

STORAGE NAME: h0851s1.cu

DATE: April 14, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
Colleges & Universities
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 851

RELATING TO: Nonpublic Postsecondary Institutions

SPONSOR(S): Colleges & Universities and Representatives Trovillion and Feeney

STATUTE(S) AFFECTED: Amends ss. 246.021; 246.081; 246.101; 320.38; and, 322.031; creates s. 246.084; repeals ss. 246.021(2), (7), and (10); and, 246.083

COMPANION BILL(S): CS/SB 1654 (s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) COLLEGES & UNIVERSITIES YEAS 9 NAYS 0
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I. SUMMARY:

This bill revises the standards that certain nonpublic colleges must meet to be eligible to award postsecondary degrees. Colleges which only offer educational programs that prepare students for religious vocations would be subject to more rigorous standards such as minimum hour requirements for the awarding of degrees and required disclosure to students on matters such as refund policy, transferability of credit, and a college's accreditation status.

Review and collection of data to determine compliance with the standards may be performed by the State Board of Independent Colleges and Universities (SBICU) or the SBICU may enter into an agreement with an individual or group to oversee the review and collection of data.

The fiscal impact of the bill is indeterminate. These colleges would be exempt from paying the base fee assessed by the SBICU, but would be subject to a workload fee if the SBICU performed the review and collection of data to determine compliance with the standards.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Sections 246.011 - 246.151, F.S., relate to the operation of nonpublic colleges. Section 246.011, F.S., sets forth the purpose of and legislative intent regarding these sections. The provisions of these sections are intended to aid in protecting the health, education, and welfare of persons who receive educational services and degrees from nonpublic colleges in this state; to aid in protecting employers and others who depend upon people whose educational credentials are from nonpublic colleges in this state; and, to aid in protecting nonpublic colleges that currently operate or intend to begin operating in the state. The Legislature finds that both individuals and colleges benefit from a state system that assures that all nonpublic colleges satisfactorily meet minimum educational standards. The Legislature intends that the provisions of ss. 246.011 - 246.151, F.S., aid in protecting the integrity of degrees offered by nonpublic colleges by providing for the evaluation of minimum educational requirements. The Legislature also intends to prohibit the granting of false or misleading educational credentials and to prohibit misleading literature, advertising, solicitation, and representations made by nonpublic colleges or their agents.

The State Board of Independent Colleges and Universities (SBICU or board) is the entity responsible for the administration of the provisions of ss. 246.011 - 246.151, F.S. Section 246.041, F.S., sets forth the powers and duties of the SBICU. The SBICU has the power to adopt such rules as it may find necessary to carry out the objectives, purposes, and directives of ss. 246.011 - 246.151, F.S., and to execute such standards and rules and regulations as must be adopted for the operation and establishment of nonpublic colleges. Section 246.041(1)(f), F.S., provides that the board shall authorize an individual, or a designated group of individuals, to represent one or more nonpublic colleges in appearances before the board on official matters if each college agrees formally to designate the individual or group of individuals to represent it.

Section 246.081, F.S., identifies the colleges that are not under the jurisdiction of the SBICU. These include public institutions as well as colleges or courses licensed or approved for operation pursuant to state law such as nursing, dentistry, and real estate. Section 246.081, F.S., further provides that a nonpublic college cannot continue operation or be established within the state unless the college applies for, and obtains from the SBICU either a **license**, a **certificate of exemption**, or **authorization** in the manner and form prescribed by the SBICU. The criteria and procedures for obtaining these credentials are outlined in ss. 246.011 - 246.151, F.S. Each credential is subject to an annual review. The three credentials are described in the following paragraphs:

1. **License.** Section 246.087, F.S., identifies the minimum standards to be evaluated by the board for the licensing of colleges including purpose, administrative organization, educational program and curricula, finances, faculty, library, student personnel services, physical plant and facilities, publications, and disclosure statements about the status of the college in relation to professional certification and licensure. Specifics regarding each standard are set forth in rule. Examples of colleges which operate pursuant to a **license** include Andrews University, the Art Institute of Fort Lauderdale, Luther Rice Seminary, Spurgeon Baptist Bible College, and Trinity International University.

