

SENATE BILL REPORT

E2SHB 1439

As Reported by Senate Committee On:
Higher Education, March 28, 2017
Ways & Means, February 26, 2018
Higher Education & Workforce Development, February 20, 2018

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: House Committee on Appropriations (originally sponsored by Representatives Pollet, Haler, Tarleton, Fey, Sells, Orwall, Ryu, Stanford and Dolan).

Brief History: Passed House: 3/06/17, 56-42; 2/07/18, 63-35.

Committee Activity: Higher Education: 3/21/17, 3/28/17 [DPA-WM].

Ways & Means: 4/03/17, 4/04/17; 2/24/18, 2/26/18 [DPA(WM), DNP, w/oRec].

Higher Education & Workforce Development: 2/15/18, 2/20/18 [DPA-WM, DNP, w/oRec].

Brief Summary of Amended Bill

- Authorizes the Washington Student Achievement Council (WSAC) to continue administering the study initiated in 2016 on degree-granting institutions and private vocational schools.
- Prohibits degree-granting institutions and private vocational schools from certain advertising meant to mislead prospective students.
- Prohibits certain degree-granting institutions and private vocational schools from the sale of their own consumer student loan products.
- Authorizes WSAC and the Workforce Training and Education Coordinating Board (Workforce Board), to take action on degree-granting institutions and private vocational schools who violate or are not in compliance with the law.
- Requires the Workforce Board, WSAC, and the Department of Licensing (DOL) to collaborate on the creation of a single portal for student complaints regarding for-profit degree-granting institutions and private vocational schools and report to the Legislature annually.

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.

- Establishes tuition recovery trust funds supported by fees imposed on schools under the regulatory authority of DOL and WSAC.

SENATE COMMITTEE ON HIGHER EDUCATION

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Wilson, Chair; Bailey, Vice Chair; Palumbo, Ranking Minority Member; Frockt.

Staff: Clinton McCarthy (786-7319)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended by Committee on Ways & Means.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair; Billig, Carlyle, Conway, Darneille, Fain, Hasegawa, Hunt, Keiser, Mullet, Palumbo, Pedersen, Ranker and Van De Wege.

Minority Report: Do not pass.

Signed by Senator Schoesler.

Minority Report: That it be referred without recommendation.

Signed by Senators Honeyford, Assistant Ranking Member; Bailey, Becker, Brown, Rivers, Wagoner and Warnick.

Staff: Daniel Masterson (786-7454)

SENATE COMMITTEE ON HIGHER EDUCATION & WORKFORCE DEVELOPMENT

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Ranker, Chair; Palumbo, Vice Chair; Carlyle, Lias, Miloscia and Nelson.

Minority Report: Do not pass.

Signed by Senator Short.

Minority Report: That it be referred without recommendation.

Signed by Senator Hawkins, Ranking Member.

Staff: Kellee Gunn (786-7429)

Background: Career Colleges and Degree-granting Institutions. Degree-granting and non-degree granting institutions, which includes for-profit schools, nonprofit schools, and private vocational schools must be authorized or licensed by the appropriate regulating agency, meet certain minimum standards regarding academic standards and financial stability, and not engage in unfair or deceptive practices set forth in state law. The Workforce Board, WSAC, and DOL have the regulatory authority over these entities.

2016 and 2017 Studies. The 2016 Supplemental Operating Budget directed WSAC, the Workforce Board, and DOL to design and oversee a study that objectively analyzed and made recommendations about systemic overlaps and gaps in jurisdiction over for-profit degree-granting institutions and private vocational schools as a first phase. If deemed appropriate by WSAC, a second phase may consist of facilitated discussion amongst agencies, regulated entities, and stakeholders to reach agreed-upon recommendations. WSAC contracted with the William D. Ruckelshaus Center (Center) to conduct the study, and the Center issued a report in December 2016. In 2017, the Center was again commissioned to convene two work groups to help facilitate interagency communication. The report on the second phase was submitted to WSAC in June of 2017.

Summary of Amended Bill: Study. Subject to an appropriation of up to \$75,000 for this purpose, WSAC must continue the second phase of the study authorized in 2016. As part of the second phase, the study must contain findings and recommendations regarding the creation of an ombuds to serve students of degree-granting institutions and private vocational schools. The study must also contain recommendations on strengthening agencies' abilities to respond to, and protect student consumers from, school closures. Recommendations on agency responses include the use of trust funds and surety bonds for tuition recovery and other related losses. WSAC and the Workforce Board must provide a report on the study by December 31, 2018.

