
SUBSTITUTE SENATE BILL 6371

State of Washington

53rd Legislature

1994 Regular Session

By Senate Committee on Higher Education (originally sponsored by Senators Bauer, Prince, Sheldon, Winsley and Drew)

Read first time 02/03/94.

1 AN ACT Relating to degree-granting authority; amending RCW
2 28B.85.020, 28B.85.040, and 28C.10.040; and adding new sections to
3 chapter 28B.85 RCW.

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

5 **Sec. 1.** RCW 28B.85.020 and 1986 c 136 s 2 are each amended to read
6 as follows:

7 The board:

8 (1) Shall adopt by rule minimum standards for degree-granting
9 institutions concerning granting of degrees, quality of education,
10 unfair business practices, financial stability, and other necessary
11 measures to protect citizens of this state against substandard,
12 fraudulent, or deceptive practices. The board shall adopt the rules in
13 accordance with chapter 34.05 RCW;

14 (2) May investigate any entity the board reasonably believes to be
15 subject to the jurisdiction of this chapter. In connection with the
16 investigation, the board may administer oaths and affirmations, issue
17 subpoenas and compel attendance, take evidence, and require the
18 production of any books, papers, correspondence, memorandums, or other
19 records which the board deems relevant or material to the

1 investigation. The board, including its staff and any other authorized
2 persons, may conduct site inspections and examine records of all
3 institutions subject to this chapter;

4 (3) Shall develop an interagency agreement with the (~~commission~~
5 ~~for vocational education or its successor agency~~) work force training
6 and education coordinating board to regulate degree-granting private
7 vocational schools with respect to degree and nondegree programs.

8 **Sec. 2.** RCW 28B.85.040 and 1986 c 136 s 4 are each amended to read
9 as follows:

10 (1) An institution or person shall not advertise, offer, sell, or
11 award a degree or any other type of educational credential unless the
12 student has enrolled in and successfully completed a prescribed program
13 of study, as outlined in the institution's publications. This
14 prohibition shall not apply to honorary credentials clearly designated
15 as such on the front side of the diploma or certificate and awarded by
16 institutions offering other educational credentials in compliance with
17 state law.

18 (2) Except as provided in subsection (1) of this section, this
19 chapter shall not apply to:

20 (a) Any public college, university, (~~or other entity~~) community
21 college, technical college, or institute operating as part of the
22 public higher educational system of this state.

23 (b) Institutions that have been accredited by an accrediting
24 association recognized by the agency for the purposes of this chapter,
25 provided that an institution, branch, extension, or facility operating
26 within the state of Washington which is affiliated with an institution
27 operating in another state must be a separately accredited member
28 institution of any such accrediting association to qualify for this
29 exemption.

30 (c) Institutions of a religious character, but only as to those
31 education programs devoted exclusively to religious or theological
32 objectives if the programs are represented in an accurate manner in
33 institutional catalogs and other official publications.

34 (d) Institutions not otherwise exempt which offer only workshops or
35 seminars lasting no longer than three calendar days and for which
36 academic credit is not awarded.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 28B.85 RCW
2 to read as follows:

3 The board shall deposit all moneys received under section 4 of this
4 act into a separate account in the tuition recovery trust fund
5 established under RCW 43.84.092. Moneys deposited in the fund by the
6 board shall be spent only for the purposes under section 4 of this act.
7 Claims against the fund made by students in degree programs shall be
8 limited to the assets in the board's separate account in the tuition
9 recovery trust fund. Claims against the fund made by students in
10 nondegree programs shall be limited to assets deposited by the work
11 force training and education coordinating board in the tuition recovery
12 trust fund. Disbursements from its account in the fund shall be made
13 on authorization of the board.

14 NEW SECTION. **Sec. 4.** A new section is added to chapter 28B.85 RCW
15 to read as follows:

16 (1) The board shall maintain and administer a separate account for
17 degree-granting private vocational schools in the tuition recovery
18 trust fund established under RCW 43.84.092. The board shall require
19 any degree-granting private vocational school subject to this chapter
20 to make cash deposits into the board's account in the tuition recovery
21 trust fund in an amount determined by the board.

22 (2) All funds collected for the board's account in the tuition
23 recovery trust fund are payable to the state for the benefit and
24 protection of any student or enrollee of a degree-granting private
25 vocational school's degree programs authorized under this chapter, or
26 in the case of a minor, his or her parent or guardian for purposes
27 including but not limited to the settlement of claims related to school
28 closures and complaints filed under RCW 28B.85.090(1). The board's
29 account shall be liable for settlement of claims and costs of
30 administration, but shall not be liable to pay out or recover penalties
31 assessed under RCW 28B.85.100 or 28B.85.110. No liability accrues to
32 the state of Washington from claims made against the fund.

