

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HM 1445 Colleges & Universities Authorized to Operate Educational Programs Beyond the Secondary Level

**SPONSOR(S):** Hudson and others

**TIED BILLS:**           **IDEN./SIM. BILLS:** SM 1654

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Federal Affairs Subcommittee	11 Y, 0 N, As CS	Cyphers	Cyphers
2) Education Committee			

### SUMMARY ANALYSIS

On October 29, 2010, the United States Department of Education (DOE) adopted a new regulation (34 CFR s. 600.9) requiring private institutions participating in federally supported financial aid be “established by name as an educational institution by a State through a charter, statute, constitutional provision, or other action issued by an appropriate State agency or State entity ...” and be “authorized to operate educational programs beyond secondary education, including programs leading to a degree or certificate.” Florida has educational institutions that are not now established by name in Florida Statute due to exemptions relating to their regional accreditation and nonprofit status. In order for their students to remain eligible for certain financial aid programs, the state must list the schools through official action. This memorial provides the DOE with the list of schools necessary to comply with 34 CFR s. 600.9.

The House Memorial does not amend, create, or repeal any provisions of the Florida Statutes.

The House Memorial has no fiscal impact on state or local government.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

The William L. Boyd, IV, Florida Resident Access Grant (FRAG) Program provides tuition assistance to Florida undergraduate students attending an eligible private, non-profit Florida college or university.<sup>1</sup> Private nonprofit institutions in Florida eligible for the FRAG are not established by name in Florida statutes or licensed by the Commission for Independent Education (CIE) because, under Florida law, they are exempt from licensure by nature of their nonprofit status and regional accreditation by the Southern Association of Colleges and Schools (SACS).<sup>2</sup>

The following institutions make up the 29 Independent Colleges and Universities of Florida (ICUF) schools, all of which have students eligible for the FRAG. The schools are: Ave Maria University, Barry University, Beacon College, Bethune-Cookman University, Clearwater Christian College, Eckerd College, Edward Waters College, Embry-Riddle Aeronautical University, Flagler College, Florida College, Florida Hospital College of Health Sciences, Florida Institute of Technology, Florida Memorial University, Florida Southern College, Hodges University, Jacksonville University, Lynn University, Nova Southeastern University, Palm Beach Atlantic University, Ringling College of Art and Design, Rollins College, Saint Leo University, Southeastern University, St. Thomas University, Stetson University, University of Miami, University of Tampa, Warner University, and Webber International University.

On October 29, 2010, the United States Department of Education (DOE) adopted a new regulation (34 CFR s. 600.9) requiring that private institutions be “established by name as an educational institution by a State through a charter, statute, constitutional provision, or other action issued by an appropriate State agency or State entity and is authorized to operate educational programs beyond secondary education, including programs leading to a degree or certificate.” According to documents explaining the new regulations, the “established by name”, clause is intended to ensure that the federal government allow legitimate educational institutions to participate in federally supported financial aid programs.<sup>3</sup> The effective date of the new regulations is July 1, 2011<sup>4</sup>, and state affirmation of these institutions must be completed by then in order to remain eligible for Federal financial aid programs.<sup>5</sup>

Memorials/resolutions similar to the one offered in HM 1445 are being proposed in the Texas and California legislatures as well.<sup>6</sup> The two states are situated similarly to Florida in that they also have nonprofit private institutions exempt from state licensure due to regional accreditation, and therefore are not established by name in the laws of their respective states.

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<sup>1</sup> <http://www.floridastudentfinancialaid.org/ssfad/factsheets/FRAG.htm>

<sup>2</sup> (s. 1005.06(1)(c))

<sup>3</sup> State Authorization Provisions: Department of Education’s Summary Excerpt from Appendix A – Regulatory Impact Analysis; Federal Register – October 29, 2010.

<sup>4</sup> Extensions are provided if a state is unable to secure the proper authorization by the July 1, 2010 deadline. Those extensions include two one-year extensions, ending on July 1, 2012 and 2013 respectively.