WSAC, Workforce Board, and DOL Authority. WSAC may deny, revoke, or suspend authorization of any degree-granting institution under their authority who violates the law. WSAC may not delegate this authority to any another agency, regardless of whether the institution is in this state. It is a violation for an authorized degree-granting institution to mislead or deceive prospective students or the public on:

- current practices of the school;
- current conditions for employment opportunities;
- post-graduation employment by the industry;
- probable earnings in a certain occupation;
- the likelihood of obtaining financial aid or low-interest loans; and
- the ability of graduates to repay loans.

It is also a violation for an authorized degree-granting institution to use any official military logo in their advertising.

Degree-granting institutions authorized by WSAC must present data that is consistent with available data provided by the Workforce Board's Career Bridge website or the U.S. Department of Education website. Similarly, private vocational schools under the regulatory authority of the Workforce Board must present data consistent with what is posted on the Workforce Board's Career Bridge website or the U.S. Department of Education website. Degree-granting institutions and private vocational schools must disclose immediately to WSAC or the Workforce Board about any investigation being done by an oversight entity.

Degree-granting institutions and private vocational schools with over 150 students, and who have been operating in Washington State for more than two years, are prohibited from selling, or inducing students to obtain, specific consumer loan products to fund their

education that would financially benefit any person or entity that has an ownership interest in the institution or school.

Violations. Violations made by institutions or schools under the authority of WSAC and the Workforce Board are also a violation of the Consumer Protection Act.

Tuition Recovery Trust Fund. Separate tuition recovery trust funds are created for the benefit and protection of any student or enrollee of an authorized/licensed private school or degree-granting institution licensed that voluntarily, or involuntarily, closes. The funds will be supported by fees imposed on schools licensed under the authority of DOL or WSAC.

Complaints. Within existing resources, the Workforce Board, WSAC, and DOL must collaborate on the creation of a single portal for student complaints regarding issues related to consumer protection, disclosures, school or program closures, or other violations committed by institutions regulated by those three agencies. Starting on November 1, 2018, a report is due on the number of complaints and their resolution status annually.

EFFECT OF WAYS & MEANS COMMITTEE AMENDMENT(S):

- Establishes separate tuition recovery trust funds under the DOL and WSAC.

EFFECT OF HIGHER EDUCATION COMMITTEE AMENDMENT(S):

- Requires the Washington Student Achievement Council (WSAC) to include in the second phase of its study of for-profit degree-granting institutions and private vocational schools recommendations on strengthening agencies' ability to respond to school closures, including access to trust funds.
- Mandates that the WSAC may not delegate its authority over compliance in this state.
- Creates a tuition recovery trust fund supported by fees imposed on schools licensed under chapter 18.16 RCW by the Department of Licensing (DOL) and chapter 28B.85 RCW by the WSAC.
- Prohibits the use of military logos in promotional materials by private vocational schools and degree-granting institutions.
- Prohibits certain degree-granting institutions and private vocational schools from the sale of their own consumer student loan products to students.
- Requires disclosure by any school or degree-granting institution under investigation by any oversight entities.
- Requires the Workforce Board, WSAC, and DOL to collaborate on the creation of a single portal for student complaints within existing resources and annually report on the number of complaints.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 14, 2018.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Engrossed Second Substitute House Bill (Higher Education): *Testimony from 2017 Regular Session. The committee recommended a different version of the bill than what was heard.* PRO: It is imperative that we continue with phase two of the Ruckelshaus study. The second phase includes a mediated group discussion on how we can move forward with a better way of regulating for-profit postsecondary education. Students do not have any clue as to who they would go to if they are having an issue with their school. The amounts for student loans is a low amount and cannot be substantiated. Many for-profit four year colleges can have tuition between \$20,000 and \$40,000. This bill will protect prospective students from being deceived by predatory schools.

OTHER: We are frustrated with the duplicative data requirements and unclear regulations. The second phase of the study would be important to assist in streamlining the regulations to remove duplicative efforts. Section two of the bill needs a modification to include Career Bridge and the United States Department of Education.

