

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Education

BILL: SB 668

INTRODUCER: Senator Bean

SUBJECT: Postsecondary Distance Education

DATE: March 24, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Benvenisty</u>	<u>Graf</u>	<u>ED</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>AHE</u>	_____
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 668 authorizes the state of Florida to participate in a reciprocity agreement for the delivery of postsecondary distance education. Specifically, the bill:

- Requires Florida to accept the accreditation standards and criteria of each member state and institution participating in the reciprocity agreement to offer postsecondary distance education.
- Establishes the Postsecondary Reciprocal Distance Education Coordinating Council (Council), within the Florida Department of Education, for the purpose of entering into and administering the state reciprocity agreement.
- Establishes membership of the Council, and requires the Commission for Independent Education to provide administrative support to the Council.
- Requires the Council to propose an annual fee schedule and collect fees from each Florida institution participating in the reciprocity agreement.
- Requires the State Board of Education to adopt rules.

The bill takes effect upon becoming law.

II. Present Situation:

Students may access higher education through the traditional classroom setting or through distance education.

The Southern Association of Colleges and Schools Commission on Colleges defines distance learning as a formal educational process in which the majority of the instruction in a course occurs when students and instructors do not share the same location.¹

¹ Southern Association of Colleges and Schools Commission on Colleges, *Policy Statement, Distance and Correspondence Education* (2014), available at <http://www.sacscoc.org/pdf/DistanceCorrespondenceEducation.pdf>.

Florida law defines distance learning, for the purpose of assessing a distance learning course fee, as a course in which at least 80 percent of direct instruction of the course is delivered using some form of technology when the student and instructor are separated by time or space, or both.²

The Southern Regional Education Board

The Southern Regional Education Board (SREB) maintains a regional system for sharing online college courses known as the Electronic Campus (EC).³ SREB's EC allows students residing in an SREB member state to access online courses in any SREB state through the SREB's Electronic Reciprocity Agreement (SECRRA).⁴ The SECRRA is a voluntary agreement, which allows institutions that offer courses and degree programs that have been reviewed and approved by the institution's home state to be recognized as approved to offer courses in other SREB states.⁵ In order to participate in SECRRA, an institution must be not-for-profit, regionally accredited, and chartered in one of the 16 SREB member states.⁶ Florida currently participates in this agreement.⁷

The SECRRA will expire on June 30, 2017.⁸

Federal Requirements

Federal law requires each state to regulate out-of-state educational institutions with a physical presence in their state or that provides an education via distance learning to students in that state.⁹ The state authorization of online programs can be achieved through a state authorization reciprocity agreement.¹⁰ A "state authorization reciprocity agreement" is¹¹

"an agreement between two or more states that authorizes an institution located and legally authorized in a State covered by the agreement to provide postsecondary education through distance education or correspondence courses to students residing in other States covered by the agreement and does not prohibit any State in agreement from enforcing its own statutes and regulations, whether general or specifically directed at all or a subgroup of educational institutions."

² Sections 1009.23(16) and 1009.24(7), F.S.

³ Southern Regional Education Board, *State Authorization, SREB and the State Authorization Reciprocity Agreement*, <http://www.sreb.org/state-authorization-sara-secrra> (last visited March 24, 2017).

⁴ Southern Regional Education Board, *State Authorization, SREB's Regional Agreement, SECRRA*, <http://www.sreb.org/state-authorization-sara-secrra> (last visited March 24, 2017).

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ Southern Regional Education Board, *State Authorization, SECRRA Dissolve Date*, <http://www.sreb.org/state-authorization-sara-secrra> (last visited March 24, 2017).

⁹ 34 C.F.R. s. 600.9.

¹⁰ *Id.* See also National Council for State Authorization Reciprocity Agreements, *About NC-SARA*, <http://nc-sara.org/about> (last visited March 24, 2017).

¹¹ Program Integrity and Improvement, 81 Fed. Reg. 92232 (Dec. 19, 2016).

