

By: Eissler

H.B. No. 2468

A BILL TO BE ENTITLED

AN ACT

relating to the exemption of the educational programs of certain institutions offering religious education from state or local regulation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 61.003, Education Code, is amended by adding Subdivision (17) to read as follows:

(17) "Religious institution" means an entity that satisfies the requirements for an exemption from state or local regulation under Section 61.3031.

SECTION 2. Section 61.301, Education Code, is amended to read as follows:

Sec. 61.301. PURPOSE. (a) It is the policy and purpose of the State of Texas to prevent deception of the public resulting from the conferring and use of fraudulent or substandard college and university degrees; it is also the purpose of this subchapter to regulate the use of academic terminology in naming or otherwise designating educational institutions, the advertising, solicitation or representation by educational institutions or their agents, and the maintenance and preservation of essential academic records. Because degrees and equivalent indicators of educational attainment are used by employers in judging the training of prospective employees, by public and private professional groups in determining qualifications for admission to

1 and continuance of practice, and by the general public in assessing
2 the competence of persons engaged in a wide range of activities
3 necessary to the general welfare, regulation by law of the
4 evidences of college and university educational attainment is in
5 the public interest. To the same end the protection of legitimate
6 institutions and of those holding degrees from them is also in the
7 public interest.

8 (b) It is the policy and purpose of the state and the board
9 not to regulate religious institutions.

10 SECTION 3. Subchapter G, Chapter 61, Education Code, is
11 amended by adding Section 61.3031 to read as follows:

12 Sec. 61.3031. EXEMPTION FOR CERTAIN RELIGIOUS
13 INSTITUTIONS. (a) An institution that meets the requirements of
14 this section is exempt from this subchapter and from any other
15 regulation by an agency or political subdivision of this state with
16 respect to the content or character of the educational programs of
17 the institution.

18 (b) To be exempt under this section, an institution must:

19 (1) be organized as or operated by a nonprofit
20 corporation under the Texas Non-Profit Corporation Act (Article
21 1396-1.01 et seq., Vernon's Texas Civil Statutes);

22 (2) be operated as an independent institution or in
23 conjunction with a local organization whose primary purpose is to
24 maintain and operate a church, synagogue, temple, mosque, or other
25 place of worship;

26 (3) be under the direction of a stewardship board or
27 corporate board of directors;

1 (4) offer degrees solely for the purpose of
2 ministerial and religious training;

3 (5) include in the institution's course catalog a
4 statement describing the religious training purpose or purposes of
5 the institution; and

6 (6) ensure that each course for which the institution
7 grants credit toward a degree has a religious purpose that is
8 described in the institution's course catalog.

9 SECTION 4. Section 61.316, Education Code, is amended by
10 adding Subsection (g) to read as follows:

11 (g) In addition to any other available remedy in law or
12 equity, an institution that prevails in appealing an administrative
13 penalty assessed under this section on the basis that the
14 institution is a religious institution is entitled to recover from
15 the state the institution's reasonable and necessary attorney's
16 fees and court costs incurred in the appeal. In this subsection,
17 "appeal" includes a suit filed in state or federal court to
18 challenge the administrative penalty.

19 SECTION 5. Section 61.318, Education Code, is amended by
20 adding Subsection (c) to read as follows:

21 (c) In addition to any other available remedy in law or
22 equity, an institution that prevails in defending an action for
23 injunction under this section on the basis that the institution is a
24 religious institution is entitled to recover from the state the
25 institution's reasonable and necessary attorney's fees and court
26 costs incurred in defending the action.

27 SECTION 6. Section 61.319, Education Code, is amended by

adding Subsection (c) to read as follows:

(c) In addition to any other available remedy in law or equity, an institution that prevails in defending an action to collect a civil penalty under this section on the basis that the institution is a religious institution is entitled to recover from the state the institution's reasonable and necessary attorney's fees and court costs incurred in defending the action.

SECTION 7. Section 61.316(g), Education Code, as added by this Act, applies only to an administrative penalty assessed under Section 61.316, Education Code, for an alleged violation of Subchapter G, Chapter 61, Education Code, that occurs on or after the effective date of this Act.

SECTION 8. Section 61.318(c), Education Code, as added by this Act, applies only to an action for an injunction brought under Section 61.318, Education Code, for an alleged violation of Subchapter G, Chapter 61, Education Code, that occurs on or after the effective date of this Act.

SECTION 9. Section 61.319(c), Education Code, as added by this Act, applies only to a civil action to collect a civil penalty filed under Section 61.319, Education Code, for an alleged violation of Subchapter G, Chapter 61, Education Code, or of a rule adopted under that subchapter that occurs on or after the effective date of this Act.

SECTION 10. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate

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1 effect, this Act takes effect September 1, 2003.