

HOUSE BILL REPORT

HB 1949

As Reported by House Committee On: Higher Education

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: Representatives Pollet, S. Hunt, Gregerson, Ortiz-Self, Moscoso, Ormsby and McBride.

Brief History:

Committee Activity:

Higher Education: 1/26/16, 1/29/16 [DPS].

Brief Summary of Substitute Bill

- Creates the Office of the Ombuds within the Washington Student Achievement Council to serve students of for-profit degree-granting institutions and private vocational schools and to provide mediation.
- Requires a study to examine, among other things, the data collection and reporting practices of for-profit degree-granting institutions and private vocational schools and to provide recommendations on improving oversight of the for-profit school system.
- Creates regulatory provisions for for-profit schools regarding, among other things: (1) financial conflicts of interest; (2) unfair business practices; (3) misleading or deceptive testimony and advertising; and (4) notices to students.

HOUSE COMMITTEE ON HIGHER EDUCATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Hansen, Chair; Pollet, Vice Chair; Zeiger, Ranking Member; Frame, Hargrove, Holy, Sells, Tarleton and Van Werven.

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 1 member: Representative Haler, Assistant Ranking Minority Member.

Staff: Trudes Tango (786-7384).

Background:

For-profit schools 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.

For-profit schools must be authorized or licensed by the appropriate regulatory agency, meet certain minimum standards regarding academic standards and financial stability, and not engage in certain unfair or deceptive practices. The WSAC and the WTB have authority to investigate student complaints and issue civil penalties. A person or entity that willfully violates the rules is subject to a civil penalty of not more than \$100 for each violation. Each day the violation occurs constitutes a separate violation. The statutes governing degree-granting institutions specify that a violation of the regulations constitutes an unfair or deceptive practice in violation of the Consumer Protection Act (CPA). The statutes governing private vocational schools list conduct that constitute unfair or deceptive acts, but do not specify that they are a violation of the CPA. For CPA violations, the Office of the Attorney General may take action.

Summary of Substitute Bill:

Office of the Ombuds.

The Office of the Ombuds (Ombuds) serving students of for-profit degree-granting institutions and private vocational schools is created within the WSAC. The WSAC, in coordination with the WTB, must appoint the Ombuds. The Ombuds must assist past, currently enrolled, and future students on understanding their rights and must offer mediation between students and schools. To ensure independence, the Ombuds must report to the Director of the WSAC, and may not be removed by the Director without the Director first notifying the full WSAC. The Office of the Ombuds must be created no later than September 1, 2017.

Oversight Study.

The WSAC, the WTB, and the Department of Licensing must work together to design and oversee a study, to be administered by the WSAC, that analyzes systemic overlaps and gaps in jurisdiction regarding for-profit degree-granting institutions and private vocational schools. The WSAC may contract with a neutral third-party research organization to conduct the study. The study must be done in two phases: first, an assessment of perspectives and relevant studies; and second, facilitated discussions with the agencies, regulated entities, and stakeholders.

The study must, among other things, examine the data collection and reporting practices of schools compared to the data collection and reporting practices of community and technical colleges and make recommendations on methods of collecting, analyzing, and reporting data, including what measurements to use. The study may include recommendations on improving the Office of the Ombuds. The WSAC must report on the study to the appropriate committees of the Legislature by December 1, 2018.

Prohibited Practices.

The WSAC may deny, revoke, or suspend the authorization of a for-profit degree-granting institution that is found to have engaged in a substantial number of, or in significant, unfair business practices. Conduct that constitutes an unfair business practice includes, among other things: (1) providing prospective students with testimonial or other information that a reasonable person would likely find misleading or deceptive about employment opportunities, career placement rates, probable earnings, the likelihood of obtaining financial aid or low-interest loans, or the ability to repay loans; (2) placing a student in a short-term job not relevant to the student's training in order to meet reporting requirements; and (3) using any official United States military logo in advertising or promotional materials. For purposes of the \$100-per-violation civil penalty for willfully violating the rules, each student is considered a separate violation. It is made explicit that engaging in an unfair business practice constitutes a violation of the CPA.

Financial Interests.

For-profit degree-granting institutions and private vocational schools are prohibited from engaging in any practice regarding student loan products that benefits any person or entity having an ownership interest in the school, or in any practice from which the school benefits financially on the sale of student loan products. This prohibition applies to schools that have at least 150 students or more enrolled in the state in any given year or that have been operating in the state for less than two years.

Notice Requirements.

For-profit degree-granting institutions and private vocational schools must provide notice about a student's rights, including the complaint procedures available to students.

Substitute Bill Compared to Original Bill:

The original bill did not have provisions: (1) creating the Office of the Ombuds; (2) requiring a study; and (3) limiting the student loan financing to schools that have 150 students or more enrolled in the state or that were operating for less than two years. The original bill included provisions regarding: (1) public disclosure of financial information; (2) additional surety bonds; (3) job placement services; (4) agency review and approval of sales or closures; and (5) the application of the "90/10" federal rule.

Appropriation: None.

Fiscal Note: Requested on February 1, 2016.

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) This bill is in response to dire circumstances that have occurred across the nation with the closure of many large private colleges. Thousands of students were defrauded. Many states and the federal government filed actions against these schools. Some of the for-profit schools engaged in marketing practices that focused on people with very little financial literacy. Schools had self-interest in selling loan products to students. When schools closed, students were not notified of their rights. This bill requires consistent reporting from schools so prospective students can compare data with the community and technical colleges. The study should be done by an independent third party. Greater consistency is the goal and that will improve the students' experiences.

(Opposed) The language regarding financing student loans is overly broad and expands into other activities that can include enrolling students.

(Other) There is agreement that better oversight is needed. The components of the bill on student loans and other provisions are still being discussed. Other provisions are supported, such as the Office of the Ombuds and the study to analyze gaps, overlaps, and inconsistencies.

Persons Testifying: (In support) Representative Pollet, prime sponsor; Andrew Brittell; Nova Gattman, Workforce Board; and Randy Spaulding, Washington Student Achievement Council.

(Opposed) Joe Gregorich, Apollo Education Group.

(Other) Amy Brackenbury, Northwest Career Colleges Federation.

Persons Signed In To Testify But Not Testifying: None.