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CS/CS/HB 859, Engrossed 1

2017 Legislature

1
2 An act relating to postsecondary distance education;
3 creating s. 1000.35, F.S.; providing a purpose;
4 defining terms; establishing the Postsecondary
5 Reciprocal Distance Education Coordinating Council
6 within the Department of Education; requiring the
7 Commission for Independent Education to provide
8 administrative support for the council; providing
9 membership and duties of the council; authorizing the
10 Governor to request the council to convene for the
11 purpose of reconsidering participation in a
12 reciprocity agreement; requiring the council to
13 provide recommendations to the Governor within a
14 specified period after such request; authorizing the
15 Governor to withdraw the state from participation in a
16 reciprocity agreement; defining the term "current
17 academic term"; requiring the council to collect
18 annual fees from Florida institutions participating in
19 a reciprocity agreement based on total full-time
20 equivalent enrollment; requiring the council to submit
21 an annual report to the Governor and the Legislature
22 by a specified date; providing for deposit of such
23 fees into a specified trust fund; specifying that such
24 fees are nonrefundable unless paid in error;
25 authorizing the council to revoke a Florida

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26 institution's participation in a reciprocity agreement
27 for noncompliance; authorizing a Florida institution
28 to withdraw from participation in a reciprocity
29 agreement after providing notice; exempting council
30 decisions from the Administrative Procedure Act;
31 providing that provisions relating to the jurisdiction
32 of the commission are not superseded; requiring the
33 State Board of Education to adopt rules; amending s.
34 1005.06, F.S.; providing that the commission does not
35 have jurisdiction over certain non-Florida
36 institutions participating in a reciprocity agreement;
37 amending s. 1005.31, F.S.; authorizing an agent to
38 solicit prospective students for enrollment in certain
39 postsecondary educational institutions; amending s.
40 1010.83, F.S.; requiring that the Institutional
41 Assessment Trust Fund administered by the department
42 consist of certain fees and fines; requiring the
43 department to maintain a separate account within such
44 trust fund for the operation of a reciprocity
45 agreement; authorizing the use of funds from such
46 trust fund for certain expenses related to
47 administration of a reciprocity agreement; providing
48 an appropriation; providing a directive to the
49 Division of Law Revision and Information; providing an
50 effective date.

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Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 1000.35, Florida Statutes, is created to read:

1000.35 Reciprocity agreement.-

(1) The purpose of this section is to authorize this state to participate in a reciprocity agreement with other states for the delivery of postsecondary distance education. Each member state or institution participating in a reciprocity agreement must accept each other's authorization of accredited institutions to operate in their state to offer distance educational services beyond state boundaries.

(2) For purposes of this section, the term:

(a) "Commission" means the Commission for Independent Education.

(b) "Complaint" means a formal assertion in writing that a person, institution, state, agency, or other entity operating under a reciprocity agreement has violated the terms of a reciprocity agreement or the laws, standards, or regulations incorporated therein.

(c) "Council" means the Postsecondary Reciprocal Distance Education Coordinating Council, which serves as the single portal entity designated by the state to administer a reciprocity agreement and serves as the interstate point of

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76 | contact for questions, complaints, and other matters related to
77 | a reciprocity agreement.

78 | (d) "Department" means the Department of Education.

79 | (e) "Florida institution" means a postsecondary
80 | educational institution approved by the council to participate
81 | in a reciprocity agreement.

82 | (f) "Institution" means a public or private postsecondary
83 | degree-granting college or university that is accredited by a
84 | federally recognized accrediting body and that awards, at a
85 | minimum, associate-level degrees requiring at least 2 years of
86 | full-time equivalent college work.

87 | (g) "Member state" means a state, territory, or district
88 | of the United States which has been approved to participate in a
89 | reciprocity agreement.

90 | (h) "Non-Florida institution" means an institution
91 | approved by a member state other than this state to participate
92 | in a reciprocity agreement.

93 | (i) "Reciprocity agreement" means an agreement that
94 | establishes reciprocity between a member state that accepts
95 | other member states' authorization of accredited institutions to
96 | operate in their states to offer distance educational services
97 | beyond state boundaries pursuant to the terms and conditions set
98 | forth in the agreement.

99 | (j) "State board" means the State Board of Education.

