

STORAGE NAME: h0005B.wfts.doc
DATE: October 23, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
WORKFORCE AND TECHNICAL SKILLS
ANALYSIS**

BILL #: HB 5-B
RELATING TO: State Board/Nonpublic Career Education
SPONSOR(S): Representative(s)
TIED BILL(S): None

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

- (1) WORKFORCE AND TECHNICAL SKILLS
 - (2)
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

HB 5-B expands the definition of "school" under s. 246.203(1), F.S., to include "flight training school and fixed based operator" for the purposes of licensing by the State Board of Nonpublic Career Education (SBNCE) under ss. 246.201-231, F.S. [It should be noted that effective July 1, 2001, the SBNCE has been renamed the Commission on Independent Education pursuant to the K-20 education governance reorganization bill of 2001.]

The bill creates a new section (s. 246.2155, F.S.) related to special requirements for flight training schools and fixed based operators as part of the licensure process. The bill requires each licensed flight training school and fixed based operator to collect and maintain for four years copies of the following documents on students enrolled in such schools: F1, J1, and M1 visas; passport issue page, date-stamped page of entry, and photo identification; stamped I-20 MN and IAP 66 forms for visa and visitor exchange status; DOJ/INS I-94 Arrival and Departure Record Card; FAA Medical Certificate and, if applicable, Flight Certificate; test scores on the Test of English as a Foreign Language (TOEFL); a letter from a bank stating that sufficient funds are available for training and living expenses for students while in a flight training program.

The bill requires students in flight training schools taking the TOEFL to score 550 or higher on the test.

The bill provides that notwithstanding the penalty provisions of s. 246.231, F.S., persons who fail to comply with or violates the requirements of the bill commits a felony of the second degree for a first conviction and a felony of the first degree for second and subsequent convictions and may have their license revoked.

SBNCE staff indicates that other than a fee for taking the TOEFL, there should be no additional expenses for students attending flight training schools. There would be an approximate licensing fee of \$2000 for each flight training school (approximately 100 in Florida) to obtain a license from the SBNCE. The licensing program is fee supported and will not require the expenditure of general revenue funds.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

The bill requires flight training schools to be licensed and to collect and maintain certain documents on international students in such programs.

B. PRESENT SITUATION:

The State Board of Nonpublic Career Education

In 1974, the Legislature created ss. 246.201-246.231, F.S., providing for the protection of the health, education, and welfare of the citizens of Florida and facilitating and promoting the acquisition of minimum satisfactory career education opportunities. These statutory sections are intended to protect students from deceptive, fraudulent, or substandard education, to protect licensed schools, and to protect citizens of Florida holding diplomas and degrees from such schools.

Section 246.205, F.S., established in the Department of Education a State Board of Nonpublic Career Education for the purpose of licensing and regulating nonpublic career education schools.

The mission of the Board is to serve as a consumer protection agency and to promote accountability at the postsecondary vocational and career education level. The Board is responsible for protecting students from deceptive, fraudulent, or substandard education and protecting citizens who hold diplomas and certificates from such schools. A second responsibility of the Board is to protect the integrity of the schools and to encourage such schools to offer diverse programs meeting the needs of all their students.

The Board is responsible for granting licenses to schools which meet minimum educational, financial, and administrative standards set forth in Chapter 6F, Florida Administrative Code. All applicants for a license must provide information concerning legal ownership, organizational structure, educational objectives, programs and curriculum, administrative and instructional personnel, student services, admission policies and practices, tuition amounts, student recruitment, physical facilities, financial standing of the school, enrollment agreement/contract, and the school's catalog.

The Board monitors activities of each licensed school and requires annual or biennial renewals of the school's license. For renewal of a school's license, the school must report any changes in program offerings, tuitions costs, policies and administrative changes, program enrollment and withdrawals, and graduation and placement rates. The Board assists schools and students should

a school close down. The Board provides assistance to schools on how to retain and graduate students and responds to numerous inquiries for information from potential students. The Board also responds to complaints about the schools under its licensing authority, investigates the complaint, and takes appropriate action should the complaint be found valid, including up to revoking a school's license. The Board also shares data collected from the schools with education, workforce, and other regulatory agencies (e.g., DOE, AWI, DBPR, AHCA, and the Florida Education and Training Placement Information Program).

