

HOUSE OF REPRESENTATIVES FINAL BILL ANALYSIS

BILL #:	CS/CS/HB 859	FINAL HOUSE FLOOR ACTION:		
SUBJECT/SHORT TITLE	Postsecondary Distance Education	118	Y's 0	N's
SPONSOR(S):	Higher Education Appropriations Subcommittee; Post-Secondary Education Subcommittee; Mariano and others	GOVERNOR'S ACTION:	Approved	
COMPANION BILLS:	CS/SB 668			

SUMMARY ANALYSIS

CS/CS/HB 859 passed the House on April 26, 2017. The bill was amended in the Senate on May 2, 2017, and was returned to the House. The House concurred in the Senate amendment on May 4, 2017.

The bill establishes the Postsecondary Reciprocal Distance Education Coordinating Council (council) within the Florida Department of Education (DOE), consisting of members of Florida's postsecondary education system, which will:

- administer a reciprocity agreement with other states to authorize institutions to offer postsecondary distance education in such states;
- review and approve applications from Florida institutions to participate in a reciprocity agreement;
- establish an appeals process for institutions that are denied participation in a reciprocity agreement;
- ensure compliance by Florida institutions with the terms and provisions of a reciprocity agreement;
- comply with the terms and provisions of a reciprocity agreement relating to any member state, Florida institution or non-Florida institution;
- comply with the reporting requirements in a reciprocity agreement;
- develop and administer a complaint resolution process for complaints related to a reciprocity agreement;
- delegate any responsibilities to the Commission for Independent Education (CIE) necessary for Florida's participation in a reciprocity agreement; and
- recommend rules necessary to administer a reciprocity agreement to the Florida State Board of Education (SBE).

The bill authorizes the Governor to request the council to reconsider Florida's participation in a reciprocity agreement and authorizes the Governor to withdraw Florida from participating in a reciprocity agreement regardless of the council's findings. The bill allows the council to revoke a Florida institution's approval to participate in a reciprocity agreement if it determines that the institution is not in compliance with the reciprocity agreement. The decisions of the council are not subject to the administrative hearing procedures of Chapter 120, F.S.

The bill also establishes a fee schedule and provides for collection of fees from each Florida institution that participates in a reciprocity agreement. Participation in the agreement is voluntary and fees will be assessed only if an institution wishes to participate in a reciprocity agreement. Institutional fees will fund the administrative cost of the council.

The bill was approved by the Governor on June 9, 2017, ch. 2017-87, L.O.F., and became effective on that date.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0859z1.PSE

DATE: June 13, 2017

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present Situation

State Authorization Reciprocity Agreements (SARA) are voluntary agreements between states that establish comparable national standards for interstate offerings of postsecondary distance-education courses and programs. SARA is intended to simplify and improve the process for students who take online courses offered by postsecondary institutions based in other states. States, not institutions or students, are members of SARA. As a result, states become members of SARA while colleges and universities participate in SARA. The current SARA in existence is overseen by a National Council (NC-SARA) and administered by four regional education compacts.¹

In order to be eligible for membership, a state must either be a member of one of the four interstate Regional Compacts that administer SARA or have concluded an agreement with such a compact covering SARA activity. The state agency or entity responsible for joining SARA must have legal authority under state law to enter an interstate agreement that covers all of the elements of SARA.²

SARA centralizes the approval of distance education courses and programs offered across state lines by institutions that already have degree authorization in at least one state. Colleges and universities in a SARA state need only their home state authorization to offer distance education to any other SARA member state.³

Currently, Florida participates in the Southern Regional Educational Board's Electronic Regional Reciprocity Agreement (SECRRA). SECRRA allows Florida's approved colleges and universities to deliver online offerings in Southern Regional Education Board (SREB) member states.⁴ SREB member states include Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North and South Carolina, Oklahoma, Tennessee, Texas, Virginia and West Virginia.⁵

All SREB states, other than Florida, currently participate in SARA.⁶ On June 30, 2017, the current SECRRA agreement dissolves.⁷ Many SARA institutions are admitting out-of-state students only from SARA states. As a result, Florida students will be shut out of many SARA institutions if Florida fails to join SARA.⁸

The Commission for Independent Education (CIE) is responsible for matters relating to nonpublic, postsecondary, educational institutions. The CIE's functions include consumer protection, program improvements, institutional policies and administration, data management, the licensure of independent schools, colleges and universities and establishing minimum standards for the approval of employees

¹ See, NC-SARA National Council for State Authorization Reciprocity Agreements, *Basic questions about SARA*, <http://nc-sara.org/content/basic-questions-about-sara> (last visited February 6, 2017).