<sup>5</sup> <http://ecfr.gpoaccess.gov/cgi/t/text/textidx?c=ecfr;sid=7c7a5cda25d042759f9b7924146e2e08;rgn=div2;view=text;node=20101029%3A1.25;idno=34;cc=ecfr;start=1;size=25>

<sup>6</sup> Texas House Joint Resolution 130 and draft of California Resolution is on file with staff.

## Effect of Proposed Changes

This memorial provides the DOE with the list of schools necessary to comply with 34 CFR s. 600.9. The purpose of the memorial is to ensure that the listed schools and their students will remain eligible for federal student financial aid programs.

Copies of the memorial are to be sent to each college and university named in this memorial, the United States Secretary of Education, the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and to each member of the Florida delegation to the United States Congress.

The legislation also includes whereas clauses in order to support the memorial. The whereas clauses include:

WHEREAS, On October 29, 2010, the United States Department of Education issued its Final Rule on Program Integrity Issues, 75 Federal Register 66832 et seq., which includes amendments to regulations at 34 Code of Federal Regulations s. 600.9(a)(1)(i)(A) requiring that educational institutions not created by the state be "established by name as an educational institution by a State through a charter, statute, constitutional provision, or other action..." and be "authorized to operate educational programs beyond secondary level, including programs leading to a degree or certificate," and

WHEREAS, the Legislature chose to exempt from the jurisdiction or purview of the Commission for Independent Education "any institution that is under the jurisdiction of the Department of Education, eligible to participate in the William L. Boyd, IV, Florida Resident Access Grant Program and that is a nonprofit independent college or university located and chartered in this state and accredited by the Commission on Colleges of the Southern Association of Colleges and Schools to grant baccalaureate degrees," pursuant to s. 1005.06(1)(c), Florida Statutes, and

WHEREAS, all institutions exempted from the jurisdiction or purview of the Commission for Independent Education through accreditation by the Commission on Colleges of the Southern Association of Colleges and Schools must meet state reporting requirements, including reporting on fair consumer practices under s. 1005.04, Florida Statutes, reporting on hazing policies and rules under s. 1006.63, Florida Statutes, reporting on campus crime statistics under s. 1005.04 (1)(g), Florida Statutes, and reporting on physical plant safety under s. 1013.11, Florida Statutes, and

WHEREAS, all institutions that are exempt from the jurisdiction or purview of the Commission for Independent Education under s. 1005.06(1)(c), Florida Statutes, may participate in one or more state-funded student financial aid programs subject to audit by the Florida Department of Education, including, but not limited to, the Florida Private Student Assistance Grant Program pursuant to s. 1009.51, Florida Statutes, the Florida Bright Futures Scholarship Program pursuant to s. 1009.53, Florida Statutes, and the William L. Boyd, IV, Florida Resident Access Grant Program pursuant to s. 1009.89, Florida Statutes, and

WHEREAS, the institutions that are eligible to participate in Florida's student financial aid programs include: Ave Maria University, Barry University, Beacon College, Bethune-Cookman University, Clearwater Christian College, Eckerd College, Edward Waters College, Embry-Riddle Aeronautical University, Flagler College, Florida College, Florida Hospital College of Health Sciences, Florida Institute of Technology, Florida Memorial University, Florida Southern College, Hodges University, Jacksonville University, Lynn University, Nova Southeastern University, Palm Beach Atlantic University, Ringling College of Art and Design, Rollins College, Saint Leo University, Southeastern University, St. Thomas University, Stetson University, University of Miami, University of Tampa, Warner University, and Webber International University...

B. SECTION DIRECTORY:

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

None

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable

2. Other:

None

B. RULE-MAKING AUTHORITY:

Not Applicable

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

3/28/2011 – One amendment was passed adding two institutions (Keiser University and Everglades University) to the list of qualified institutions under this memorial.