

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 Appropriations Committee on Education

BILL: SB 282

INTRODUCER: Senator Rodriguez

SUBJECT: Nonpublic Religious Postsecondary Educational Institutions

DATE: January 23, 2024

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------------|----------------|------------|--------------------|
| 1. | <u>Jahnke</u> | <u>Bouck</u> | <u>HE</u> | Favorable |
| 2. | <u>Gray</u> | <u>Elwell</u> | <u>AED</u> | Pre-meeting |
| 3. | _____ | _____ | <u>RC</u> | _____ |

I. Summary:

SB 282 modifies requirements for nonpublic religious postsecondary institutions. Specifically the bill:

- Provides additional requirements for nonpublic religious postsecondary educational institutions to be exempt from the jurisdiction or purview of the Commission for Independent Education (commission).
- Requires the commission to annually provide such institutions with a written notice of exemption from licensure and of compliance.
- Provides requirements and penalties for noncompliance.

This bill has no fiscal impact. See fiscal, section V.

The bill is effective July 1, 2024.

II. Present Situation:

The Commission for Independent Education

The Commission for Independent Education (commission) was established in 2001 and is responsible for matters relating to nonpublic postsecondary educational institutions. The commission's functions include consumer protection, program improvements, institutional policies and administration, data management, and the licensure of independent schools, colleges, and universities.¹

¹ Section 1005.21, F.S., and Florida Department of Education, *Commission for Independent Education*, <https://www.fldoe.org/policy/cie/> (last visited Jan. 16, 2024).

Licensure of Nonpublic Postsecondary Educational Institutions

Each college or school operating within the state must obtain licensure from the commission unless the institution is not under the commission's purview or jurisdiction as provided in law.² The commission has developed 12 standards by which to evaluate institutions for licensure. Standards include administrative organization, academic programs, admissions requirements, finances, faculty, library resources, facilities, student services and advertising.³

Provisional Licensure is the first level of licensure obtained by an applicant and allows the institution to advertise, recruit students, accept fees and tuition from students, and hold classes. Provisional Licensure is granted when the commission has determined that an applicant is in substantial compliance with the standards for licensure. A Provisional License is typically granted for one year. The process to obtain Provisional Licensure for a new applicant normally takes six to twelve months.⁴ A provisional license may include conditions required by the commission and all conditions must be met before the institution may receive a different licensure status.⁵

Annual Licensure is typically the second level of licensure obtained by an institution holding a Provisional License, or seeking renewal of an Annual License, when the commission has determined that an institution is in full compliance with the standards for licensure. An institution may continue to hold an Annual License as long as the institution remains in full compliance with the standards for licensure, does not undergo a substantive change, or meets the requirements and applies for a License by Means of Accreditation. An Annual License is typically granted for one year. Prior to the granting of an initial Annual License, a satisfactory on-site visit must occur. The process to obtain an initial Annual License or renewal of an Annual License normally takes three months from receipt of the Application for Annual License.

Institutions that hold an Annual License may add new degrees, programs, or majors to their offerings or alter any licensed program by more than 20 percent since their last review, change the title of a program or the credential awarded, or discontinue a program upon approval by the commission.⁶

Religious Institutions

The commission does not have jurisdiction or purview over all nonpublic postsecondary educational institutions. Certain postsecondary educational institutions are exempt from licensure and jurisdiction under the commission.⁷

² Sections 1005.31(1) and 1005.06, F.S.

³ Section 1005.31(2), F.S. and Rule 6E-2.004, F.A.C.

⁴ Florida Department of Education, *2021-2022 Commission for Independent Education Annual Report (2023)*, available at <https://www.fldoe.org/core/fileparse.php/7748/urlt/2122annualreport.pdf> at 15 (last visited Jan. 16, 2024).

⁵ Section 1005.31(5), F.S.

⁶ Florida Department of Education, *2021-2022 Commission for Independent Education Annual Report (2023)*, available at <https://www.fldoe.org/core/fileparse.php/7748/urlt/2122annualreport.pdf> at 20 (last visited Jan. 16, 2024).

⁷ Section 1005.06, F.S. These include public colleges and universities; institutions that are otherwise licensed, such as dental schools, midwifery schools, or real estate schools; institutions eligible for the Effective Access for Student Education tuition assistance program; continuing education programs; and religious institutions..