² See, State Authorization Reciprocity Agreements: Policy and Operations Manual, *Section 2. States and Membership*, http://nc-sara.org/files/docs/NC-SARA_Manual_Final_2016.pdf (last visited February 6, 2017).

³ See, NC-SARA National Council for State Authorization Reciprocity Agreements, *Basic questions about SARA*, <http://nc-sara.org/content/basic-questions-about-sara> (last visited February 6, 2017).

⁴ See, Southern Regional Education Board, *SREB's regional agreement, SECRRA*, <http://www.sreb.org/state-authorization-sara-secrra> (last visited March 6, 2017).

⁵ See, Southern Regional Education Board, *SREB and Member States*, <http://www.sreb.org/sreb-and-member-states> (last visited March 6, 2017).

⁶ See, NC-SARA National Council for State Authorization Reciprocity Agreements, *SARA States & Institutions*, <http://nc-sara.org/sara-states-institutions> (last visited March 7, 2017).

⁷ Email, Southern Regional Education Board, Director of Student Access Programs and Services (March 7, 2017).

⁸ Email, Southern Regional Education Board, Director of Student Access Programs and Services (December 12, 2016).

of independent postsecondary educational institutions.⁹ The CIE may adopt rules to ensure that licensed employees of an independent postsecondary educational institution meet specific standards. An agent or employee of the commission may not solicit prospective students in Florida for enrollment in any independent postsecondary educational institution under the CIE's purview or in any out-of-state independent postsecondary educational institution unless the agent has received a license as prescribed by the CIE.¹⁰

Effect of Proposed Changes

The bill establishes the Postsecondary Reciprocal Distance Education Coordinating Council (council) within the Florida Department of Education (DOE) to administer a reciprocity agreement. The council shall consist of the Chancellor of the State University System, the Chancellor of the Florida College System, the Commissioner of Education, the Executive Director of the CIE and the President of the Independent Colleges and Universities of Florida.

The council shall:

- apply for Florida to participate as a member of a reciprocity agreement;
- serve as the single portal entity for the administration of a reciprocity agreement;
- review and approve applications from institutions in Florida to participate in a reciprocity agreement;
- establish an appeals process for institutions that are not approved to participate in a reciprocity agreement;
- ensure compliance by Florida institutions with the terms and provisions of a reciprocity agreement, including but not limited to, accreditation and institutional quality, consumer information and protection, disclosure and reporting requirements, complaint mechanism and financial responsibility;
- comply with the terms and provisions of a reciprocity agreement relating to any member state, Florida institution or non-Florida institution;
- comply with the reporting requirements in a reciprocity agreement and post all such reports on the council's website;
- develop and administer a complaint resolution process, consistent with a reciprocity agreement, to resolve complaints related to a reciprocity agreement after all complaint processes in place at a Florida institution have been exhausted by the complainant;
- delegate any responsibilities, obligations or authorities necessary for the administration of Florida's participation in a reciprocity agreement to the CIE's staff; and
- recommend rules necessary to administer reciprocity agreements to the Florida State Board of Education (SBE).

The bill authorizes the Governor to request the council to reconsider Florida's participation in a reciprocity agreement and authorizes the Governor to withdraw Florida from participating in a reciprocity agreement regardless of the council's findings. Such withdrawal takes effect 90 days after the Governor's decision or by the end of the academic term of each participating institution, whichever occurs later.

The bill also establishes a fee schedule and provides for collection of fees from each Florida institution that participates in a reciprocity agreement. The fees are based on a graduated scale of institutional enrollment. All fees collected shall be submitted through the DOE to the Chief Financial Officer for deposit into a separate account within the Institutional Assessment Trust Fund. The bill provides the fees will be assessed as follows:

⁹ Florida Department of Education, *Commission for Independent Education*, <http://www.fldoe.org/policy/cie> (last visited March 7, 2017); s. 1005.31(11), F.S.

¹⁰ Section 1005.31(11), F.S.

- \$1,500/year for institutions with fewer than 2,500 FTE students;
- \$3,000/year for institutions between 2,500-9,999 FTE students;
- \$4,500/year for institutions with 10,000 or more FTE students.

The bill requires the council to submit a yearly report to the Governor and Legislature showing that revenues generated are not higher than the revenues necessary for the council's operation including a justification of staff needed for the council and must report on the number of Florida institutions participating in a reciprocity agreement.

