

Amend CSSB 280 (house committee printing) as follows:

(1) Strike PART 1 of ARTICLE 8 of the bill (page 45, line 11, through page 55, line 26) and substitute the following:

PART 1. SUBSTANTIVE CHANGES REGARDING CAREER

SCHOOLS AND COLLEGES

SECTION 8.01. Section 132.001, Education Code, is amended by amending Subdivisions (1)-(8), (10), and (12) and adding Subdivision (13) to read as follows:

(1) "Career school or college" [~~"Proprietary school"~~] means any business enterprise operated for a profit~~[7]~~ or on a nonprofit basis~~[7]~~ that maintains a place of business within this state~~[7]~~ or solicits business within this state, [~~and~~] that is not specifically exempted by this chapter, and:

(A) that offers or maintains a course or courses of instruction or study; or

(B) at which place of business such a course or courses of instruction or study are [~~is~~] available through classroom instruction or by distance education [~~correspondence~~], or both, to a person for the purpose of training or preparing the person for a field of endeavor in a business, trade, technical, or industrial occupation, or for avocational or personal improvement.

(2) "Owner" of a career school or college [~~proprietary school~~] means:

(A) in the case of a career school or college owned by an individual, that individual;

(B) in the case of a career school or college owned by a partnership, all full, silent, and limited partners;

(C) in the case of a career school or college owned by a corporation, the corporation, its directors, officers, and each shareholder owning shares of issued and outstanding stock aggregating at least 10 percent of the total of the issued and outstanding shares;

(D) in the case of a career school or college in which the ownership interest is held in trust, the beneficiary of that trust; or

(E) in the case of a career school or college owned by another legal entity, a person who owns at least 10 percent

ownership interest in the entity.

(3) "School employee" means any person, other than an owner, who directly or indirectly receives compensation from a career [~~proprietary~~] school or college for services rendered.

(4) "Representative" means a person employed by a career [~~proprietary~~] school or college, whether the school or college is located within or without this state, to act as an agent, solicitor, broker, or independent contractor to directly procure students for the school or college by solicitation within or without this state at any place.

(5) "Agency administrator" means the agency administrator of the Texas Workforce Commission or a person, knowledgeable in the administration of regulating career [~~proprietary~~] schools and colleges, designated by the agency administrator to administer this chapter.

(6) "Notice to the career school or college" [~~proprietary school~~] means written correspondence sent to the address of record for legal service contained in the application for a certificate of approval. "Date of Notice" means the date the notice is mailed by the commission.

(7) "Support" or "supported" means the primary source and means by which a career [~~proprietary~~] school or college derives revenue to perpetuate its operation.

(8) "Person" means any individual, firm, partnership, association, corporation, or other private entity or combination [~~thereof~~].

(10) "Small career school or college" [~~proprietary school~~] means a career [~~proprietary~~] school or college that does not receive any payment from federal funds under 20 U.S.C. Section 1070 et seq. and its subsequent amendments or a prepaid federal or state source as compensation in whole or in part for any student tuition and fees or other charges and either:

(A) has an annual gross income from student tuition and fees that is less than or equal to \$100,000 for programs regulated by the agency;

(B) exclusively offers programs to assist students to prepare for an undergraduate or graduate course of

study at a college or university; or

(C) exclusively offers programs to assist students, who have obtained, or who are in the process of obtaining, degrees after completing an undergraduate or graduate course of study at a college or university, to prepare for an examination.

(12) "Division" means the division of education of ~~[in]~~ the commission.

(13) "Distance education" means a formal education process in which:

(A) the student and instructor are separated by physical distance; and

(B) a variety of communication technologies may be used to deliver synchronous or asynchronous instruction to the student.

SECTION 8.02. Subchapter A, Chapter 132, Education Code, is amended by adding Section 132.0015 to read as follows:

Sec. 132.0015. REFERENCE TO PROPRIETARY SCHOOL. A reference in this code or another law to a proprietary school means a career school or college.