Section 246.216, F.S., exempts certain schools from licensing requirements by the SBNCE. For example, schools that are an entity of a church or religious organization are exempt. Also, schools that are regulated by the Federal Aviation Administration (e.g., flight training schools), or an agency of the state whose regulatory laws are similar in nature and purpose to those of the Board are exempt from licensure.

Section 246.219, F.S., provides that school applying for an initial license must pay an application fee of no less than \$500 and at least \$300 for a renewal of an annual license and at least \$600 for a biennial license.

Section 246.2235, F.S., provides that should a licensed school close, measures must be taken to prevent such closings without proper train-outs or refunds and to prohibit school owners who have unlawfully closed a school from operating a similar school in the state. When a licensed school ceases operation, the school is required to notify the SBNCE and arrange for all student records to be placed under the control of the state so that students affected by the school closing can access educational records of their educational status. School owners who fail to comply with this provision is subject to the Board seeking civil penalties against a school's owner, director, or administrator.

Section 246.226, F.S., provides that the Board shall investigate any violation of licensing provisions and may issue cease and desist orders against the school for the purpose of protecting the health, safety, and welfare of the students or the general public. Such orders may include ceasing or limiting enrollment of students, modifying curricula to ensure that students receive the education represented in the school's catalog, and ceasing advertising that may be deceptive or misleading.

Section 246.227, F.S., provides that an unlicensed school may be issued a cease and desist order from the SBNCE or the Board may seek an issuance for an injunction against any person who violates the order. The Department of Legal Affairs or the state attorney has authority to enforce the licensing provisions of ss. 246.301-246.231, F.S.

Section 246.231, F.S., provides penalties for persons who violates or fails to comply with provisions of the licensing statute (first conviction – 2nd degree misdemeanor; second and subsequent conviction – 1st degree misdemeanor)

In 2001, the Legislature passed the K-20 education governance reorganization act creating the Florida Board of Education, dissolving the SBNCE, and recreating its responsibilities under the Commission on Independent Education. All statutes pertaining to the SBNCE are repealed on January 1, 2003. The Legislature will adopt a rewrite of the Florida School Code in the 2002 legislative session, which will make the statutes conform to the new education organizational structure.

Flight Training Schools and Fixed Based Operators

According to data from the Federal Aviation Administration, there are 69 flight training schools and 37 fixed based operators in Florida. SNBNC staff report that no single entity compiles data on all

flight training schools and it is estimated that there are about 100 such schools in the state. Fixed based operators or operations are aircraft-based service entities (airports) that provide a wide range of aircraft services, such as aircraft ground handling, fueling, maintenance and repair, aircraft sales, charter or rental, and may include flight training services. Not all fixed based operations provide flight-training services, although independent flight training schools will use airport services.

International Students in Florida's Flight Training Schools

Although most flight training schools in Florida accept international students, no state or federal agency collects or maintains data on the number of international students in such schools. One Florida flight training school, FlightSafety International Academy in Vero Beach reports that on average, international students represent 30% of their total student enrollment. According to SBNCE staff, the FlightSafety International Academy is the only flight training school in Florida to be voluntarily licensed by the Board.

The federal Department of Justice's Immigration and Naturalization Services (INS) approves most flight training schools for non-immigrant international students to attend and authorizes such schools to provide international students wanting to attend U.S. flight training schools initial documents for M-1 and J-1 visas. All international students who are not U.S. legal aliens must participate in vocational and educational training settings under M-1, J-1 or F-1 visas.

For example, FlightSafety International Academy assists international students in obtaining M-1 and J-1 visas by providing a federal INS form (I-20MN) that certifies an applicant's eligibility for a visa to attend the school. An M-1 visa, which is used for both short-term vocational educations such as professional flight training programs, is issued for a maximum duration of 12 months. An M-1 visa, once issued by a U.S. visa issuing office (Embassy or Consulate) in the student's home country, allows a flight training student to remain in the U.S. for the duration of the training and if the training extends beyond the 12 months, an extension of the visa may be granted.

