

**SENATE BILL REPORT**

**ESHB 2423**

**AS REPORTED BY COMMITTEE ON HIGHER EDUCATION, FEBRUARY 27, 1992**

**Brief Description:** Changing provisions relating to private vocational schools.

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

**HOUSE COMMITTEE ON HIGHER EDUCATION**

**SENATE COMMITTEE ON HIGHER EDUCATION**

**Majority Report:** Do pass as amended.

Signed by Senators Saling, Chairman; Patterson, Vice Chairman; Bauer, Bluechel, Cantu, Jesernig, Stratton, and von Reichbauer.

**Staff:** Scott Huntley (786-7421)

**Hearing Dates:** February 27, 1992

**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 is 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.

#### **SUMMARY:**

##### 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.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** requested February 18, 1992

### **SUMMARY OF PROPOSED SENATE AMENDMENT:**

Incorrect and obsolete references in the RCW to the State Board for Community College Education and the Commission for Vocational Education are corrected. Obsolete nomenclature and grammatical errors in the RCW regarding the community college and vocational education systems are corrected.

### **TESTIMONY FOR:**

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 bill because the fund needs strengthening. The fund is a model for other vocational institutions around the country. The relationship of the schools with the agency has been a good one.

**TESTIMONY AGAINST:** None

**TESTIFIED:** Charles Johnson, Workforce Training and Education  
Coordination Board (pro)