

SENATE BILL REPORT

SHB 1497

AS REPORTED BY COMMITTEE ON HIGHER EDUCATION, MARCH 29, 1993

Brief Description: Adopting the approved foreign degree-granting institution branch campus act.

SPONSORS: House Committee on Higher Education (originally sponsored by Representative Dellwo)

HOUSE COMMITTEE ON HIGHER EDUCATION

HOUSE COMMITTEE ON REVENUE

SENATE COMMITTEE ON HIGHER EDUCATION

Majority Report: Do pass.

Signed by Senators Bauer, Chairman; Drew, Vice Chairman; Jesernig, Prince, Quigley, Sheldon, von Reichbauer, and West.

Staff: Scott Huntley (786-7921)

Hearing Dates: March 23, 1993; March 29, 1993

BACKGROUND:

Degree-Granting Authority Required: By law, with some exceptions, before an institution of higher education may operate in Washington, it must receive authorization from the Higher Education Coordinating Board. In addition, before operating a branch campus in Washington, an institution from another state must receive approval from the board.

The board's powers and duties in regulating degree-granting institutions are described in statute. The board is required to adopt minimum standards that govern the operations of these degree-granting institutions. The areas covered by the board's rules include: degrees-granting authority, educational quality, unfair business practices, financial stability, and other measures necessary to protect the citizens of the state from substandard, fraudulent, or deceptive practices.

Certain institutions are exempt from the board's regulations. These include state colleges and universities, institutions that offer only noncredit bearing workshops or seminars lasting up to three days, and institutions belonging to an accrediting association recognized by the board. Religious institutions are also exempt, but only for those programs devoted exclusively to religious or theological objectives. A branch campus of a college or university located in another state must be separately accredited to enjoy an exemption from the board's regulations.

Mukagawa University owns and operates a branch campus in Spokane. The board has granted the university an exemption from the regulations governing degree-granting institutions. The reason: on the branch campus, the university offers courses exclusively to students from the campus in Japan. And, the board's regulatory authority was granted to protect Washington residents from substandard education and unfair business practices.

Authority to Operate Required for Foreign Corporations: By law, before a foreign corporation can transact business in the state, it must obtain a certificate of authority from the Secretary of State. The law includes a number of exemptions. It also describes the procedures the corporation must follow in order to obtain and maintain the certificate.

Unemployment Compensation and Industrial Insurance: By law, with some exceptions, employees of any company operating in the state are covered by state unemployment compensation laws. One exception: nonresident aliens who are temporarily present in the United States as nonimmigrants under federal laws are exempt when they are complying with purposes specified in the applicable subsections of the federal Immigration and Naturalization Act. In addition, with some exceptions, employees of companies operating in the state are also covered by industrial insurance laws, commonly known as "workers comp."

Business and Occupation Taxes: Institutions accredited by an association recognized by the United States Department of Education, nonprofit and privately endowed institutions, and state colleges and universities do not pay business and occupation taxes on tuition fees. Tuition fees are defined to include laboratory, library, health service, other special fees, and room and board provided exclusively to students or faculty of the institution.

SUMMARY:

Authority to Operate: The Foreign Degree-Granting Institution Approved Branch Campus Act is adopted. A foreign degree-granting college or university that wishes to operate a branch campus in the state must provide the Higher Education Coordinating Board with specified information. The information must prove to the board's satisfaction that the college or university is authorized to operate in its home country. The institution must also indicate to the board that it intends to operate a branch campus in the state. Once this information is accepted by the board, the college or university is approved to operate a branch campus in the state.

An approved branch campus of a foreign degree-granting institution is exempt from the law that requires any degree-granting institution to receive authorization from the Higher Education Coordinating Board to operate. A branch campus of a foreign college or university that has already been exempted from the law may continue to operate. However, within one

year the institution must complete the new approval process in order to have its branch campus attain approved status.

Definitions: A foreign degree-granting institution is defined. It is an institution that is domiciled in another country, and is authorized to operate and to offer academic or professional degrees in its home country. A branch campus is described by the type of sponsoring institution and the type of enrolled student. Students at a branch campus must meet three criteria. They must have already received credit for a course of study completed at the foreign institution in its country of origin. Branch campus students must receive credit from the foreign institution for courses taken in Washington. Finally, branch campus students must return to the country where the foreign institution is located in order to complete or receive their degrees. Definitions for "degree," "approved branch campus" and "board" are also adopted.

Authority to Transact Business: A foreign degree-granting institution that establishes an approved branch campus is not transacting business solely because it meets three conditions. These are: 1) it controls and owns an incorporated branch campus; 2) it pays tuition, room and board, or capital expenses for the branch campus or its students; and 3) it provides personnel who help students but who do not have the authority to transact business for the corporation.

Unemployment Compensation and Industrial Insurance: For the purpose of determining which employees of a foreign degree-granting institution are subject to laws governing unemployment compensation and industrial insurance, a distinction is made. Under some conditions, employees of a foreign degree-granting institution are considered to be "localized" or "principally localized" in the home country of the institution. The conditions: the employees are considered to be nonimmigrant aliens under federal immigration laws, and their income is exempt from taxation under the provisions of treaties adopted between the United States and the country where the foreign degree-granting institution is located. However, the institution may establish that the employees' services are principally located in the institution's home country through other means as well.

Business and Occupation Taxes: For the purposes of determining business and occupation tax exemptions, tuition fees for an approved branch campus of a foreign degree-granting institution will be exempt from business and occupation taxes if the institution or its branch campus is exempt from the payment of income taxes under federal law.

Appropriation: none

Revenue: none

Fiscal Note: available

TESTIMONY FOR:

Mukagawa is a prestigious Japanese women's school that educates students from kindergarten through university level. It bought Fort Wright College campus in Spokane. Mukagawa brings college students from its home campus to Spokane to give them an experience in American culture. On its Spokane campus, classes are offered exclusively to students from its Japanese campus. Passage of this legislation will make it easier to welcome foreign universities and to foster international relationships that benefit local communities as well as the state.

TESTIMONY AGAINST: None

TESTIFIED: Representative Dellwo, original prime sponsor (pro); Steve Lindstrom, Mukagawa Fort Wright Institute (pro); Dr. John Ishi, Board of Directors, Mukagawa Fort Wright Institute (pro)