Religious institutions are not under the jurisdiction or purview of the commission and are not required to obtain licensure. A religious college may operate without governmental oversight if the college annually verifies by sworn affidavit to the commission that:

- The name of the institution includes a religious modifier or the name of a religious patriarch, saint, person, or symbol of the church.
- The institution offers only educational programs that prepare students for religious vocations as ministers, professionals, or laypersons in the categories of ministry, counseling, theology, education, administration, music, fine arts, media communications, or social work.
- The titles of degrees issued by the institution cannot be confused with secular degree titles. For this purpose, each degree title must include a religious modifier that immediately precedes, or is included within, any of the following degrees: Associate of Arts, Associate of Science, Bachelor of Arts, Bachelor of Science, Master of Arts, Master of Science, Doctor of Philosophy, and Doctor of Education. The religious modifier must be placed on the title line of the degree, on the transcript, and whenever the title of the degree appears in official school documents or publications.
- The duration of all degree programs offered by the institution is consistent with the standards of the commission.
- The institution's consumer practices are consistent with those specified in law.⁸

The commission may provide such a religious institution a letter stating that the institution has met the requirements specified in law and is not subject to governmental oversight.

III. Effect of Proposed Changes:

The bill amends s. 1005.06, F.S., to shift to a new statutory provision the exemption of religious colleges from the jurisdiction or purview of the Commission for Independent Education (commission).

The bill creates s. 1005.12, F.S., to provide additional requirements that must be met by nonpublic religious postsecondary educational institutions, such as religious colleges, to operate without being licensed by the commission. Such institutions must meet two or more of the following criteria:

- Be incorporated in this state.
- Be a limited liability company in this state.
- Be under a domestic or foreign corporation registered in this state.
- Be a ministry under an entity with an Internal Revenue Service taxpayer identification number.
- Be tax exempt under s. 501(c)(3) of the Internal Revenue Code.
- Be registered under a fictitious name in this state under one of the entities specified in the previous criteria.

The bill maintains current law that allows such institutions to operate exempt from licensure in the state by requiring the institution to annually provide the commission by sworn affidavit, either electronically or in print, all of the following information or affirmations:

⁸ Section 1005.06(1), F.S. and Rule 6E-5.001, F.A.C.

- The name of the institution, which must include a religious modifier or the name of a religious patriarch, saint, person, or symbol of the church.
- That the institution offers only educational programs that prepare students for religious vocations as ministers, professionals, or laypersons in the categories of ministry, counseling, theology, education, administration, business, accounting, finance, music, fine arts, media, social work, or communications.
- The titles of any of the following degrees conferred by the institution, which must include a religious modifier on the title line of the degree, on the transcript, and whenever the title of the degree appears in the institution's official documents or publications:
 - Associate of Arts.
 - Associate of Science.
 - Bachelor of Arts.
 - Bachelor of Science.
 - Master of Arts.
 - Master of Science.
 - Doctor of Philosophy.
 - Doctor of Education.
- That the duration of all degree programs offered by the institution is consistent with the standards of the commission.
- That the institution's consumer practices are consistent with those specified in law.⁹

Instead of commission discretion in providing a letter that an institution has met the requirements in law, the bill requires the commission to annually provide the nonpublic religious postsecondary educational institutions with a written notice of exemption from licensure and of compliance with the requirements specified in law. The bill specifies that the written notice from the previous year remains effective until the commission's workload permits its appropriate adjudication of a subsequent year's sworn affidavit submitted by the institution.

The bill provides two verification methods to determine compliance by the nonpublic religious postsecondary educational institution:

- A finding of compliance by the commission after the institution submits the required documentation in print or electronically.
- A finding of compliance by a religious nongovernmental education association based in the state which the commission may cooperate with to administer its duties under this section.

To issue a finding of compliance, the bill requires the religious nongovernmental education association approved by the commission to:

- Operate in the state and require its members to reside in the state.
- Ensure that its members are trained by the association to verify compliance under this section.
- Have a review team composed of at least three members, of which no more than two members may derive income from the same institution as one another.
- Prohibit a member of the review team from deriving income from the institution being reviewed.

⁹ Section 1005.04, F.S.

- Annually submit to the commission, on behalf of the institution being reviewed, a sworn affidavit designating the association as the institution's agent to represent it before the commission and a written notice from the association's review team affirming the institution's compliance with this section.

The bill provides that if a nonpublic religious postsecondary educational institution has received from the commission a written notice of compliance and exemption from licensure, and the institution subsequently fails to comply, the commission is required to send the institution a notice of noncompliance, and the institution is required to do one of the following:

- Apply for a license from the commission within 45 days after issuance of the notice.
- Cease operating in this state within 45 days after issuance of the notice.

If the institution fails to take the specified actions for noncompliance, the bill requires the employee or agent of the institution who produced the sworn affidavit to be subject to criminal penalties for making a false statement on a sworn affidavit.

The bill authorizes the commission to take action if an exempt institution is later found to be out of compliance, either through a finding by the institution, or upon receiving written notices from two or more different nonpublic religious postsecondary educational institutions that the institution in question has failed to meet the specified requirements.

The bill also includes a number of conforming cross-references.

The bill is effective July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 553.865, 1005.03, 1005.04, 1005.06, 1005.21, and 1005.31.

This bill creates section 1005.12 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.