100 | (3) The council is created within the department for the

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101 purpose of administering a reciprocity agreement. The council
102 shall consist of the following persons or their designees: the
103 Chancellor of the State University System, the Chancellor of the
104 Florida College System, the Commissioner of Education, the
105 executive director of the commission, and the president of the
106 Independent Colleges and Universities of Florida. The commission
107 shall provide administrative support for the council. The
108 council shall:

109 (a) Within 60 days after the effective date of this act,
110 apply for this state to participate as a member state of a
111 reciprocity agreement;

112 (b) Serve as the single portal entity for administration
113 of a reciprocity agreement;

114 (c) Review and approve applications from institutions in
115 this state to participate in a reciprocity agreement and
116 establish an appeals process for institutions that are not
117 approved to participate in a reciprocity agreement;

118 (d) Ensure compliance by Florida institutions with the
119 terms and provisions of a reciprocity agreement, including, but
120 not limited to, accreditation and institutional quality,
121 consumer information and protection, disclosure and reporting
122 requirements, complaint mechanisms, and financial
123 responsibility;

124 (e) Comply with the terms and provisions of a reciprocity
125 agreement relating to any member state, Florida institution, or

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126 | non-Florida institution;
 127 | (f) Comply with the reporting requirements in a
 128 | reciprocity agreement and post all such reports on the council's
 129 | website;
 130 | (g) Consistent with the complaint resolution processes in
 131 | a reciprocity agreement, develop and administer a complaint
 132 | resolution process to resolve complaints related to a
 133 | reciprocity agreement after all complaint processes in place at
 134 | a Florida institution have been exhausted by the complainant;
 135 | (h) Delegate any responsibilities, obligations, or
 136 | authorities necessary for the administration of this state's
 137 | participation in a reciprocity agreement to the commission's
 138 | staff; and
 139 | (i) Recommend rules necessary to administer this section
 140 | for adoption by the state board.
 141 | (4) The Governor may request that the council convene for
 142 | the purpose of reconsidering this state's participation in a
 143 | reciprocity agreement. The council shall provide a
 144 | recommendation to the Governor within 14 days. Regardless of the
 145 | council's recommendation, or lack thereof, the Governor may
 146 | withdraw this state from participation in a reciprocity
 147 | agreement. Such withdrawal shall take effect 90 days after the
 148 | Governor's decision or by the end of the current academic term
 149 | of each participating Florida institution, whichever occurs
 150 | later. For purposes of this subsection, the term "current

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151 academic term" means the academic term in which a participating
152 Florida institution has enrolled students at the time of the
153 Governor's decision to withdraw. If the Governor decides to
154 withdraw this state from participation in a reciprocity
155 agreement, each participating Florida institution must provide
156 the end date of its current academic term to the council.

157 (5) The council shall collect an annual fee from each
158 Florida institution participating in a reciprocity agreement.
159 The fee shall be based on the Florida institution's total full-
160 time equivalent (FTE) enrollment as shown in the Integrated
161 Postsecondary Education Data System and shall be assessed as
162 follows:

163 (a) Not to exceed \$1,500 per year for a Florida
164 institution participating in a reciprocity agreement with fewer
165 than 2,500 total FTE enrollment.

166 (b) Not to exceed \$3,000 per year for a Florida
167 institution participating in a reciprocity agreement with at
168 least 2,500 but not more than 9,999 total FTE enrollment.

169 (c) Not to exceed \$4,500 per year for a Florida
170 institution participating in a reciprocity agreement with 10,000
171 or more total FTE enrollment.

172
173 Within the limitations imposed under this subsection, the fee
174 shall be set at an amount that will generate no more than the
175 total revenue necessary for the council's operation. The council

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176 shall lower the fee if the total revenue generated is higher
177 than the total revenue necessary for the council's operation. By
178 February 15, 2018, and each February 15 thereafter, the council
179 shall submit a report to the Governor, the President of the
180 Senate, and the Speaker of the House of Representatives. The
181 report must show that the total revenue generated is not higher
182 than the total revenue necessary for the council's operation,
183 must include a justification of staff needed for the council,
184 and must include the number of Florida institutions
185 participating in a reciprocity agreement. All fees collected
186 pursuant to this subsection shall be submitted by the department
187 to the Chief Financial Officer for deposit into a separate
188 account within the Institutional Assessment Trust Fund. Any fee
189 collected by the council pursuant to this subsection is
190 nonrefundable unless paid in error.

191 (6) The council may revoke a Florida institution's
192 approval to participate in a reciprocity agreement if the
193 council determines that such institution is not in compliance
194 with the terms and provisions of the reciprocity agreement.

