

STAND. COM. REP. NO.

1207

Honolulu, Hawaii

March 22, 2013

RE: S.B. No. 46
S.D. 2
H.D. 2

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred S.B. No. 46, S.D. 2, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO EDUCATION,"

begs leave to report as follows:

The purpose of this measure is to protect post-secondary students in the State by establishing the State Post-secondary Education Commission within the Department of Commerce and Consumer Affairs (DCCA) to comply with new federal regulations for post-secondary educational institutions. This measure also repeals the current State Post-secondary Education Commission, located within the University of Hawaii.

The Policy Office of the Governor, University of Hawaii, Hawaii Pacific University, Chaminade University of Honolulu, University of Phoenix, International Quantum University for Integrative Medicine, and Hawaii Association of Independent Schools supported this bill. The Department of Commerce and Consumer Affairs opposed this measure. The State Procurement Office provided comments.

Your Committee has amended this measure by:

- (1) Deleting provisions relating to a Post-secondary Education Commission and replacing them with provisions

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for the establishment of a Post-secondary Education Authorization Program;

- (2) Clarifying the definition of "physical presence";
- (3) Deleting provisions explicitly stating the institutions to which the regulatory program applies;
- (4) Requiring that private colleges or universities, including occupational or vocational schools, that enroll students only at the certificate level to engage in a profession or vocation that is regulated under another chapter to be subject to the regulatory program;
- (5) Specifying that the University of Hawaii may apply for authorization as long as it meets the criteria for and complies with all authorization requirements;
- (6) Clarifying that DCCA has the authority to impose sanctions upon the University of Hawaii under specified conditions;
- (7) Removing the June 30, 2014, deadline by which policies and procedures for reauthorization must be adopted and specifying that such policies and procedures may be adopted as necessary;
- (8) Clarifying that DCCA is authorized to receive, arbitrate, investigate, and process complaints;
- (9) Specifying additional entities that are authorized to award certain degrees;
- (10) Requiring private colleges or universities under the jurisdiction of DCCA to notify DCCA at least one year prior to ceasing operations in the State;
- (11) Requiring that private colleges and universities apply for reauthorization every two years, rather than every three years or in accordance with their schedule for reaccreditation;
- (12) Requiring that seminaries and religious training institutions apply for reauthorization every two, rather than three, years;



- (13) Deleting provisions that condition the reauthorization of regulated institutions on the absence of pending investigations;
- (14) Deleting vague and duplicative provisions from the list of prohibited practices;
- (15) Deleting provisions allowing a regulated institution to contest a decision to revoke authorization or place the institution on probationary status for failure to maintain authorization;
- (16) Providing that upon the cessation of operations a regulated institution, its owner, or the owner's designee, and its governing board are jointly and severally liable to deposit the institution's educational records with DCCA;
- (17) Authorizing DCCA to seek additional relief as necessary if it is determined that the records of a regulated institution that ceases operation are in danger of being made unavailable;
- (18) Specifying that the requirements with respect to the deposit of records do not apply to public, out-of-state institutions;
- (19) Clarifying certain criteria concerning how a private college or university can also demonstrate financial integrity;
- (20) Clarifying that a surety bond filed with the Director of DCCA for the purpose of demonstrating financial integrity shall run concurrently with any period of authorization or reauthorization unless terminated or cancelled by the surety company;
- (21) Clarifying the amount and calculation of the surety bond used to demonstrate financial integrity by a private college or university;
- (22) Removing authorization to disapprove a surety bond if it is not sufficient to provide students with indemnification and alternative enrollment;



- (23) Clarifying when DCCA is required to provide notice to a private college or university that its surety bond has been cancelled;
- (24) Clarifying the authority of the Department of the Attorney General to recover restitution for enrolled students of a private college or university that ceases operation;
- (25) Removing the July 1, 2014, deadline by which complaint procedures must be established;
- (26) Deleting the authorization to forward a complaint and any findings to the Department of the Attorney General if the University of Hawaii system, a private college or university, seminary, or religious training institution does not take certain recommended actions;
- (27) Requiring educational records required to be deposited with DCCA upon cessation of operations to be in a form prescribed by the director of DCCA, rather than be the original or legible copies;
- (28) Deleting provisions for claims made for a loss of tuition or fees that are unrelated to a private college or university that ceases operation;
- (29) Setting the authorization fee at \$10,000 and requiring that the fee be paid every two years upon application for reauthorization, in addition to the initial application for authorization;
- (30) Inserting an appropriation amount of \$600,000 in general revenues for each year of fiscal biennium 2013-2015 to be deposited into the Post-secondary Education Authorization Special Subaccount of the Compliance Resolution Fund;
- (31) Inserting an appropriation amount of \$600,000 for each year of fiscal biennium 2013-2015 from the Post-secondary Education Authorization Special Subaccount to fund three full-time equivalent permanent positions to implement the provisions of this measure;



- (32) Requiring consideration of an appropriate authorization fee structure within the implementation coordinator or team's scope of work;
- (33) Inserting an appropriation amount of \$50,000 in general revenues for fiscal year 2013-2014 for DCCA to contract for an implementation coordinator or team;
- (34) Providing for the automatic repeal of administrative rules promulgated by the State Post-secondary Education Commission under the University of Hawaii;
- (35) Requiring the Director of DCCA to report to the Legislature no later than twenty days prior to the convening of the Regular Session of 2014 regarding the Post-secondary Education Authorization Program;
- (36) Changing its effective date to upon approval, except with respect to sections containing appropriations; and
- (37) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 46, S.D. 2, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as S.B. No. 46, S.D. 2, H.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Consumer
Protection & Commerce,



ANGUS L.K. MCKELVEY, Chair



