

BILL ANALYSIS

C.S.H.B. 2806
By: Morrison
Higher Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Career Schools in the State of Texas are heavily regulated, and are required to operate in a controlled environment where federal and state regulation intertwine on a regular basis. The proposed language in CSHB 2806 is intended to bring the language and consumer protection intent of the Proprietary School Act, which has not been updated in 33 years, into today's reality of modern career schools, to better serve the career school students of Texas. These changes will align terms and processes with national accreditation and federal regulation currently being used by the career schools and colleges in all parts of Texas.

In addition, last session's Sunset legislation adopted regulatory changes that updated school operation processes that more consistently aligned state accreditation and federal guidelines. However, these changes could not be put into effect until statutory language changed to better reflect intent.

One of the regulatory changes most needed to bring Texas' career schools and colleges into the 21st century included measurement of student academic involvement and progression. All tax-supported community colleges and traditional universities in Texas, along with most career schools across the nation, currently use federally approved "satisfactory progress" standards to monitor this process while current Texas statute requires that career schools "take hourly attendance" of college students to monitor them. Additionally, clarification is needed regarding the process of "refunds" and "return of funds" required by the Code of Federal Regulation and statute.

A recent study by Dr. Ray Perrman, concluded that there is a positive economic benefit that for-profit, tax-paying career schools have on the Texas economy. Dr. Perryman states... "The graduates of private career colleges and schools contribute to economic growth in the state through gains in productivity stemming from their training." "In a single year, these better-prepared members of the workforce contribute to the creation of more than 70,000 aggregate jobs within the state and account for almost \$9 billion in spending. These benefits compound over time, as a new group of well-trained workers enters the economy each year."

RULEMAKING AUTHORITY

It is the author's opinion that rulemaking authority is expressly give to the Texas Workforce Commission in SECTION 6 (Section 132.061 (k), Education Code).

ANALYSIS

SECTION 1. Provides definitions of class, course, course time, person, unearned tuition, and program of instruction or program.

SECTION 2. Extends exemptions to programs exclusively offered by business enterprises.

SECTION 3. Provides technical changes to incorporate definitions. Provides that a career school or college may not maintain, advertise, solicit for, or conduct any program of instruction in this state until the career school or college receives a certificate of approval from the commission. Provides a provision for which a contract entered into by any person for a program, rather than a course, of instruction is unenforceable.

SECTION 4. Provides technical changes to incorporate definitions that relate to the criteria used by the commission to approve an application of a career school or college. Provides that certain information must be provided to each student before enrollment.

SECTION 5. Eliminates the requirement that the certificate of approval prescribed by the commission include: authority for approval and conditions of approval, if any, referring specifically to the approved catalogue or bulletin published by the school or college; signature of the agency administrator; and any other fair and reasonable representations that are consistent with this chapter and deemed necessary by the commission. Provides that in the event of a change of ownership of a school or college, a new owner must, at least 30 days prior to the change in ownership, apply, in a manner prescribed by the commission, for a new certificate approval.

SECTION 6. Provides technical changes to incorporate definitions and modifies refund policies. Provides, with exceptions, a career school or college that provides a program paid for in whole or in part with money provided under 20 U.S.C. Section 1070 et seq. shall make refunds related to that program as provided by this Act. Provides that the commission may adopt rules governing records necessary to make refunds authorized by this chapter.

SECTION 7. Provides that taking attendance is not required for career schools or colleges that are eligible to participate in student financial aid programs under 20 U.S.C. Section 1070 et seq..

SECTION 8. Provides technical changes to incorporate definitions and eliminates a prohibition pertaining to a person operating a career school or college.

SECTION 9. Incorporates definitions.

SECTION 10. Modifies what the commission shall consider in determining the amount of a partial refund to be paid to a student in the event of a career school or college closure.

SECTION 11. Modifies provisions relating to the responsibilities of the commission in the event of a career school or college closure.

SECTION 12. Repeals Sections 132.021 (b) and 132.056 (e), Education Code.

SECTION 13. Provides that the change in law made by this Act to Section 132.051(a), Education Code, applies to the date on which a career school or college may begin maintaining, advertising, soliciting for, or conducting a program only if the school or college submits a certificate of approval application on or after the date this Act takes effect. If the career school or college submits a certificate of approval application before the date this Act takes effect, the date on which a career school or college may begin maintaining, advertising, soliciting for, or conducting a program is governed by the law in effect on the date the certificate of approval application was submitted, and the former law is continued in effect for that purpose. Provides that the change in law made by this Act to Section 132.051(b), Education Code, applies only to a contract entered into on or after the date this Act takes effect. A contract entered into before the date this Act takes effect is governed by the law in effect on the date the contract was entered into, and the former law is continued in effect for that purpose.

SECTION 14. Provides that the change in law made by this Act to Section 132.055, Education Code, applies only to a certificate of approval application submitted to the Texas Workforce Commission on or after the date this Act takes effect. A certificate of approval application submitted before the date this Act takes effect is governed by the law in effect on the date the application was submitted, and the former law is continued in effect for that purpose.

SECTION 15. Provides that the change in law made by this Act to Section 132.056, Education Code, applies only to a certificate of approval issued on or after the date this Act takes effect. A certificate of approval issued before the date this Act takes effect is governed by the law in effect on the date the certificate of approval was issued, and the former law is continued in effect for that purpose.

SECTION 16. Provides that the change in law made by this Act to Section 132.061, Education Code, applies only to the refund policy of a career school or college to which a certificate of approval is granted or for which a certificate of approval is renewed by the Texas Workforce Commission on or after the date this Act takes effect. The refund policy of a career school or college to which a certificate of approval is granted or for which a certificate of approval is renewed by the Texas Workforce Commission before the date this Act takes effect is governed by the law in effect on the date the certificate of approval was granted or renewed, and the former law is continued in effect for that purpose.

SECTION 17. Provides that the change in law made by this Act to Section 132.242, Education Code, applies only to a refund that becomes due on or after the date this Act takes effect. A refund that becomes due before the date this Act takes effect is governed by the law in effect on the date the refund becomes due, and the former law is continued in effect for that purpose.

SECTION 18. Effective date.

EFFECTIVE DATE

This Act takes effect September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

Provides technical corrections and clarifies time-lines relating to refund policies. Clarifies that a career school or college that is eligible to partake in federal student financial aid programs under Title IV of the Higher Education Act of 1965, as amended, is not required to take attendance.