

## **BILL ANALYSIS**

Senate Research Center  
78R3135 KSD-D

S.B. 1343  
By: Jackson  
Education  
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As Filed

### **DIGEST AND PURPOSE**

Proprietary schools were regulated by the Texas Education Agency (TEA) until an Act of the 74th Legislature, 1995, moved that responsibility to the Texas Workforce Commission (TWC). When TEA regulated those schools, it assessed administrative penalties against unlicensed schools as a tool to force the submission of licensure applications. When a school appealed a penalty, the appeal hearing was held at TEA at a low cost.

The responsibility for an appeals hearing sought by a proprietary school now lies with the State Office of Administrative Hearings (SOAH), and TWC finds that those hearings are cost-prohibitive compared to an in-house hearing at TWC. As a result, TWC does not use this enforcement tool to regulate proprietary schools.

As proposed, S.B. 1343 amends the provisions governing TWC's regulation of proprietary schools to allow the appeals process to be handled by TWC's special hearings department; maintains the right of a proprietary school to judicial review under the substantial evidence rule; requires a petition for judicial review to be filed in Travis County, thus providing for lower costs for contested administrative penalties; and provides TWC the ability to seek attorney's fees and court costs in enforcing its orders.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 132.001, Education Code, by amending Subdivision 1 and adding Subdivision 13, to redefine "proprietary school" and define "distance education."

SECTION 2. Amends Section 132.002, Education Code, by amending Subsections (a) and (d) and adding Subsections (e) and (f), as follows:

- (a) Authorizes certain schools or educational institutions to be exempted, rather than are specifically exempt, from this chapter by the Texas Workforce Commission (TWC) under Subsection (d).
- (d) Exempts a school or educational institution under certain conditions from regulation under this chapter.
- (e) Authorizes TWC, after a school or educational institution is declared exempt by TWC under this section, to inspect the school or institution or require the owner of the school or institution to provide any information TWC deems necessary to ensure the school or institution's continued compliance with the requirements of the exemption.
- (f) Authorizes a school or educational institution listed in Subsection (a) to seek a certificate of approval under Subchapter C. Deletes text authorizing a dispute resolution organization to seek a certificate of approval pursuant to Subchapter C.

SECTION 3. Amends Section 132.051(b), Education Code, to provide that any note, other instrument of indebtedness, or contract relating to payment for educational services obtained from a proprietary school 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 4. Amends Section 132.055, Education Code, to provide that TWC may approve an application of a proprietary school when TWC finds that the school does not use a name like or similar to an existing school unless TWC approves the school's use of the name.

SECTION 5. Amends Section 132.061(b), Education Code, to make conforming changes.

SECTION 6. Amends Section 132.152, Education Code, by amending Subsections (c)-(i), as follows:

(c) Requires TWC, if after examination of a possible violation and the facts relating to that possible violation, it concludes that a violation occurred, to issue a preliminary report that states the facts on which the conclusion is based, the fact that an administrative penalty is to be imposed, rather than recommended, and the amount of the penalty to be assessed, rather than recommended. Deletes text requiring TWC to send a copy of the report by mail to the person charged with the violation.

(d) Requires the person charged to either make a written request for a hearing or remit the amount of the administrative penalty to TWC, by the 20th day after the date on which the report is sent. Requires a hearing to be conducted in the same manner as a hearing on denial of certificate of approval under Section 132.101, if the person charged requests a hearing. Requires TWC, if the hearing result in findings that a violation has occurred, to provide to the person written notice containing certain information. Deletes text requiring an administrative law judge of the State Office of Administrative Hearings (SOAH) to make findings of fact and give the conclusions of law, in order for TWC to take certain actions.

(e) Requires the person, by the 30th day after the date the person receives the order entered by the commission under Subsection (d), rather than commission's order is final under Section 2001.144, Government Code, to meet certain requirements.

(f) Provides that TWC'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) Requires TWC, if on review the court does not sustain the occurrence of the violation or finds that the amount of the penalty should be reduced, to remit the appropriate amount to the person charged with the violation by the 30th day after the date the court's judgment becomes final. Makes conforming changes.

(h) Requires the court, if it sustains the occurrence of the violation, to take certain actions. Makes conforming changes.

(i) Authorizes TWC, if the person does not pay the amount of the penalty after its order becomes final for all purposes, rather than if the enforcement of the penalty is not stayed, to refer the matter to the attorney general for collection of the amount of the penalty.

SECTION 7. Repealers: Sections 132.152(j)-(m), Education Code.

SECTION 8. Makes application of the change in the law made by this Act to Section 132.051(b), Education Code, prospective.

SECTION 9. Makes application of the change in the law made by this Act to Section 132.055, Education Code, prospective.

SECTION 10. Makes application of the change in the law made by this Act to Section

132.061(b), Education Code, prospective.

SECTION 11. Makes application of the changes in law made by this Act to Section 132.152, Education Code, prospective.

SECTION 12. Effective date: September 1, 2003.