
HOUSE BILL 2598

State of Washington 56th Legislature 2000 Regular Session

By Representatives Dunn, Kenney, Carlson and Lantz

Read first time 01/17/2000. Referred to Committee on Higher Education.

1 AN ACT Relating to the tuition recovery trust fund; and amending
2 RCW 28C.10.084.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 28C.10.084 and 1999 c 321 s 3 are each amended to read
5 as follows:

6 (1) The agency shall establish, maintain, and administer a tuition
7 recovery trust fund. All funds collected for the tuition recovery
8 trust fund are payable to the state for the benefit and protection of
9 any student or enrollee of a private vocational school licensed under
10 this chapter, or, in the case of a minor, his or her parents or
11 guardian, for purposes including but not limited to the settlement of
12 claims related to school closures under subsection (10) of this section
13 and the settlement of claims under RCW 28C.10.120. The fund shall be
14 liable for settlement of claims and costs of administration but shall
15 not be liable to pay out or recover penalties assessed under RCW
16 28C.10.130 or 28C.10.140. No liability accrues to the state of
17 Washington from claims made against the fund.

18 (2) By June 30, 1998, a minimum operating balance of one million
19 dollars shall be achieved in the fund and maintained thereafter. If

1 disbursements reduce the operating balance below two hundred thousand
2 dollars at any time before June 30, 1998, or below one million dollars
3 thereafter, each participating ((entity)) owner shall be assessed a pro
4 rata share of the deficiency created, based upon the incremental scale
5 created under subsection (6) of this section for each private
6 vocational school. The agency shall adopt schedules of times and
7 amounts for effecting payments of assessment.

8 (3) In order for a private vocational school to be and remain
9 licensed under this chapter each ((entity)) owner shall, in addition to
10 other requirements under this chapter, make cash deposits on behalf of
11 the school into a tuition recovery trust fund as a means to assure
12 payment of claims brought under this chapter.

13 (4) The amount of liability that can be satisfied by this fund on
14 behalf of each ((~~individual entity~~)) private vocational school licensed
15 under this chapter shall be ((~~established by the agency, based on an~~
16 ~~incremental scale that recognizes the average~~)) the amount of unearned
17 prepaid tuition in possession of the ((entity. However, the minimum
18 amount of liability for any entity shall not be less than five thousand
19 dollars. The upper limit of liability is reestablished after any
20 disbursements are made to settle an individual claim or class of
21 claims)) owner.

22 (5) The fund's liability with respect to each participating
23 ((entity)) private vocational school commences on the date of ((its))
24 the owner's initial deposit into the fund and ceases one year from the
25 date ((it)) the school is no longer licensed under this chapter.

26 (6) The agency shall adopt by rule a matrix for calculating the
27 deposits into the fund ((~~required of each entity~~)) on behalf of each
28 vocational school. Proration shall be determined by factoring the
29 ((entity's)) school's share of liability in proportion to the
30 aggregated liability of all participants under the fund by grouping
31 such prorations under the incremental scale created by subsection (4)
32 of this section. Expressed as a percentage of the total liability,
33 that figure determines the amount to be contributed when factored into
34 a fund containing one million dollars. The total amount of its
35 prorated share, minus the amount paid for initial capitalization, shall
36 be payable in up to twenty increments over a ten-year period,
37 commencing with the sixth month after the ((entity)) owner makes its
38 initial capitalization deposit on behalf of the school. Additionally,
39 the agency shall require deposits for initial capitalization, under

1 which the amount each ((entity)) owner deposits is proportionate to
2 ((its)) the school's share of two hundred thousand dollars, employing
3 the matrix developed under this subsection. The amount thus
4 established shall be deposited by each applicant for initial licensing
5 before the issuance of such license.