195 (7) A Florida institution participating in a reciprocity
196 agreement may withdraw from participation in the reciprocity
197 agreement by submitting notice of its intent to withdraw to the
198 council, which shall become effective at the beginning of the
199 next academic term after receipt of such notice.

200 (8) Decisions of the council are not subject to chapter

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201 120.

202 (9) This section does not supersede the requirements in
 203 chapter 1005 relating to postsecondary educational institutions
 204 under the jurisdiction of the commission.

205 (10) The state board shall adopt rules to implement this
 206 section.

207 Section 2. Paragraph (h) is added to subsection (1) of
 208 section 1005.06, Florida Statutes, to read:

209 1005.06 Institutions not under the jurisdiction or purview
 210 of the commission.—

211 (1) Except as otherwise provided in law, the following
 212 institutions are not under the jurisdiction or purview of the
 213 commission and are not required to obtain licensure:

214 (h) Any non-Florida institution that has been approved by
 215 a member state to participate in a reciprocity agreement, as
 216 those terms are defined in s. 1000.35(2), if the degree programs
 217 that may be offered and the activities that may be conducted by
 218 such institution in this state are limited to the distance
 219 education degree programs and activities provided in and
 220 consistent with the terms and provisions of the reciprocity
 221 agreement.

222 Section 3. Subsection (11) of section 1005.31, Florida
 223 Statutes, is amended to read:

224 1005.31 Licensure of institutions.—

225 (11) The commission shall establish minimum standards for

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226 | the approval of agents. The commission may adopt rules to ensure
 227 | that licensed agents meet these standards and uphold the intent
 228 | of this chapter. An agent may not solicit prospective students
 229 | in this state for enrollment in any independent postsecondary
 230 | educational institution under the commission's purview or in any
 231 | out-of-state independent postsecondary educational institution
 232 | unless the agent has received a license as prescribed by the
 233 | commission or solicits for a postsecondary educational
 234 | institution that is not under the jurisdiction of the commission
 235 | pursuant to s. 1005.06(1)(h).

236 | Section 4. Subsection (1) of section 1010.83, Florida
 237 | Statutes, is amended, and paragraph (d) is added to subsection
 238 | (2) of that section, to read:

239 | 1010.83 Institutional Assessment Trust Fund.—

240 | (1) Chapter 99-32, Laws of Florida, re-created the
 241 | Institutional Assessment Trust Fund to be administered by the
 242 | Department of Education pursuant to this section and rules of
 243 | the State Board of Education. The trust fund shall consist of:

244 | (a) All fees and fines imposed upon nonpublic colleges and
 245 | schools pursuant to chapter 1005 and this chapter, including all
 246 | fees collected from nonpublic colleges and schools for
 247 | participation in the Student Protection Fund pursuant to s.
 248 | 1005.37.

249 | (b) All fees imposed upon nonpublic colleges and schools
 250 | for participation in the statewide course numbering system

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251 pursuant to s. 1007.24.

252 (c) All fees collected from institutions for participation
 253 in a reciprocity agreement pursuant to s. 1000.35.

254
 255 The department shall maintain separate accounts for the
 256 operation of the Commission for Independent Education, the
 257 Student Protection Fund, a reciprocity agreement pursuant to s.
 258 1000.35, and the Department of Education all fees and fines
 259 ~~imposed upon nonpublic colleges and schools pursuant to this~~
 260 ~~chapter and chapter 1005, including all fees collected from~~
 261 ~~nonpublic colleges and schools for participation in the Student~~
 262 ~~Protection Fund and the statewide course numbering system. The~~
 263 ~~department shall maintain separate accounts for the operation of~~
 264 ~~the Commission for Independent Education; the Student Protection~~
 265 ~~Fund; and the Department of Education.~~

266 (2) Funds from the trust fund shall be used for purposes
 267 including, but not limited to, the following:

268 (d) Expenses authorized by the Department of Education
 269 related to a reciprocity agreement.

270 Section 5. For the 2017-2018 fiscal year, the sum of
 271 \$225,534 in recurring funds is appropriated from the
 272 Institutional Assessment Trust Fund to the Department of
 273 Education and two full-time equivalent positions with associated
 274 salary rate of 110,000 are authorized for the purpose of
 275 implementing the requirements of this act.

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276 Section 6. The Division of Law Revision and Information is
277 directed to replace the phrase "the effective date of this act"
278 wherever it occurs in this act with the date this act becomes a
279 law.

280 Section 7. This act shall take effect upon becoming a law.