

BILL ANALYSIS

Senate Research Center
79R11924 CAS-F

H.B. 2806
By: Morrison (West)
S/C on Higher Education
5/18/2005
Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Career schools in Texas are heavily regulated, and are required to operate in a controlled environment where federal and state regulation intertwine on a regular basis.

H.B. 2806 is intended to modernize the language and consumer protection intent of the Proprietary School Act, which has not been updated in 33 years, to better serve career school students. These changes will align terms and processes with national accreditation and federal regulation currently being used by the career schools and colleges in all parts of Texas.

In addition, Sunset legislation from the 78th Legislature, Regular Session, 2003, adopted regulatory changes that updated school operation processes that more consistently aligned state accreditation and federal guidelines. However, these changes could not be put into effect until statutory language changed to better reflect intent.

One of the regulatory changes most needed to bring Texas' career schools and colleges into the 21st century included measurement of student academic involvement and progression. All tax-supported community colleges and traditional universities in Texas, along with most career schools across the nation, currently use federally approved "satisfactory progress" standards to monitor this process while current Texas statute requires that career schools "take hourly attendance" of college students to monitor them. Additionally, clarification is needed regarding the process of "refunds" and "return of funds" required by the Code of Federal Regulation and statute.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Workforce Commission in SECTION 6 (Section 132.061, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 132.001, Education Code, by amending Subdivisions (8) and (9) to redefine "person" and "unearned tuition," and adding Subdivisions (1-a), (1-b), and (14) to define "class," "course," "course time," "program," and "program of instruction."

SECTION 2. Amends Section 132.004, Education Code, as follows:

Sec. 132.004. New heading. EXCLUSIVE OFFERING OF EXEMPTED COURSES OR PROGRAMS BY BUSINESS ENTERPRISE. Provides that a business enterprise that offers exclusively courses or programs of instruction that are exempt under Section 132.002 (Exemptions) or 132.003 (Course Exemption; Development of Career Skills; Recreational or Avocational Subjects) is exempt from this chapter.

SECTION 3. Amends Section 132.051, Education Code, to prohibit a career school or college from maintaining, advertising, soliciting for, or conducting any program, rather than course, of instruction in this state until the career or school or college receives a certificate of approval from the Texas Workforce Commission (TWC). Makes a conforming change.

SECTION 4. Amends Section 132.055, Education Code, as follows:

Sec. 132.055. CRITERIA. (a) Authorizes TWC to approve the application of a career school or college when the school or college is found, upon investigation at the premises of the school or college, to have met the criteria specified by Subsection (b).

(b-1) Redesignates existing text from Subsections (a)-(r). Sets forth such criteria including the school or college providing a copy of specific information to each student before enrollment and meets additional criteria as may be required by TWC. Makes conforming changes.

SECTION 5. Amends Sections 132.056(a) and (c), Education Code, as follows:

(a) Deletes existing text relating to specific information required to be included in the certificate of approval prescribed by TWC.

(c) Requires a new owner, in the event of a change in ownership of the school or college, at least 30 days prior to the change in ownership, to apply, in the manner prescribed by TWC, for a new certificate of approval.

SECTION 6. Amends Section 132.061, Education Code, by amending Subsections (b), (c), (d), (g), and (h), and adding Subsections (j) and (k), as follows:

(b) Requires each career school or college to maintain a policy for the refund of the unused portion of tuition, fees, and other charges in the event the student, after expiration of the 72-hour cancellation privilege, fails to enter a program in which the student is enrolled or withdraws or is discontinued from the program at any time prior to completion, as a condition for granting certification, except as provided by Subsection (g), and such policy is required to provide specific information. Makes conforming and nonsubstantive changes.

(c)-(d) Makes conforming changes.

(g) Makes conforming changes.

(h) Requires a closing career school or college to, subject to Section 1322.242, make a full refund to each student of the school or college who is owed a refund under this section.

(j) Requires a career school or college that is eligible to participate in student financial aid programs under Title IV, Higher Education Act of 1965 (20 U.S.C. Section 1070 et seq.), to make refunds in accordance with the policy adopted under Subsection (b), except that the effective date of termination for refund purposes is the earlier of certain dates.

(k) Authorizes TWC to adopt rules governing records necessary to make refunds authorized by this chapter.

SECTION 7. Amends Subchapter C, Chapter 132, Education Code, by adding Section 132.065, as follows:

Sec. 132.065. SCHOOLS NOT REQUIRED TO TAKE ATTENDANCE. Provides that a career school or college that is eligible to participate in student financial aid programs under Title IV, Higher Education Act of 1965 (20 U.S.C. Section 1070 et seq.), is not required to take attendance.

SECTION 8. Amends Section 132.151, Education Code, to delete existing text prohibiting a person from failing to secure and file an increased bond as required by this chapter within 30 days. Makes a conforming change.

SECTION 9. Amends Sections 132.201(a) and (b), Education Code, to make conforming changes.

SECTION 10. Amends Section 132.2415(d), Education Code, to require TWC to consider the availability of other schools or colleges, regardless of whether the school or college is a career school or college, at which the student may complete the student training, as a factor in determining the amount of a partial refund to be paid to a student.

SECTION 11. Amends Sections 132.242(a), (b), (c), (d), and (f), Education Code, to require TWC to attempt to arrange for students of the closed school or college to attend another school or college if a career school or college closes, regardless of whether the school or college is a career school or college. Makes conforming changes.

SECTION 12. Repealer: Sections 132.021(b) (relating to requiring TWC to prepare a cost comparison) and 132.056(e) (relating to prohibiting a career school from operating until the certificate of approval has been received), Education Code.

SECTION 13. Makes application of Sections 132.051(a) and (b), Education Code, prospective.

SECTION 14. Makes application of Section 132.055, Education Code, prospective.

SECTION 15. Makes application of Section 132.056, Education Code, prospective.

SECTION 16. Makes application of Section 132.061, Education Code, prospective.

SECTION 17. Makes application of Section 132.242, Education Code, prospective.

SECTION 18. Effective date: September 1, 2005.