SECTION 8.03. Section 132.002, Education Code, is amended by amending Subsections (a) and (d) and adding Subsections (e) and (f) to read as follows:

(a) The following schools or educational institutions may be exempted ~~[are specifically exempt]~~ from this chapter by the commission under Subsection (d) ~~[and are not within the definition of "proprietary school"]~~:

(1) a school or educational institution supported by taxation from either a local or state source;

(2) a nonprofit school ~~[schools]~~ owned, controlled, operated, and conducted by a bona fide religious, denominational, eleemosynary, or similar public institution ~~[institutions]~~ exempt from property taxation under the laws of this state~~[, but such schools may choose to apply for a certificate of approval hereunder, and upon approval and issuance, are subject to this chapter as determined by the commission]~~;

(3) a school or training program that offers instruction of purely avocational or recreational subjects as

determined by the commission;

(4) a course or courses of instruction or study sponsored by an employer for the training and preparation of its own employees, and for which no tuition fee is charged to the student;

(5) a course or courses of study or instruction sponsored by a recognized trade, business, or professional organization for the instruction of the members of the organization with a closed membership;

(6) a private college [~~colleges~~] or university [~~universities~~] that awards [~~award~~] a recognized baccalaureate, or higher degree, and that maintains [~~maintain~~] and operates [~~operate~~] educational programs for which a majority of the credits given are transferable to a college, junior college, or university supported entirely or partly by taxation from either a local or state source;

(7) a school or course that is otherwise regulated and approved under and pursuant to any other law or rulemaking process of this state or approved for continuing education credit by an organization that accredits courses for the maintenance of a license, except as provided by Subsection (c);

(8) an aviation school [~~schools~~] or instructor [~~instructors~~] approved by and under the supervision of the Federal Aviation Administration;

(9) a school that offers intensive review of a student's acquired education, training, or experience to prepare the student for an examination, other than a high school equivalency examination, that the student by law may not take unless the student has completed or substantially completed a particular degree program, or that the student is required to take as a precondition for enrollment in or admission to a particular degree program;

(10) a private school offering primary or secondary education, which may include a kindergarten or prekindergarten program, and that satisfies the compulsory attendance requirements of Section 25.085 pursuant to Section 25.086(a)(1);

(11) a course or courses of instruction by bona fide electrical trade associations for the purpose of preparing students for electrical tests required for licensing and for the purpose of

providing continuing education to students for the renewal of electrical licenses;

(12) a nonprofit arts organization that has as its primary purpose the provision of instruction in the dramatic arts and the communications media to persons younger than 19 years of age;

(13) a course or training program conducted by a nonprofit association of air conditioning and refrigeration contractors approved by the Air Conditioning and Refrigeration Contractors Advisory Board to provide instruction for technical, business, or license examination preparation programs relating to air conditioning and refrigeration contracting, as that term is defined by Chapter 1302, Occupations Code [~~the Air Conditioning and Refrigeration Contractor License Law (Article 8861, Vernon's Texas Civil Statutes)~~];

(14) a course of instruction by a plumbing trade association to prepare students for a plumbing test or program required for licensing, certification, or endorsement or to provide continuing education approved by the Texas State Board of Plumbing Examiners; and

(15) a course of instruction in the use of technological hardware or software if the course is offered to a purchaser of the hardware or software or to the purchaser's employee by a person who manufactures and sells, or develops and sells, the hardware or software, and if the seller is not primarily in the business of providing courses of instruction in the use of the hardware or software, as determined by the commission.

(d) A school or educational institution is exempt from regulation under this chapter only if:

(1) the owner of the school or educational institution:

(A) applies to the commission for an exemption under this section; and

(B) provides to the commission any information considered necessary by the commission to support the owner's application for an exemption; and

(2) the commission declares that the school or

educational institution is exempt after finding that the school or institution is a school or institution listed in Subsection (a).

(e) After a school or educational institution is declared exempt by the commission under this section, the commission may inspect the school or institution or require the owner of the school or institution to provide any information the commission considers necessary for the commission to ensure the school or institution's continued compliance with the requirements of the exemption.

(f) A school or educational institution listed in Subsection (a) may seek a certificate of approval under ~~[Notwithstanding the exemptions listed in Subsection (a), a dispute resolution organization, as defined by Section 154.001, Civil Practice and Remedies Code, may seek a certificate of approval pursuant to]~~ Subchapter C.