Persons Testifying (Higher Education): PRO: Representative Gerry Pollet, Prime Sponsor; Anna Nepomuceno, Associated Students University of WA Tacoma; Christina Henry, Henry, DeGraaff & McCormick, PS.

OTHER: Amy Brackenbury, Northwest Career Colleges Federation.

Persons Signed In To Testify But Not Testifying (Higher Education): No one.

Staff Summary of Public Testimony on Bill as Amended by Higher Education (Ways & Means): *Testimony from 2017 Regular Session.* PRO: We need to continue considering the Ruckelshaus dialogue on all the overlapping and potentially redundant jurisdictions. We also need to try to come up with one common sense oversight system for the higher education for-profit sector, instead of having disparate rules. What this bill does is take the first recommendations of the Ruckelshaus, which says there should be an apple-to-apple comparison amongst for-profit institutions when recruiting students, in terms of the metrics for loan indebtedness of the student, what is the likelihood of earnings, and job placement statistics. I am asking your support of this bill. There is a need to make sure colleges that do business in this state release accurate and honest information to students.

OTHER: A technical amendment is needed to make language consistent between sections four and five of the bill.

Persons Testifying (Ways & Means): PRO: Representative Gerry Pollet, Prime Sponsor; Anna Nepomuceno, WA Student Association/UW Tacoma.

OTHER: Amy Brackenbury, Northwest Career Colleges Federation.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.

Staff Summary of Public Testimony on Proposed Striking Amendment (Higher Education & Workforce Development): *The committee recommended a different version of the bill than what was heard.* PRO: This bill has come before the committee before and

passed. This bill is a result of years of work by the Northwest Career College Federation, WSAC, Workforce Board, and Department of Labor and Industries. The budget funded a study done by the Ruckelshaus Center two years ago and this would continue the process. This striking amendment incorporates the suggestions by the Ruckelshaus Center.

The for-profit sector is overseen by three different agencies. Even when two agencies have oversight of the same school, the rules may be different whether they are in a degree-granting program or a workforce-training program. The students do not know where to turn. This striking amendment includes a student portal for complaints. When some of the schools have closed, the Workforce Board has been able to step in, preserve student records, and intervene on behalf of students as consumers. The Student Achievement Council and the other agencies do not have that. The insurance companies are only willing to pay it out for tuition and not for agencies to preserve the student's records.

When a school advertises, it should not be dishonest. The school's statistics should reflect what is on the dashboard verified by the state of Washington and the U.S. Department of Education. A handful of high-profile for-profits have not been verifying their statistics. They have also been convincing their students to take out their own product of a student loan with a 15 percent interest accruing immediately. If the student went to a local community college, the loan would have been much cheaper and interest would not accrue while in school. Please remove Section 7, as it does not have consensus of the Ruckelshaus group.

The Workforce Board licenses private career schools which provide training below the degree level. The Workforce Board shares licensing with WSAC for degree-granting schools and the DOL has jurisdiction over cosmetology schools. The schools train over 30,000 people a year. Students should be protected and our role is to ensure these students are protected. We operate a tuition recovery trust fund which all schools the Workforce Board licenses pay into for ten years. When a school closes mid-term, the fund can repay the student for their investment. Other agencies should have this same protection for students. The Workforce board has been involved in the Ruckelshaus study and is looking forward to working with it in the future. There are some technical issues in the striking amendment.

OTHER: The Northwest Career Colleges Federation advocates for private vocational schools and believes career education is essential to the region's economy and makes positive contributions to the thousands of graduates entering the job market. We are in support of the provisions that would continue the work being done by the Ruckelshaus Center. There are three different regulatory agencies that oversee private vocational schools and this is a great opportunity to find gaps and overlaps in regulations and make recommendations to improve the sector. The original provision of the bill are supported.

Persons Testifying (Higher Education & Workforce Development): PRO: Representative Gerry Pollet, Prime Sponsor; Nova Gattman, Workforce Board.

OTHER: Amy Brackenbury, Northwest Career Colleges Federation.

Persons Signed In To Testify But Not Testifying (Higher Education & Workforce Development): No one.

Staff Summary of Public Testimony on Bill as Amended by Higher Education & Workforce Development (Ways & Means): *The committee recommended a different version of the bill than what was heard.* None.

Persons Testifying (Ways & Means): No one.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.