The bill provides that the council may revoke a Florida institution's approval to participate in a reciprocity agreement if the council determines the institution is not in compliance with the terms and provisions of the reciprocity agreement. A Florida institution participating in a reciprocity agreement may withdraw from participation by submitting to the council a notice of intent to withdraw. The intent to withdraw becomes effective at the beginning of the academic term after receipt of the notice.

The bill provides that the decisions by the council are not subject to the administrative hearing procedures of Chapter 120, F.S.

The bill provides that any non-Florida institution that participates in a reciprocity agreement that offers degree programs and conducts activities limited to distance education degree programs and activities in accordance with the a reciprocity agreement are not under the jurisdiction of the CIE.

The bill provides that an employee of an independent postsecondary educational institution may not solicit prospective students in Florida for enrollment in any out-of-state independent postsecondary educational institution unless the employee solicits for a postsecondary educational institution that is not under the jurisdiction of the CIE.

The bill includes all fees and fines from nonpublic colleges and schools, including fees for participation in the Student Protection Fund, and fees for participation in the statewide course numbering system, in the Institutional Assessment Trust Fund.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill establishes a fee schedule and provides for collection of fees from each Florida institution that participates in a reciprocity agreement. The fees are based on a graduated scale of institutional enrollment. All fees collected shall be submitted through the DOE to the Chief Financial Officer for deposit into a separate account within the Institutional Assessment Trust Fund. The bill provides the fees will be assessed as follows:

- \$1,500/year for institutions with fewer than 2,500 FTE students;
- \$3,000/year for institutions between 2,500-9,999 FTE students;
- \$4,500/year for institutions with 10,000 or more FTE students.

The projected number of institutions that are expected to participate in a reciprocity agreement by FTE enrollment are as follows:

Type of Institution	> 2,500	2,500-9,999	< 10,000	Total
ICUF ¹¹	6	10	5	21
SUS ¹²	0	1	9	10
FCS ¹³	2	5	13	20
CIE ¹⁴	13	5	2	20
Total	21	21	29	71

The yearly revenues for the council will be \$225,000. There is a possibility that more institutions could join a reciprocity agreement, creating a potential for an increase in yearly revenues. The bill requires the council to submit a yearly report to the Governor and Legislature which shows that revenues generated are not higher than the revenues necessary for the council's operation. The report must include a justification of staff needed for the council and the number of Florida institutions participating in a reciprocity agreement.

2. Expenditures:

The bill appropriates \$225,534 of trust authority in the Institutional Assessment Trust Fund and 2 full time employees the DOE of in order to support the operations of the council. See breakout of funds below:

Salary Expenses	\$188,534
Travel for Staff to national meetings	\$5,000
Travel for staff to regional meetings	\$4,500
On-site Visits	\$4,500
Equipment & supplies	\$3,000
IT Support/programming	\$10,000
Legal	\$10,000
Total Projected Expenses	\$225,534

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See fiscal comments.

D. FISCAL COMMENTS:

¹¹ Projected number of participating ICUF institutions, e-mail from ICUF, on file with House Higher Education Appropriations Subcommittee staff.

¹² 2017 Legislative Bill Analysis, Board of Governors, March 17, 2017. On file with House Higher Education Appropriations Subcommittee staff.

¹³ Fiscal Impact for Commission for Independent Education Administrative Costs, Department of Education; March 16, 2017. On file with House Higher Education Appropriations Subcommittee Staff.

¹⁴ *Id.*

- E. SARA states are required to have one portal entity for all of the participating institutions. The Postsecondary Reciprocal Distance Education Coordinating Council the bill creates will act as the portal entity for the state. This is not a requirement of the current Southern Regional Educational Board's Electronic Regional Reciprocity Agreement. The bill establishes a fee schedule and provides for the collection of fees from each Florida SARA institution. Institutional participation in the agreement is voluntary and fees will be assessed only if an institution wishes to be a SARA institution. The fees will fund the administrative cost of the council the bill creates.

The SARA institutions will be both public and private colleges and universities. SARA institutions will avoid paying fees to all other SARA states nationwide. Fees vary by state; some are based on a percentage of tuition revenue; some are based on the number of programs offered; some charge a flat fee and some require surety bonds. There will be cost avoidances for SARA institutions. The institutions will no longer be required to: (1) annually stay abreast of state authorization requirements in all other states as such requirements are created and changed and (2) submit applications and pay initial and renewal fees to each state that has such requirements and in which the institutions will seek authorization.¹⁵

¹⁵ 2017 Legislative Bill Analysis, Board of Governors, March 17, 2017. On file with House Higher Education Appropriations Subcommittee staff.