SECTION 8.04. Section 132.051(b), Education Code, is amended to read as follows:

(b) Any contract entered into with any person for a course of instruction by or on behalf of any person operating any career ~~[proprietary]~~ school or college to which a certificate of approval has not been issued pursuant to this chapter is unenforceable in any action brought thereon. Any note, other instrument of indebtedness, or contract relating to payment for educational services obtained from a career school or college that does not hold a certificate of approval issued under this chapter is unenforceable in any action brought on the note, instrument, or contract.

SECTION 8.05. Section 132.055, Education Code, is amended to read as follows:

Sec. 132.055. CRITERIA. The commission may approve the application of such career ~~[proprietary]~~ school or college when the school or college is found, upon investigation at the premises of the school or college, to have met the following criteria:

(a) The courses, curriculum, and instruction are of such quality, content, and length as may reasonably and adequately achieve the stated objective for which the courses, curriculum, or instruction are offered. Before a school or college conducts a course of instruction in court reporting, the school or college

must produce evidence that the school or college has obtained approval for the curriculum from the Court Reporters Certification Board.

(b) There is in the school or college adequate space, equipment, instructional material, and instructor personnel to provide training of good quality.

(c) Educational and experience qualifications of directors, administrators, and instructors are adequate.

(d) The school or college maintains a written record of the previous education and training of the applicant student and clearly indicates that appropriate credit has been given by the school or college for previous education and training, with the new training period shortened where warranted through use of appropriate skills or achievement tests and the student so notified.

(e) A copy of the course outline; schedule of tuition, fees, refund policy, and other charges; regulations pertaining to absence, grading policy, and rules of operation and conduct; regulations pertaining to incomplete grades; the name, mailing address, and telephone number of the commission for the purpose of directing complaints to the agency; the current rates of job placement and employment of students issued a certificate of completion; and notification of the availability of the cost comparison information prepared under Section 132.021(b) through the commission will be furnished the student prior to enrollment.

(f) Except as provided by Section 132.062, on completion of training, the student is given a certificate by the school or college indicating the course and that training was satisfactorily completed.

(g) Adequate records as prescribed by the commission are kept to show attendance and progress or grades, and satisfactory standards relating to attendance, progress, and conduct are enforced.

(h) The school or college complies with all local, city, county, municipal, state, and federal regulations, such as fire, building, and sanitation codes. The commission may require such evidence of compliance as is deemed necessary.

(i) The school or college is financially sound and capable of fulfilling its commitments for training.

(j) The school's or college's administrators, directors, owners, and instructors are of good reputation and character.

(k) The school or college has, maintains, and publishes in its catalogue and enrollment contract the proper policy for the refund of the unused portion of tuition, fees, and other charges in the event the student enrolled by the school or college fails to take the course or withdraws or is discontinued therefrom at any time prior to completion.

(l) The school or college does not utilize erroneous or misleading advertising, either by actual statement, omission, or intimation as determined by the commission.

(m) Such additional criteria as may be required by the commission.

(n) The school or college does not use a name like or similar to an existing [~~tax-supported~~] school or college unless the commission approves the school's or college's use of the name [in the same area].

(o) The school or college furnishes to the commission the current rates of students who receive a certificate of completion and of job placement and employment of students issued a certificate of completion.

(p) The school or college furnishes to the commission for approval or disapproval student admission requirements for each course or program offered by the school or college.

(q) The school or college furnishes to the commission for approval or disapproval the course hour lengths and curriculum content for each course offered by the school or college.

(r) The school or college does not owe a penalty under Section 132.152, 132.155, or 132.157.

SECTION 8.06. Section 132.061, Education Code, is amended to read as follows:

Sec. 132.061. REFUND POLICY. (a) Except as provided by Subsection (g), as a condition for granting certification each career [~~proprietary~~] school or college must maintain a cancellation



and settlement policy that must provide a full refund of all monies paid by a student if:

(1) the student cancels the enrollment agreement or contract within 72 hours (until midnight of the third day excluding Saturdays, Sundays, and legal holidays) after the enrollment contract is signed by the prospective student; or

(2) the enrollment of the student was procured as the result of any misrepresentation in advertising, promotional materials of the school or college, or representations by the owner or representatives of the school or college.