2. **Certificate of Exemption.** As an alternative to applying for a license from the SBICU and undergoing the SBICU's licensing review process, certain colleges may apply for a **certificate of exemption**. Section 246.085, F.S., sets forth the criteria which must be met for an institution to be eligible for a "certificate of exemption." Typically, these schools are accredited by agencies whose accreditation standards meet or exceed the licensing standards of the SBICU. Examples of colleges which operate pursuant to a **certificate of exemption** include Bethune-Cookman College, the University of Miami, Stetson University, Hobe Sound Bible College, Florida Baptist Theological Seminary, Barry University, Clearwater Christian College, and St. Leo.

3. **Authorization to Operate.** A college whose only purpose is to prepare students for missionary, ministerial, or religious educational purposes may seek an **authorization to operate** from the SBICU. Section 246.083, F.S., sets forth the criteria and process for a college to obtain an **authorization to operate**. The degree offerings of colleges operating pursuant to s. 246.083, F.S., are limited to programs within the disciplines of Religion, Theology, Divinity, Biblical Studies, Missions or Ministry, Pastoral Counseling, Pastoral Psychology, Sacred Music, and Religious Education. The titles of degrees issued by these colleges must include a religious modifier. The name of the college must include a religious modifier or the name of a religious patriarch of the church. To operate by authorization, a college must submit certain information to the SBICU to demonstrate compliance with the requirements of s. 246.083, F.S. Colleges operating pursuant to the provisions of s. 246.083, F.S., are not required to meet the minimum licensing standards of the SBICU. At present, there are approximately 100 colleges in this category. Examples of colleges which operate pursuant to an **authorization to operate** include the Academy for Christian Training, Baptist Bible College, Columbia Theological Seminary, Hindu University of America, and Jacksonville Theological Seminary.

Section 246.101, F.S., directs the SBICU to annually establish a fee schedule to generate, from fees, the amount of revenue appropriated for the operation of the SBICU. If the total appropriation for the SBICU requires that one-half or more of the cost of operating the SBICU be supported through fees, the SBICU must charge a base fee to all colleges under its jurisdiction. According to SBICU staff, a base fee has been charged since 1993-1994. Ten religious nonpublic colleges have refused to pay the base fee deeming the fee to be a tax on the sponsoring church. The SBICU has denied these colleges an **authorization to operate** but has not initiated action to close the colleges for failure to have authorization, certificate of exemption or licensed status.

The 1996 Legislature passed CS/HB 1629 to establish requirements whereby religious colleges could be granted an exemption from licensure by the SBICU. CS/HB 1629 was vetoed by the Governor because of concerns that the legislation would reduce the state's ability to protect the integrity of degrees conferred by all nonpublic postsecondary institutions in Florida.

B. EFFECT OF PROPOSED CHANGES:

CS/HB 851 revises procedures relating to state oversight of the operation of nonpublic postsecondary education institutions.

The provisions of s. 246.083, F.S., Authorization to Operate, are repealed.

A new section, s. 246.084, F.S., Authorization, is created. Nonpublic colleges which comply with the provisions of s. 246.084, F.S., and submit the data required will not be required to apply for a license from the SBICU. The colleges must comply with the following criteria:

1. None of the students enrolled at the college receive state or federal financial aid for education;
2. The college only offers educational programs that prepare students for religious vocations as ministers, professionals, or laypersons in the following categories: ministry, counseling, theology, education, administration, music, fine arts, media communications, and social work;
3. The religious vocation appears predominantly on the face of the degree and on the college's transcript;
4. The titles of degrees issued by the college include a religious modifier unless the SBICU receives a sworn affidavit from a group recognized by the SBICU [pursuant to s. 246.041(1)(f), F.S.] to represent the college(s) certifying that the college meets the minimum licensing standards as provided for in rule;
5. The college complies with credit hour requirements set forth in statute to award Associate, Bachelor's, Masters, and Doctoral degrees;
6. The college's catalog or administrative bulletin includes certain fair consumer practice information such as refund policy, transferability of credit, and accreditation status;
7. The name of the college includes a religious modifier or the name of a religious patriarch, saint, person, or symbol of the church.