33 (3) The board shall establish by rule a minimum operating balance
34 that is required to be on deposit in its account in the fund by a
35 specified date and maintained thereafter. If disbursements reduce the
36 account below the minimum amount, each participating degree-granting
37 private vocational school shall be assessed a pro rata share of the
38 deficiency created, based on the incremental scale of each school's

1 liability specified in subsection (5) of this section. The board shall
2 adopt by rule schedules of times and amounts for effecting payments of
3 assessments.

4 (4) To be and remain authorized under this chapter each degree-
5 granting private vocational school shall, in addition to other
6 requirements under this chapter, make cash deposits into the board's
7 account in the tuition recovery trust fund as a means to assure payment
8 of claims brought under this chapter.

9 (5) The amount of liability that can be satisfied by this account
10 on behalf of each individual degree-granting private vocational school
11 authorized under this chapter shall be established by the board, based
12 on an incremental scale that recognizes the average amount of unearned
13 prepaid tuition paid for degree programs that is in possession of the
14 degree-granting private vocational school.

15 (6) The account's liability with respect to each participating
16 degree-granting private vocational school commences on the date of its
17 initial deposit into the fund and ceases one year from the date it is
18 no longer authorized under this chapter.

19 (7) The board shall adopt by rule a matrix for calculating the
20 deposits into the account required of each degree-granting private
21 vocational school.

22 (8) No vested right or interest in deposited funds is created or
23 implied for the depositor, either at any time during the operation of
24 the fund or at any such future time that the board's account in the
25 fund may be dissolved. All funds deposited are payable to the state
26 for the purposes described under this section. No deposits made into
27 the fund by any degree-granting private vocational school are
28 transferable. If the majority ownership interest in a school is
29 conveyed through sale or other means to different ownership, all
30 contributions made to the date of conveyance accrue to the fund. The
31 new owner commences contributions under provisions applying to new
32 applicants. The board shall maintain its account in the fund, serve
33 appropriate notices to affected entities when scheduled deposits are
34 due, collect deposits, and make disbursements to settle claims against
35 its account.

36 (9) To settle claims adjudicated under RCW 28B.85.090(1) and claims
37 resulting when a degree-granting private vocational school ceases to
38 provide educational services, the board may make disbursements from its
39 account following the procedure in this subsection.

1 (a) The board shall attempt to notify all potential claimants. The
2 unavailability of records and other circumstances surrounding a school
3 closure may make it impossible or unreasonable for the board to
4 ascertain the names and locations of each potential claimant but the
5 board shall make reasonable inquiries to secure that information from
6 all likely sources. The board shall then proceed to settle the claims
7 on the basis of information in its possession. The board is not
8 responsible or liable for claims or for handling claims that may
9 subsequently appear or be discovered.

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

14 (c) After verification and review, the board may disburse funds
15 from its account in the tuition recovery trust fund to settle or
16 compromise the claims. However, the liability of its account for
17 claims against the closed degree-granting private vocational school
18 shall not exceed the maximum amount of liability assigned to that
19 degree-granting private vocational school under subsection (5) of this
20 section.

21 (d) In the instance of claims against a closed school, the board
22 shall seek to recover such disbursed funds from the assets of the
23 defaulted degree-granting private vocational school, including but not
24 limited to asserting claims as a creditor in bankruptcy proceedings.

25 (10) If funds are disbursed to settle claims against a currently
26 authorized degree-granting private vocational school, the board shall
27 make demand upon the authorized school for recovery. The board shall
28 adopt by rule schedules of times and amounts for effecting recoveries.
29 A degree-granting private vocational school's failure to perform
30 subjects its authorization to suspension or revocation under RCW
31 28B.85.080 in addition to any other remedies available to the board.

32 **Sec. 5.** RCW 28C.10.040 and 1986 c 299 s 4 are each amended to read
33 as follows:

34 The agency:

35 (1) Shall maintain a list of private vocational schools licensed
36 under this chapter;

37 (2) Shall adopt rules in accordance with chapter 34.05 RCW to carry
38 out this chapter;

1 (3) May investigate any entity the agency reasonably believes to be
2 subject to the jurisdiction of this chapter. In connection with the
3 investigation, the agency may administer oaths and affirmations, issue
4 subpoenas and compel attendance, take evidence, and require the
5 production of any books, papers, correspondence, memorandums, or other
6 records which the agency deems relevant or material to the
7 investigation. The agency, including its staff and any other
8 authorized persons, may conduct site inspections and examine records of
9 all schools subject to this chapter;

10 (4) Shall develop an interagency agreement with the higher
11 education coordinating board to regulate degree-granting private
12 vocational schools with respect to degree and nondegree programs.

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