(b) Except as provided by Subsection (g), as a condition for granting certification each career [~~proprietary~~] school or college must maintain a policy for the refund of the unused portion of tuition, fees, and other charges in the event the student, after expiration of the 72-hour cancellation privilege, fails to enter the course, withdraws, or is discontinued therefrom at any time prior to completion, and such policy must provide:

(1) refunds for resident courses and synchronous distance education courses will be based on the period of enrollment computed on the basis of course time expressed in clock hours;

(2) the effective date of the termination for refund purposes in residence schools or colleges will be the earliest of the following:

(A) the last date of attendance, if the student is terminated by the school or college;

(B) the date of receipt of written notice from the student; or

(C) 10 school days following the last date of attendance;

(3) if tuition and fees are collected in advance of entrance, and if, after expiration of the 72-hour cancellation privilege, the student does not enter the residence school or college, not more than \$100 shall be retained by the school or college;

(4) for the student who enters a residence or a synchronous distance education course of not more than 12 months in

length, terminates, or withdraws, the school or college may retain \$100 of tuition and fees and the minimum refund of the remaining tuition and fees will be:

(A) during the first week or one-tenth of the course, whichever is less, 90 percent of the remaining tuition and fees;

(B) after the first week or one-tenth of the course, whichever is less, but within the first three weeks or one-fifth of the course, whichever is less, 80 percent of the remaining tuition and fees;

(C) after the first three weeks or one-fifth of the course, whichever is less, but within the first quarter of the course, 75 percent of the remaining tuition and fees;

(D) during the second quarter of the course, 50 percent of the remaining tuition and fees;

(E) during the third quarter of the course, 10 percent of the remaining tuition and fees; or

(F) during the last quarter of the course, the student may be considered obligated for the full tuition and fees;

(5) for residence or synchronous distance education courses more than 12 months in length, the refund shall be applied to each 12-month period paid, or part thereof separately, and the student is entitled to a refund as provided by Subdivision (4);

(6) refunds of items of extra expense to the student, such as instructional supplies, books, student activities, laboratory fees, service charges, rentals, deposits, and all other such ancillary miscellaneous charges, where these items are separately stated and shown in the data furnished the student before enrollment, will be made in a reasonable manner acceptable to the commission;

(7) refunds based on enrollment in residence and synchronous distance education schools or colleges will be totally consummated within 60 days after the effective date of termination;

(8) refunds for asynchronous distance education [~~correspondence~~] courses will be computed on the basis of the number of lessons in the course;

(9) the effective date of the termination for refund

purposes in asynchronous distance education [~~correspondence~~] courses will be the earliest of the following:

(A) the date of notification to the student if the student is terminated;

(B) the date of receipt of written notice from the student; or

(C) the end of the third calendar month following the month in which the student's last lesson assignment was received unless notification has been received from the student that the student wishes to remain enrolled;

(10) if tuition and fees are collected before any lessons have been completed, and if, after expiration of the 72-hour cancellation privilege, the student fails to begin the course, not more than \$50 shall be retained by the school or college;

(11) in cases of termination or withdrawal after the student has begun the asynchronous distance education [~~correspondence~~] course, the school or college may retain \$50 of tuition and fees, and the minimum refund policy must provide that the student will be refunded the pro rata portion of the remaining tuition, fees, and other charges that the number of lessons completed and serviced by the school or college bears to the total number of lessons in the course; and

(12) refunds based on enrollment in asynchronous distance education [~~correspondence~~] schools or colleges will be totally consummated within 60 days after the effective date of termination.

(c) In lieu of the refund policy herein set forth, for programs of instruction not regularly offered to the public, the commission may, for good cause shown, amend, modify, or substitute the terms of a career school's or college's [~~proprietary school's~~] policy due to the specialized nature and objective of the school's or college's [~~school's~~] course of instruction.

(d) If a course of instruction is discontinued by the career [~~proprietary~~] school or college and this prevents the student from completing the course, all tuition and fees paid are then due and refundable.

(e) If a refund is not made within the period required by this section, the career [~~proprietary~~] school or college shall pay a penalty. If the refund is made to a lending institution, the penalty shall also be paid to that institution and applied against the student's loan. The commission annually shall establish the level of the penalty at a level sufficient to provide a deterrent to the retention of student funds. The commission may exempt a school or college from the payment of the penalty if the school or college makes a good faith effort to refund the tuition, fees, and other charges but is unable to locate the student. The school or college shall provide to the commission on request documentation of the effort to locate the student.