The college must submit annually to the SBICU descriptive data regarding the institution, an inventory of consumer practices, and a sworn affidavit that the information is accurate. The burden of determining compliance with the provisions of the section rests with the SBICU. The SBICU may enter into an agreement with an individual or group [pursuant to s. 246.041(1)(f), F.S.] to oversee the review and collection of data submitted pursuant to s. 246.084, F.S. Failure of a college to continue to comply with the provisions of s. 246.084, F.S., can result in the loss of the **authorization**.

Nonpublic colleges operating pursuant to the newly-created category would not be required to pay the base fee. The SBICU would, however, be authorized to assess a workload fee for the review and collection of data for colleges operating with an **authorization** if the review and collection of data is conducted by the SBICU.

Institutions currently holding an **authorization to operate** would be permitted to continue to offer programs and award degrees pursuant to those provisions to students enrolled in such programs on or before June 30, 1997, but would be subject to the new standards for any new students enrolled after that time.

If a college does not meet the criteria of the newly created s. 246.084, F.S., that college would be required to seek a **license** or a **certificate of exemption** from the SBICU to continue to offer degrees. Staff of the SBICU could not determine how many of the colleges which currently hold an **authorization to operate** may be unable to comply with the more rigorous standards established by CS/HB 851.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Determination of compliance with the provisions of the newly created section rests with the State Board of Independent Colleges and Universities.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Colleges that currently hold an **authorization to operate** would be subject to more rigorous standards under the newly created **authorization** category. Review and collection of data to demonstrate compliance with the standards could be performed by the State Board of Independent Colleges and Universities or by a third party group which represents the college(s) before the board.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A.

(2) what is the cost of such responsibility at the new level/agency?

N/A.

(3) how is the new agency accountable to the people governed?

N/A.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

The bill provides that certain nonpublic colleges are no longer required to pay a base fee. The bill establishes a new "workload" fee which can be assessed if the SBICU is involved in review or data collection efforts associated with these colleges.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

Nonpublic colleges operating pursuant to the newly created s. 246.084, F.S., would not be required to pay the base fee. The SBICU would, however, be able to assess these colleges a workload fee if the SBICU is involved in review or data collection efforts associated with these colleges.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Yes.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

Nonpublic colleges which currently hold an **authorization to operate** would be held to more rigorous standards to be eligible to award degrees.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A.

- (2) Who makes the decisions?

N/A.

- (3) Are private alternatives permitted?

N/A.

- (4) Are families required to participate in a program?

N/A.

- (5) Are families penalized for not participating in a program?

N/A.

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A.

(2) service providers?

N/A.

(3) government employees/agencies?

N/A.

D. SECTION-BY-SECTION RESEARCH:

This section need be completed only in the discretion of the Committee.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

See FISCAL COMMENTS.

2. Recurring Effects:

See FISCAL COMMENTS.

3. Long Run Effects Other Than Normal Growth:

See FISCAL COMMENTS.

4. Total Revenues and Expenditures:

See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

See FISCAL COMMENTS.

2. Direct Private Sector Benefits:

See FISCAL COMMENTS.

3. Effects on Competition, Private Enterprise and Employment Markets:

See FISCAL COMMENTS.

D. FISCAL COMMENTS:

The SBICU may experience some loss in revenue due to the base fee exemption provided some colleges. Many of these colleges may, however, continue to use the SBICU for review and collection of data and consequently be subject to the newly created workload fee.

Some colleges may not meet the new standards imposed by the bill and will not be eligible to award degrees after the effective date of the bill. The fiscal impact on these institutions is indeterminate.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

CS/HB 851 contains no intent language. It changes the group of colleges targeted by the bill from "religious nonpublic colleges" to "nonpublic colleges which enroll students, none of whom receive state or federal financial aid for education." It repeals rather than modifies s. 246.083, F.S. -- Authorization to Operate. It creates a new section, s. 246.084, F.S.- Authorization, with more rigorous standards than those for the **authorization to operate** category. CS/HB 851 includes a "Grandfather" provision for institutions which currently hold an **authorization to operate**. Students currently enrolled in such colleges can complete their program, but colleges must comply with the new **authorization** standards for any new students enrolled after the effective date of the bill. The effective date of CS/HB 851 is July 1, 1997, rather than upon becoming law.

VII. SIGNATURES:

COMMITTEE ON Colleges & Universities:
Prepared by:

Legislative Research Director:

Betty H. Tilton, Ph.D.

Betty H. Tilton, Ph.D.