

BILL ANALYSIS

C.S.S.B. 1534
By: Shapiro
Economic & Small Business Development
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Observers report that there is concern about whether national television or Internet advertising constitutes the sort of advertising and soliciting of Texas students that would trigger state regulatory jurisdiction over certain out-of-state online educational institutions with no physical presence in Texas. Interested parties note that institutions subject to such regulation obtain a certificate of approval from the Texas Workforce Commission (TWC) before the institutions can maintain, advertise, solicit for, or conduct an online program of instruction in Texas. The parties further report that the TWC considers any sort of national television or Internet advertising to be advertising to and soliciting of Texas students for such programs, even if the advertisement is not aimed at or limited to Texas.

Several states have adopted what is referred to as a physical presence test for the exercise of jurisdiction over online institutions. The purpose of C.S.S.B. 1534 is to facilitate student choice and access to online education by making changes to provisions of law relating to the operation and certification of career schools and colleges.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 1534 amends the Education Code to redefine "career school or college," under provisions of law relating to career schools and colleges, to specify that the place of business of such a school or college is a physical place of business and to except from that definition a school or educational institution that is physically located in another state, is legally authorized by the state of its physical location to offer postsecondary education and award degrees, is accredited by a national accrediting organization recognized by the United States secretary of education under the federal Higher Education Act of 1965, and offers in Texas only postsecondary distance or correspondence programs of instruction. The bill redefines "representative," under these same provisions of law, to make conforming changes that reflect the bill provisions limiting career schools and colleges to businesses that maintain a physical presence in Texas.

C.S.S.B. 1534 requires a school or educational institution excepted from the definition of "career school or college" to post a conspicuous notice on the homepage of its website stating the following: that the career school or college is not regulated in Texas under provisions of law relating to career schools and colleges; the name of any regulatory agencies which approve and regulate the school's programs in the state where the school is physically located and in which it has legal authorization to operate; and how to file complaints or make other contact with applicable regulatory agencies. The bill, in a provision of law setting out prohibited acts relating to career schools and colleges, clarifies that the prohibited acts pertain to career schools and colleges. The bill makes conforming changes.

C.S.S.B. 1534 repeals Section 132.059(d), Education Code, relating to certain career schools and colleges that are subject to the requirements for registration of representatives.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.S.B. 1534 differs from the original by adding provisions relating to required posting by certain schools or educational institutions not operating in Texas, whereas the original adds provisions relating to registration fees for certain schools or educational institutions not operating in Texas. The substitute differs from the original in nonsubstantive ways by conforming to certain bill drafting conventions.