(f) A career [~~proprietary~~] school or college shall record a grade of "incomplete" for a student who withdraws but is not entitled to a refund under Subsection (b)(4)(F) if the student requests the grade at the time the student withdraws and the student withdraws for an appropriate reason unrelated to the student's academic status. A student who receives a grade of incomplete may re-enroll in the program during the 12-month period following the date the student withdraws and complete those incomplete subjects without payment of additional tuition.

(g) A program that is 40 hours or less of class time, or a seminar or workshop, is exempt from the 72-hour rule provided by Subsection (a). The career [~~proprietary~~] school or college shall maintain a policy for the refund of the unused portion of tuition, fees, and other charges in the event the student fails to enter the course, withdraws from the course, or is discontinued from the class at any time before completion of the course as provided by this section. The policy must provide that:

(1) refunds are based on the period of enrollment computed on the basis of course time expressed in clock hours;

(2) the effective date of the termination for refund purposes is the earlier of:

(A) the last date of attendance; or

(B) the date the school or college receives written notice from the student that the student is withdrawing from the class; and

(3) the student will be refunded the pro rata portion of tuition, fees, and other charges that the number of class hours remaining in the course after the effective date of the termination bears to the total number of class hours in the course.

(h) A closing career school or college shall make a full refund to each student of the school or college who is owed a refund under this section.

(i) Each owner of a closing career school or college to which a certificate of approval has not been issued under this chapter is personally liable for the amount of any refund owed to a student under Subsection (h).

SECTION 8.07. Sections 132.152(c)-(i), Education Code, are amended to read as follows:

(c) If, after examination of a possible violation and the facts relating to that possible violation, the commission concludes that a violation has occurred, the commission shall issue a preliminary report that states the facts on which the conclusion is based, the fact that an administrative penalty is to be imposed [~~recommended~~], and the amount of the penalty to be assessed [~~recommended~~]. Not later than the 10th day after the date on which the commission issues the preliminary report, the commission shall send a copy of the report [~~by certified mail~~] to the person charged with the violation, together with a statement of the right of the person to a hearing relating to the alleged violation and the amount of the penalty.

(d) Not later than the 20th day after the date on which the [~~person receives the~~] report is sent, the person charged must either make a written request for a hearing or remit the amount of the administrative penalty to the commission. Failure either to request a hearing or to remit the amount of the administrative penalty within the time provided by this subsection results in a waiver of a right to a hearing under this section. If the person charged requests a hearing, the hearing shall be conducted in the same manner as a hearing on the denial of certificate of approval under Section 132.101. If the hearing results in a finding that a violation has occurred, the commission shall:

(1) provide to the person written notice of:

(A) the findings established at the hearing; and

(B) the amount of the penalty; and

(2) enter an order requiring the person to pay the amount of the penalty ~~[by an administrative law judge of the State Office of Administrative Hearings. The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the commission a proposal for a decision about the occurrence of the violation and the amount of the proposed penalty. Based on the findings of fact, conclusions of law, and proposal for decision, the commission by order may:~~

~~[(1) find that a violation has occurred and impose a penalty; or~~

~~[(2) find that a violation has not occurred].~~

~~(e) [The notice of the commission's order given to the person under Chapter 2001, Government Code, must include a statement of the person's right to judicial review of the order.~~

~~[(f)]~~ Not later than the 30th day after the date the person receives the order entered by the commission under Subsection (d) ~~[commission's order is final under Section 2001.144, Government Code]~~, the person shall:

(1) pay the amount of the penalty;

(2) remit [pay] the amount of the penalty to the commission for deposit in an escrow account and file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty; or

(3) without paying the amount of the penalty, file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty and file with the court a sworn affidavit stating that the person is financially unable to pay the amount of the penalty.

(f) The commission's order is subject to judicial review in the same manner as an appeal of a decision to deny a certificate of approval under Section 132.102.