6 (7) No vested right or interests in deposited funds is created or
7 implied for the depositor, either at any time during the operation of
8 the fund or at any such future time that the fund may be dissolved.
9 All funds deposited are payable to the state for the purposes described
10 under this section. The agency shall maintain the fund, serve
11 appropriate notices to affected ((entities)) owners when scheduled
12 deposits are due, collect deposits, and make disbursements to settle
13 claims against the fund. When the aggregated deposits total five
14 million dollars and the history of disbursements justifies such
15 modifications, the agency may at its own option reduce the schedule of
16 deposits whether as to time, amount, or both and the agency may also
17 entertain proposals from among the licensees with regard to disbursing
18 surplus funds for such purposes as vocational scholarships.

19 (8) Based on annual financial data supplied by the ((entity))
20 owner, the agency shall determine whether the increment assigned to
21 that ((entity)) private vocational school on the incremental scale
22 established under subsection (6) of this section has changed. If an
23 increase or decrease in gross annual tuition income has occurred, a
24 corresponding change in ((its)) the school's incremental position and
25 contribution schedule shall be made before the date of ((its)) the
26 owner's next scheduled deposit into the fund. Such adjustments shall
27 only be calculated and applied annually.

28 (9) ~~((No deposits made into the fund by an entity are~~
29 ~~transferable.))~~ If the majority ownership interest in ((an entity)) a
30 private vocational school is conveyed through sale or other means into
31 different ownership, all contributions made to the date of transfer
32 ~~((accrue to))~~ remain in the fund. The new owner ~~((commences~~
33 ~~contributions under provisions applying to a new applicant, except that~~
34 ~~if ownership of an entity is transferred to an immediate family~~
35 ~~member,))~~ shall continue to make contributions to the fund until the
36 original ten-year cycle is completed. All tuition recovery trust fund
37 contributions shall remain with the ((entity)) private vocational
38 school transferred, and no additional cash deposits may be required
39 beyond the original ten-year contribution cycle.

1 (10) To settle claims adjudicated under RCW 28C.10.120 and claims
2 resulting when a private vocational school ceases to provide
3 educational services, the agency may make disbursements from the fund.
4 Students enrolled under a training contract executed between a school
5 and a public or private agency or business are not eligible to make a
6 claim against the fund. In addition to the processes described for
7 making reimbursements related to claims under RCW 28C.10.120, the
8 following procedures are established to deal with reimbursements
9 related to school closures:

10 (a) The agency shall attempt to notify all potential claimants.
11 The unavailability of records and other circumstances surrounding a
12 school closure may make it impossible or unreasonable for the agency to
13 ascertain the names and whereabouts of each potential claimant but the
14 agency shall make reasonable inquiries to secure that information from
15 all likely sources. The agency shall then proceed to settle the claims
16 on the basis of information in its possession. The agency is not
17 responsible or liable for claims or for handling claims that may
18 subsequently appear or be discovered.

19 (b) Thirty days after identified potential claimants have been
20 notified, if a claimant refuses or neglects to file a claim
21 verification as requested in such notice, the agency shall be relieved
22 of further duty or action on behalf of the claimant under this chapter.

23 (c) After verification and review, the agency may disburse funds
24 from the tuition recovery trust fund to settle or compromise the
25 claims. However, the liability of the fund for claims against the
26 closed ((entity)) school shall not exceed the ~~((maximum amount of~~
27 ~~liability assigned to that entity under subsection (6) of this~~
28 ~~section))~~ amount of unearned prepaid tuition in the possession of the
29 owner.

30 (d) In the instance of claims against a closed school, the agency
31 shall seek to recover such disbursed funds from the assets of the
32 defaulted ((entity)) owner, including but not limited to asserting
33 claims as a creditor in bankruptcy proceedings.

34 (11) When funds are disbursed to settle claims against a ~~((current~~
35 ~~licensee))~~ licensed private vocational school, the agency shall make
36 demand upon the ~~((licensee))~~ owner for recovery. The agency shall
37 adopt schedules of times and amounts for effecting recoveries. An
38 ~~((entity's))~~ owner's failure to perform subjects ~~((its))~~ the school's

1 license to suspension or revocation under RCW 28C.10.050 in addition to
2 any other available remedies.

3 (12) For purposes of this section, "owner" includes, but is not
4 limited to, a person, company, firm, society, association, partnership,
5 corporation, or trust having a controlling ownership interest in a
6 private vocational school.

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