Currently, there is a national interstate reciprocity agreement for the state authorization of distance learning programs.¹²

State Authorization Reciprocity Agreement

The State Authorization Reciprocity Agreement, also known as SARA, is a voluntary agreement among participating states that establishes comparable national standards for interstate offerings of postsecondary distance education courses and programs.¹³ SARA is overseen by a national council¹⁴ and administered by the four regional education compacts.¹⁵ SARA membership requires the state to designate a portal entity as the coordinating entity responsible for contact with other state entities and students from other states.¹⁶ Each state must apply to the National Council for SARA (NC-SARA) through its portal entity to be a member of SARA.¹⁷ Once a state becomes a member of SARA, institutions within that state are authorized to apply to the portal entity to participate in SARA.¹⁸ An institution in an SARA member state is not required to participate in SARA.¹⁹

To participate in SARA, an institution must:²⁰

- Be a degree granting institution;
- Be physically located in the United States;
- Hold proper authorization from Congress, a U.S. state, or a federally recognized Indian Tribe; and
- Hold accreditation as a single entity from an accrediting association recognized by the U.S. Department of Education and whose scope of authority includes distance education.

Institutions participating in the reciprocity agreement pay a fee directly to NC- SARA based on the institution's full time equivalent enrollment.²¹ States have the option of charging a SARA-participating institution a fee to cover the state's costs in administering SARA.²²

¹² National Council for State Authorization Reciprocity Agreements, *About NC-SARA*, <http://nc-sara.org/about> (last visited March 24, 2017).

¹³ National Council for State Authorization Reciprocity Agreements, *About NC-SARA*, <http://nc-sara.org/about> (last visited March 24, 2017).

¹⁴ National Council for State Authorization Reciprocity Agreements, *National Council Board*, <http://nc-sara.org/about/national-council> (last visited March 24, 2017).

¹⁵ The four regional education compacts are the Midwestern Higher Education Compact, the New England Board of Higher Education, the Southern Regional Education Board, and the Western Interstate Commission for Higher Education. National Council for State Authorization Reciprocity Agreements, *State Authorization Reciprocity Agreements Policy and Operations Manual* (2016), available at http://nc-sara.org/files/docs/NC-SARA_Manual_Final_2016.pdf, at 5 of 88.

¹⁶ *Id.* at 11-12 of 88.

¹⁷ *Id.* at 14 of 88.

¹⁸ *Id.* at 20 of 88.

¹⁹ *Id.* at 3 of 88.

²⁰ National Council for State Authorization Reciprocity Agreements, *State Authorization Reciprocity Agreements Policy and Operations Manual* (2016), available at http://nc-sara.org/files/docs/NC-SARA_Manual_Final_2016.pdf, at 17 of 88.

²¹ National Council for State Authorization Reciprocity Agreements, *State Authorization Reciprocity Agreements Policy and Operations Manual* (2016), available at http://nc-sara.org/files/docs/NC-SARA_Manual_Final_2016.pdf, at pg. 21 of 88.

²² *Id.*

The Commission for Independent Education

The Commission for Independent Education (CIE) is responsible for matters relating to nonpublic postsecondary educational institutions.²³ The CIE's functions include consumer protection; program improvements; institutional policies and administration; data management; licensure of independent schools, colleges and universities; and establishing minimum standards for the approval of employees of independent postsecondary educational institutions.²⁴ The CIE may adopt rules to ensure that licensed employees of an independent postsecondary educational institution meets specified standards.²⁵ An employee of an independent postsecondary educational institution may not solicit prospective students in Florida for enrollment in any independent postsecondary educational institution under the CIE's purview or in any out-of-state independent postsecondary educational institution unless the employee has received a license as prescribed by the CIE.²⁶

III. Effect of Proposed Changes:

SB 668 authorizes the state of Florida to participate in a reciprocity agreement for the delivery of postsecondary distance education. Specifically, the bill:

- Requires Florida to accept the accreditation standards and criteria of each member state and institution participating in the reciprocity agreement to offer postsecondary distance education.
- Establishes the Postsecondary Reciprocal Distance Education Coordinating Council (Council), within the Florida Department of Education, for the purpose of entering into and administering the state reciprocity agreement.
- Establishes membership of the Council, and requires the Commission for Independent Education to provide administrative support to the Council.
- Requires the Council to propose an annual fee schedule and collect fees from each Florida institution participating in the reciprocity agreement.
- Requires the State Board of Education to adopt rules.