A federal INS form (IAP-66) is provided to potential students in other countries by a flight training school for the applicant to secure a J-1 visa that allows the student to attend a flight training school and also gain practical experience, such as being a flight instructor. A J-1 visa is for a duration of 24 months and may be extended.

A general student visa (F-1) may be issued to international students, but is generally used for such students to attend U.S. colleges and universities. International flight training students on an F-1 visa may attend flight training schools affiliated with community colleges or universities.

Flight training schools will generally require international students to be proficient in the English language and will require international students to take a test such as the Test of English as a Foreign Language (TOEFL). FlightSafety International Academy requires international students to pass the TOEFL with a score of at least 550 as a requirement for admission into the program.

Flight training schools generally do not require that international students demonstrate that they have sufficient funds to pay for the program. However, when applying for a visa, international students must establish that they have sufficient funds to cover expenses for the program and will not become a "public charge" or resort to unauthorized employment to pay for the program. The visa applicant must provide to the visa issuing office documentary evidence that sufficient funds exist or will be available to cover expenses for the program.

Miscellaneous Background Issues

All licensed pilots and student pilots in solo flights must have a Federal Aviation Administration (FAA) medical certificate. The FAA has designated over 5,000 private physicians (called Aviation Medical Examiners) to take applications, give physical exams, and issue FAA medical certificates. There are three classes of medical certificates with class 3 being the general certificate for private pilots, class 2 for commercial non-airline duty and private pilots, and class 1 for pilots of scheduled airliners.

Flight training schools generally require students to have a physical exam and most require that all students have some type of medical insurance.

C. EFFECT OF PROPOSED CHANGES:

HB 5-B expands the definition of "school" under s. 246.203(1), F.S., to include "flight training school and fixed based operator" for the purposes of licensing by the State Board of Nonpublic Career Education (SBNCE) under ss. 246.201-231, F.S. [It should be noted that effective July 1, 2001, the SBNCE has been renamed the Commission on Independent Education pursuant to the K-20 education governance reorganization bill of 2001.]

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The bill's effective date is upon becoming law.

D. SECTION-BY-SECTION ANALYSIS:

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

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Flight training schools will be assessed fees for obtaining a license and for renewal of such licenses. SNBNC staff estimate that licensing fees for flight training schools would be about \$2,000 each.

2. Expenditures:

Licensing procedures by the SBNCE will be totally fee driven.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Flight training schools will incur expenses in obtaining a license.

D. FISCAL COMMENTS:

N/A

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

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or to take 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:

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

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

The bill requires flight training schools to collect and maintain certain student records for a period of 4 years after the student leaves the program. SBNCE staff recommend that such records be maintained by the Board for an indefinite period of time, rather than be maintained by the flight training school.

The bill only requires certain documentation to be collected from international students and not all students attending the flight training school. In spite of the events occurring on September 11, 2001 involving persons from other countries enrolling in flight training schools and using skills obtained from such schools to do harm to the country, it is possible that any flight-training student could use such skills to do harm. Committee staff recommends that in addition to the documents specified in the bill, flight training schools should also provide copies to the SBNCE of any student's birth certificate, social security card, and driver's license.

The bill requires documentation from a bank to demonstrate that the student has sufficient funds to cover the costs of the program. Committee staff recommends that documentation from a credit union be included and that since international students seeking a visa must provide documentation to the visa issuing office of sufficient funds for the training or education program, such documentation ought to be given to the flight training school and be maintained by the SBNCE in addition to any bank or credit union documentation.

The bill provides for criminal penalties for a flight training school operator who fails to comply with the licensure and regulatory requirements of ss. 246.201-231, F.S. beyond the penalties currently in law for other schools licensed by the SBNCE. Committee staff recommends that the criminal penalties in the bill be made to conform to the current penalties (change from a felony to a misdemeanor).

The bill is silent as to whether the documentation requirements for flight training schools as part of the licensing procedures is retroactive or only applies for new students entering the schools after the enacting date.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON WORKFORCE AND TECHNICAL SKILLS:

Prepared by:

Staff Director:

Ken Winker

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