(g) If on review the court does not sustain the occurrence of the violation or finds that the amount of the penalty should be

reduced, the commission shall remit the appropriate amount to the person charged with the violation not later than the 30th day after the date the court's judgment becomes final. ~~[Within the period prescribed by Subsection (f), a person who acts under Subsection (f)(3) may:~~

~~[(1) stay enforcement of the penalty by:~~

~~[(A) paying the amount of the penalty to the court for placement in an escrow account; or~~

~~[(B) giving to the court a supersedeas bond approved by the court that is in the amount of the penalty and that is effective until all judicial review of the commission's order is final; or~~

~~[(2) request the court to stay enforcement of the penalty by:~~

~~[(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the amount of the penalty and is financially unable to give the supersedeas bond; and~~

~~[(B) giving a copy of the affidavit to the commission by certified mail.]~~

(h) If the court sustains the occurrence of the violation:

(1) the court:

(A) shall order the person to pay the amount of the penalty; and

(B) may award to the commission the attorney's fees and court costs incurred by the commission in defending the action; and

(2) the commission shall remit the amount of the penalty to the comptroller for deposit in the general revenue fund.

~~[The commission may file with the court a contest to an affidavit received under Subsection (g)(2) not later than the fifth day after the date the commission receives the copy. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the amount of the penalty and to give a supersedeas bond.]~~

(i) If the person does not pay the amount of the penalty after the commission's order becomes final for all purposes [~~and the enforcement of the penalty is not stayed~~], the commission may refer the matter to the attorney general for collection of the amount of the penalty.

SECTION 8.08. Chapter 132, Education Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. CEASE AND DESIST ORDERS

Sec. 132.301. HEARING; NOTICE. (a) The commission may set a hearing on whether to issue a cease and desist order against a person under Section 132.303 if:

(1) the commission has reason to believe that the person is operating a career school or college without a certificate issued by the commission in violation of Section 132.151; and

(2) the person has not responded to more than one written notice from the commission regarding the person's noncompliance with Section 132.151.

(b) The commission shall serve on the person a statement of charges and a notice of hearing, including a copy of the applicable rules of the commission.

Sec. 132.302. HEARING. Except as agreed by the parties with prior written approval of the commission, a hearing under this subchapter must be held not earlier than the fifth day or later than the 30th day after the date of service of the statement and notice required under Section 132.301.

Sec. 132.303. CEASE AND DESIST ORDER. After a hearing held under this subchapter, the commission may issue against the person charged with operating a career school or college without a certificate issued by the commission an order that requires that the person immediately cease and desist from violating this chapter.

Sec. 132.304. ENFORCEMENT; REFERRAL TO THE ATTORNEY GENERAL. The commission may refer the matter to the consumer protection division of the attorney general's office for enforcement if the commission has reason to believe that a person has violated or failed to respond to a cease and desist order issued



under this subchapter.

Sec. 132.305. EFFECT OF PRIOR PROCEEDINGS. The commission may proceed under this chapter or any other applicable law without regard to prior proceedings.

Sec. 132.306. RULES. The commission shall adopt rules as necessary to implement this subchapter.

SECTION 8.09. Subchapter I, Chapter 132, Education Code, is amended by adding Section 132.2415 to read as follows:

Sec. 132.2415. TUITION TRUST ACCOUNT. (a) The Texas Workforce Commission depository bonds guaranty trust account is renamed the career school or college tuition trust account. The career school or college tuition trust account is the account designated to receive all amounts related to the protection of career school or college tuition. The balance of the trust account may not exceed \$1 million.

(b) The commission may collect annually a fee from each career school or college to be deposited to the credit of the career school or college tuition trust account. The total amount of the fees collected in a year shall be set by the commission in the amount estimated as necessary to pay the liabilities of the trust account during that year, not to exceed 0.2 percent of the gross amount of tuition and fees charged by career schools and colleges in that year, excluding amounts refunded under Section 132.061.

(c) If, at the end of a fiscal year, the commission determines that the commission has collected fees under this chapter in excess of the amount necessary to defray the expense of administering this chapter, the commission may transfer any portion of the excess amount to the career school or college tuition trust account.

(d) From money in the career school or college tuition trust account, the commission shall attempt to provide a full refund to each student of a closed career school or college of the amount owed to the student as determined under Section 132.061. The commission may provide a partial refund to a student only if the commission determines that the amount in the trust account is insufficient to provide a full refund to the student. The commission shall consider the following factors in determining the amount of a partial refund

to be paid to a student:

- (1) the amount of money in the trust account;
- (2) the cost and number of claims against the trust account resulting from closure of the school or college;
- (3) the average cost of a claim paid from the trust account in the past; and
- (4) the availability of other licensed career schools or colleges at which the student may complete the student's training.