The bill requires each member state or institution participating in the reciprocity agreement to accept the accreditation standards and criteria of each other member state and institution participating in the reciprocity agreement to offer postsecondary distance education.

The bill defines institution to mean a public or private postsecondary educational institution that is accredited by a federally recognized accrediting body that awards, at a minimum, associate level degrees requiring at least two years of full-time equivalent college coursework.

²³ Section 1005.22, F.S.

²⁴ Section 1005.04, F.S.

²⁵ Section 1005.22(e), F.S.

²⁶ Section 1005.31(11), F.S.

Postsecondary Reciprocal Distance Education Coordinating Council Responsibilities

The bill grants to the Council the authority to determine the appropriate reciprocal agreement to join and prepare the necessary application, propose Florida institution fees, and recommend rules for Florida's participation in a reciprocity agreement.²⁷ Additionally, the Council is required to:

- Review and approve applications from Florida institutions to participate in the reciprocity agreement and establish an appeals process for institutions that are not approved to participate in the reciprocity agreement;
- Ensure compliance by Florida's institutions with the terms of the reciprocity agreement;
- Comply with the terms and provisions of the reciprocity agreement relating to any member state, Florida institution, or non-Florida institution;
- Comply with reporting requirements in the reciprocity agreements;
- Develop and administer a complaint resolution process for complaints related to the reciprocity agreement; and
- Delegate any responsibilities, obligations, or authorities to the CIE's staff necessary for the administration of Florida's participation in the reciprocity agreement.

The Council must consist of the Chancellor of the State University System, the Chancellor of the Florida College System, the Chancellor of the Division of Career and Adult Education, the Executive Director of the CIE, and the President of the Independent Colleges and Universities of Florida.

Commission for Independent Education Responsibilities

The bill provides that any non-Florida institution participating in the reciprocity agreement that offers degree programs and conducts activities limited to distance education degree programs and activities in accordance with the reciprocity agreement are not under the jurisdiction of the CIE. As a result, the CIE is not required to independently authorize every provider of distance education that serves Florida's students.

Additionally, an employee of an independent postsecondary educational institution may not solicit prospective students in Florida for enrollment in any out-of-state independent postsecondary educational institution unless the employee solicits for a postsecondary educational institution that is a member of the reciprocity agreement, and therefore not under the jurisdiction of the CIE.

The bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

²⁷ State University System of Florida Board of Governors, *2017 Agency Legislative Bill Analysis for SB 668* (Feb. 14, 2017), at 3.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Private postsecondary educational institutions that choose to participate in a reciprocity agreement may be required to pay the fee that the Postsecondary Reciprocal Distance Education Coordinating Council (Council) is authorized to establish under SB 668.²⁸ Additional fees may be required by the governing body of the reciprocity agreement.²⁹ The expenditures associated with the fee rates under the agreement cannot be determined at this time.³⁰

C. Government Sector Impact:

Public postsecondary educational institutions that choose to participate in a reciprocity agreement may be required to pay the fee that the Council is authorized to establish under SB 668.³¹ Additional fees may be required by the governing body of the reciprocity agreement.³² The expenditures associated with the fee rates under the agreement cannot be determined at this time.³³

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

²⁸ State University System of Florida Board of Governors, *2017 Agency Legislative Bill Analysis for SB 668* (Feb. 14, 2017), at 3.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Id.*

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1005.06 and 1005.31.

This bill creates section 1000.35 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
