were a problem for the private vocational schools financially, and CVE administratively. Surety carriers require strict financial qualifications as a condition of underwriting the bonds and charge high annual premiums. The agency was unable to strictly enforce the law due to the fear that the bond requirements contributed to the financial instability of private vocational schools which were otherwise solvent.

To remedy these problems, in 1987, legislation was implemented authorizing the CVE to establish a tuition recovery fund for the benefit and protection of students of private vocational schools. The act provides funds for settlement of claims. The liability of each private vocational school is determined on an incremental scale based on the average amount of unearned prepaid tuition in possession of the school. The minimum liability of each school is at least \$5,000 and the maximum amount is not to exceed \$200,000.

The tuition recovery fund was initially capitalized at \$200,000 with provisions for the fund to increase to a \$1,000,000 operating balance in five years. The contribution required for each school is on a pro rata basis. The total contribution is due in 10 equal installments over a five year period.

The fund requires a minimum operating balance of \$200,000. Any time the fund balance is below that amount, each school will be assessed a pro rata share of the deficiency.

The agency's cost of administering the fund are paid from license fees collected and deposited in the general fund. The agency is authorized by statute to establish fees at a level necessary to recover the staffing costs incurred in administering the act.

Since creation of the fund several questions have arisen regarding its administration: (1) Should payments from the fund be made directly to lenders? (2) Are licensees entitled to a review whenever enrollment changes or is an annual review mandated by statute? (3) May a new owner assume the payments made by a previous owner? Additionally,

payments from the fund are greater than originally anticipated.

Summary of Bill:

PRIVATE VOCATIONAL SCHOOL ACCOUNT

A private vocational school account is created in the state treasury. All license fees collected by the agency shall be deposited in the private vocational school account. Funds in the account shall be used for staffing costs in administering the act. Disbursements from the account are only allowed after an appropriation.

TUITION RECOVERY FUND

The minimum operating balance in the fund will increase from \$200,000 to \$1 million. The minimum operating balance of the fund shall remain at \$200,000 during the first five years of operation from 1987 to 1992. The increase shall occur during a five year period from 1992 to 1997. By May 1997, the minimum operating balance of \$1 million will be achieved and maintained. Assessment provisions are revised to occur only if the fund goes below \$1 million.

The minimum operating balance will be achieved by licensee payments made in 20 equal installments over a 10 year period. The incremental payments begin the sixth month after the entity makes its initial capitalization deposit.

The agency is given authority to determine whether an incremental payment should be changed. When there is a change in the gross annual tuition income, the agency will adjust the licensee's incremental position and contribution schedule. Such adjustments shall occur annually.

The \$200,000 cap on liability is removed. The maximum amount of liability is reestablished after each claim. The fund's liability begins on the date of the participating entities initial deposit into the fund.

Deposits made into the fund are not transferable. A new owner cannot be credited with funds previously deposited. Students enrolled in a training contract between the school and an agency are not eligible to make a claim.

COMPLAINTS

Complaints may be filed by a person or persons who lose tuition or fees as a result of an unfair business practice. In response to complaints filed, the agency shall first attempt to achieve a negotiated settlement. The agency is

authorized to conduct an informal hearing with affected parties. If the agency finds that the complainant has suffered loss, the agency may order the violator to pay restitution. The compensable items include tuition, course materials, and living expenses incurred during the period of time the student was enrolled. The affected institution may file an appeal within 20 days under the administrative procedures act. If the agency prevails in the appeal, the appellant shall pay the costs of the administrative hearing.

Several technical corrections are also made to the private vocational school act. The first is made in the definition section. The term "successor" is eliminated in the definition of agency. The definition of "Private Vocational School" is clarified. New language is added to clarify that the agency may reduce the schedule of deposits into the tuition recovery fund when the operating balance of the fund exceeds \$5 million. Language describing the purpose of the tuition recovery fund is clarified to state that funds may be used for claims related to school closures and settlement of complaints.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: (Higher Education): The tuition recovery fund cannot go bankrupt but the licensees prefer to extend the payments rather than resort to a special assessment. The private schools support the draft because the fund needs strengthening. The complaint section now specifies that a student may be awarded tuition, books, living costs and lost wages. Schools are concerned with the reimbursement of lost wages. (addressed in substitute bill) The fund is a model for other vocational institutions around the country. Relationship of the schools with the agency has been a good one.

(Appropriations): The Workforce Training and Education Coordinating Board is responsible for administering the Private Vocational School Act and it supports this bill. The bill is a fine-tuning of the 1986 act.

Testimony Against: (Higher Education): None.

(Appropriations): None.

Witnesses: (Higher Education): Charles Johnson, Workforce Training and Education Coordinating Board; Edmond Lee, Deputy Director, Workforce Training and Education Coordinating Board; Gena Wikstrom, Executive Director,

Washington Association of Private Vocational Schools; and
Thomas Hauser, President Private Vocational Schools.

(Appropriations): Charles Johnson, the Workforce Training
and Education Coordinating Board.