(e) Notwithstanding Subsection (b), in the state fiscal year ending August 31, 2004, the commission may collect a fee under Subsection (b) only if on January 1 of that year the amount in the career school or college tuition trust account is less than \$300,000. This subsection expires September 1, 2005.

SECTION 8.10. Section 132.242, Education Code, is amended to read as follows:

Sec. 132.242. CLOSED SCHOOL OR COLLEGE. (a) If a career [~~proprietary~~] school or college closes, the commission shall attempt to arrange for students of the closed school or college to attend another career [~~proprietary~~] school or college.

(b) The expense incurred by a career [~~proprietary~~] school or college in providing a teachout that is directly related to educating a student placed in the school or college under this section, including the applicable tuition for the period for which the student has paid tuition, shall be paid from the career [~~proprietary~~] school or college tuition trust account [~~protection fund~~].

(c) If the student cannot be placed in another career [~~proprietary~~] school or college, the student's tuition and fees shall be refunded under Section 132.061(d).

(d) If a student does not accept a place that is available and reasonable in another career [~~proprietary~~] school or college, the student's tuition and fees shall be refunded under the refund policy maintained by the closing career [~~proprietary~~] school or college under Section 132.061[~~(b)~~].

(e) For each closed career school or college, refunds shall be paid from the career school or college [~~If the amount of the~~]

~~closed proprietary school's bond under Section 132.060 is less than the amount required for student refunds under Subsections (c) and (d), the refunds shall be paid from the proprietary school]~~ tuition trust account [~~protection fund~~] in an amount not to exceed \$150,000 [~~\$50,000~~].

(f) If another career [~~proprietary~~] school or college assumes responsibility for the closed career school's or college's [~~proprietary school's~~] students with no significant changes in the quality of training, the student is not entitled to a refund under Subsection (c) or (d).

(g) Attorney's fees, court costs, or damages may not be paid from the career [~~proprietary~~] school or college tuition trust account [~~protection fund~~].

SECTION 8.11. The change in law made by this part to Section 132.051(b), Education Code, applies only to a note or other instrument issued, or a contract entered into, on or after the effective date of this Act. A note or other instrument issued, or a contract entered into, before the effective date of this Act is governed by the law in effect on the date the note or other instrument was issued or the contract was entered into, and the former law is continued in effect for that purpose.

SECTION 8.12. The change in law made by this part to Section 132.055, Education Code, applies only to an application for a certificate of approval filed with the Texas Workforce Commission on or after the effective date of this Act. An application for a certificate of approval filed before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

SECTION 8.13. The changes in law made by this part to Section 132.061(b), Education Code, apply only to the refund policy of a career school or college to which a certificate of approval is granted or renewed by the Texas Workforce Commission on or after the effective date of this Act.

SECTION 8.14. The changes in law made by this part to Section 132.152, Education Code, apply only to an alleged violation of Section 132.151, Education Code, that occurs on or after the effective date of this Act. An alleged violation that occurs before

the effective date of this Act is governed by the law in effect on the date the alleged violation occurred, and the former law is continued in effect for that purpose.

SECTION 8.15. On or after the effective date of this part, any amount remaining in or payable to the credit of the tuition protection fund under Section 132.241, Education Code, as that section existed before repeal by this Act, shall be transferred to the credit of the career school or college tuition trust account established under Section 132.2415, Education Code, as added by this part.

(2) Strike SECTIONS 8.14 and 8.15 of the bill (page 59, line 22, through page 65, line 13).

(3) Strike SECTION 8.23 of the bill (page 69, line 24, through page 72, line 20).

(4) Renumber the SECTIONS of ARTICLE 8 appropriately.

(5) Strike SECTION 9.01 of the bill (page 88, lines 15-22) and substitute the following:

SECTION 9.01. The following laws are repealed:

- (1) Section 132.060, Education Code;
- (2) Sections 132.152(j)-(m), Education Code;
- (3) Section 132.241, Education Code;
- (4) Section 201.002, Labor Code;
- (5) Section 203.102, Labor Code;
- (6) Section 301.006, Labor Code, as added by Section 5.82(a), Chapter 76, Acts of the 74th Legislature, Regular Session, 1995;
- (7) Section 301.061(c), Labor Code; and
- (8) Section 302.005(k), Labor Code.