

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 Higher Education Appropriations Committee

BILL: CS/SB 2096

INTRODUCER: Higher Education Committee and Senator Oelrich

SUBJECT: Nonpublic Postsecondary Educational Institutions

DATE: April 15, 2009 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harkey	Matthews	HE	Fav/CS
2.	Bryant	Hamon	HI	Favorable
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

This bill revises the criteria that must be met by private postsecondary institutions to be licensed by the Commission for Independent Education (CIE) by means of the institution's accreditation rather than through a full licensure review. The bill:

- Eliminates the requirement that the institution must be a Florida corporation;
- Requires the accrediting agency to have reporting, organizational, and operating standards similar to those of CIE;
- Requires the institution to provide CIE with a site report by the accrediting agency for each site that is licensed; and
- Clarifies that the CIE may request a site visit by an accrediting agency to investigate any suspected violation of the laws and rules governing licensure of private postsecondary institutions.

This bill amends s. 1005.32, Florida Statutes.

II. Present Situation:

The Commission for Independent Education (CIE)

Every private college or postsecondary school operating in Florida must be licensed by the CIE unless it is exempt from licensure under s. 1005.06, F.S.¹ As of April 3, 2009, 738 institutions, with 871 sites, were licensed by the CIE.

Licensure of Private Postsecondary Institutions

The CIE must develop minimum standards by which to evaluate institutions for licensure. The standards must include at least the institution's name, financial stability, purpose, administrative organization, admissions and recruitment, educational programs and curricula, retention, completion, career placement, faculty, learning resources, student personnel services, physical plant and facilities, publications, and disclosure statements about the status of the institution with respect to professional certification and licensure.² The commission must ensure through an investigative process that applicants for licensure meet the standards as defined in rule. Employees or agents of the CIE have the power to inspect institutions licensed under s. 1005.31, F.S.

Licensure by Means of Accreditation

The law provides a streamlined method of licensure for an institution that:

- Has operated legally in this state for at least five consecutive years;
- Holds institutional accreditation by an accrediting agency evaluated and approved by the commission as having standards substantially equivalent to the commission's licensure standards;
- Has no unresolved complaints or actions in the past 12 months;
- Meets minimum requirements for financial responsibility as determined by the commission; and
- Is a Florida corporation.³

An institution licensed by means of accreditation does not have to present the extensive data required in regular licensure but must present the following:

- An audited financial statement;
- A current catalog;
- Accreditation materials;
- Accreditation correspondence;
- Fair consumer practices documentation;
- A license by means of accreditation fee; and
- A student protection fund fee.

¹ Institutions that are exempt from licensure include those operated by the state or federal government; nursing, dentistry, real estate schools and any others requiring licensing under other chapters of the Florida Statutes; nonprofit independent colleges accredited by the Southern Association of Colleges and Schools; religious institutions; schools regulated by the Federal Aviation Administration; and institutions that were exempt from licensure prior to 2001.

² s. 1005.31, F.S.

³ In December 2008, the requirement for an institution to be a Florida Corporation in order to be eligible for licensure by means of accreditation was found to be in violation of the Commerce Clause of the U.S. Constitution, *University of Phoenix v. Bradley*, Case No. 4:08cv217-RH/WCS, (N.D. Fla. 2008).

There is presently no requirement by the Commission for Independent Education that an institution's accrediting agency conduct an onsite visit of an institution's Florida location.

III. Effect of Proposed Changes:

This bill revises the criteria that must be met by private postsecondary institutions to be licensed by the Commission for Independent Education (CIE) by means of the institution's accreditation rather than through a full licensure review. The bill:

- Eliminates the requirement that the institution must be a Florida corporation;
- Requires the accrediting agency to have reporting, organizational, and operating standards similar to those of the CIE;
- Requires the institution to provide the CIE with a site report by the accrediting agency for each site that is licensed; and
- Clarifies that the CIE may request a site visit by an accrediting agency to investigate any suspected violation of the laws and rules governing licensure of private postsecondary institutions.

Beginning January 1, 2010, institutions licensed by the CIE that wish to be licensed by means of accreditation must have an onsite visit of their Florida location conducted by their accrediting agency and must forward a copy of the accrediting agency report produced from that onsite visit to the CIE.

The CIE must determine whether or not the standards for "reporting, organizational, and operating standards" are substantially equivalent to the commission's licensure standards.

According to the CIE, approximately 105 licensed private institutions will become eligible for licensure by means of accreditation under the provisions of this bill.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Section 1005.32(1)(e), F.S., which makes licensure by means of accreditation only available to a Florida corporation, was found to be in violation of the Commerce Clause

(Art. I, s. 8 of the U.S. Constitution).⁴ This bill would cure the alleged constitutional defect.

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. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Higher Education on April 6, 2009:

The committee substitute clarifies that the CIE may request a site visit by an accrediting agency to investigate any suspected violation of ch. 1005, F.S., which governs the licensure of private postsecondary institutions, or CIE rules.

B. Amendments:

None.

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

⁴ *University of Phoenix, Inc., v. Bradley*, Case No. 4:08cv217-RH/WCS, (N.D. Fla. 2008).