

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7055 PCB CCWP 09-02 Nonpublic Postsecondary Educational Institutions

SPONSOR(S): State & Community Colleges & Workforce Policy Committee/McKeel

TIED BILLS: **IDEN./SIM. BILLS:** SB 2096

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	State & Community Colleges & Workforce Policy Committee	12 Y, 0 N	Beagle	White
1)				
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SUMMARY ANALYSIS

Florida law establishes the Commission for Independent Education (CIE) to grant licenses to specified independent postsecondary educational institutions. Such institutions may seek CIE - licensure via two processes, annual licensing and licensure by means of accreditation (LBMA). Independent postsecondary institutions that are accredited by an accrediting agency approved by the CIE may obtain LBMA. Among other things, such institutions must be incorporated in Florida.

LBMA streamlines the licensing process. It frees the institution from documentation requirements that overlap with those of the accrediting agency. Accreditation status enables the CIE to rely on determinations already made by the accrediting agency rather than conducting its own review. The CIE uses reports of site visits conducted by the accrediting agency to forgo conducting its own visits.

The statutory provision requiring an independent postsecondary institution seeking LBMA to be incorporated in Florida was recently declared unconstitutional in federal court. Thus, institutions that are incorporated out-of-state may now seek LBMA. Typically, accrediting agencies provide copies of site visit reports to the state of incorporation. As such, it may be difficult for the CIE to obtain site visit reports for licensed institutions incorporated in other states.

The bill deletes the unconstitutional requirement that institutions be incorporated in Florida to qualify for LBMA. It also requires each licensed institution, beginning January 1, 2010, to provide the CIE with any site visit reports prepared by its accrediting agency for visits made to the institution's Florida locations.

The bill does not appear to have a fiscal impact on state or local governments.

The bill takes effect on July 1, 2009.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Commission for Independent Education

Florida law establishes the CIE to regulate the independent postsecondary educational institutions under its jurisdiction. It operates to provide consumer protection, degree and diploma program approval, program improvement, and licensure for such institutions.¹

The CIE licensed 821 independent postsecondary institutions during FY 2007-2008. This includes 313 degree-granting institutions with a reported enrollment of 205,326 students. It also licensed 508 non-degree programs with a reported enrollment of 72,494 students.²

Licensure by Means of Accreditation

Independent postsecondary institutions may seek CIE licensure via two processes, annual licensing and LBMA. Under the LBMA process, the CIE evaluates the accrediting standards of various accrediting agencies to determine equivalency with its own licensing standards. Institutions that hold equivalent accreditations may obtain LBMA. In addition to holding an equivalent accreditation, institutions seeking LBMA must:

- Have been operating in Florida for 5 consecutive years.
- Have no unresolved complaints in the previous 12 months.
- Meet minimum requirements for financial responsibility.
- Be a Florida corporation.³

LBMA streamlines the licensing process. It frees the institution from documentation requirements that overlap with those of the accrediting agency. Accreditation status enables the CIE to rely on determinations already made by the accrediting agency rather than conducting its own review.⁴ LBMA is valid for the same period as the qualifying grant of accreditation, which may be longer than one year.⁵

Accrediting agencies conduct site visits to determine if an institution has adequate personnel, facilities, and resources to meet accreditation standards. Visits are conducted for both initial and renewal accreditation. Such visits usually occur in two, five, or ten year intervals. The accrediting agency

¹ Section 1005.21(1), F.S.

² Florida Department of Education, Commission for Independent Education, Annual Report for FY 2007-2008, http://www.fldoe.org/cie/pdf/annual_report.pdf (last visited Mar. 12, 2009).

³ Section 1005.32(1), F.S.

⁴ Section 1005.32(3), F.S.

⁵ Section 1005.32(6), F.S.

provides site visit reports to the state in which the institution is incorporated.⁶ To approve LBMA, the CIE uses this report in lieu of conducting its own site visit.⁷

The statutory provision requiring an independent postsecondary institution seeking LBMA to be incorporated in Florida was recently declared unconstitutional in federal court. The court held that such requirement impermissibly burdens interstate commerce in violation of the federal constitution. The court enjoined the state from precluding out-of-state independent postsecondary institutions from seeking LBMA.⁸

As a result of this holding, independent postsecondary institutions that are incorporated out-of-state may seek LBMA. Typically, accrediting agencies provide copies of site visit reports to the state of incorporation. As such, it may be difficult for the CIE to obtain site visit reports for licensed institutions incorporated in other states.

Effect of Proposed Changes

The bill amends s. 1005.32, F.S., to clarify that an accrediting agency reviewed by the CIE must have CIE-equivalent reporting, organizational, and operating standards in order to obtain equivalency for LBMA purposes. It also deletes the requirement that an institution be incorporated in Florida to gain LBMA, as such requirement has been declared unconstitutional.

The bill creates a new subsection (3) in s. 1005.32, F.S., which requires each LBMA institution, beginning January 1, 2010, to provide the CIE with any site visit reports prepared by its accrediting agency for visits made to the institution's Florida locations.

B. SECTION DIRECTORY:

Section 1: Amending s. 1005.32, F.S.; clarifying licensure requirements; deleting obsolete language; requiring institutions seeking LBMA to furnish certain reports.

Section 2: Providing an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have a fiscal impact on state revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have a fiscal impact on local revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on local expenditures.

⁶ Telephone conversation with Department of Education staff on March 12, 2008.

⁷ Commission on Colleges Southern Association of Colleges & Schools, *Reaffirmation of Accreditation and Subsequent Reports* (June 2008) available at <http://www.sacscoc.org/documents/reaffirmationpolicy.pdf>; Email from the Florida Department of Education, Commission for Independent Education staff re: Site Visits (Mar. 10, 2009, 11:25 AM EST).

⁸ *University of Phoenix, Inc. v. Bradley*, Case No. 4:08cv217-RH/WCS (N.D.Fla 2008).

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to take an action requiring the expenditure of funds.

The bill does not reduce the authority that counties or municipalities have to raise revenue in the aggregate.

The bill does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES