

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

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

SPONSOR(S): Education Committee; Federal Affairs Subcommittee; Hudson and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/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	14 Y, 0 N, As CS	Graf	Klebacha

SUMMARY ANALYSIS

The House Memorial informs the U.S. Department of Education that the thirty-one independent colleges and universities that are listed in the memorial are authorized to operate educational programs beyond the secondary level in Florida.

The Higher Education Act (HEA) was enacted in 1965 to provide greater opportunities for students to achieve higher education. Title IV of the HEA authorizes the federal student aid programs. Pursuant to a new regulation adopted by the United States Department of Education on October 29, 2010, under the provisions of the HEA, an institution applying to participate in a federal program under the HEA must demonstrate by July 1, 2011, that it has the legal authority to offer postsecondary education. In the absence of such legal authority, the institution will not be eligible to participate in the federal student aid programs.

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

The House Memorial does not have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Federal Higher Education Act

The Higher Education Act (HEA) was enacted in 1965 to provide greater opportunities for students to achieve higher education.¹ Subsequent reauthorizations and amendments to the HEA have continued to expand this initiative.² Title IV of the HEA authorizes the federal student aid programs which include federal grants, loans, and work-study programs.³

On October 29, 2010, under the provisions of the HEA, the United States Department of Education (USDOE) adopted a new regulation to improve the integrity in the programs authorized under Title IV.⁴ The regulation, among other things, requires that an institution 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 to operate educational programs beyond secondary education, including programs leading to a degree or certificate.”⁵

Any institution applying to participate in a federal program under the HEA must demonstrate by July 1, 2011, that it has the legal authority to offer postsecondary education. In the absence of such legal authority, the institution will not be eligible to participate in the federal student aid programs.⁶

Eligibility of Institutions to Offer Postsecondary Education in Florida

A number of postsecondary institutions in Florida already meet the new federal requirement that they be established by name as an educational institution offering postsecondary education. These institutions are established by name either in the Florida Statutes or in a license that is issued by the State. Currently, eleven state universities and twenty-eight institutions within the Florida College System are established by name in law to offer postsecondary education in Florida.⁷ Certain independent postsecondary educational institutions are also authorized by the State to grant postsecondary diplomas and degrees by virtue of obtaining a license from the Commission for Independent Education (CIE).⁸

However, there are thirty-one nonprofit independent colleges and universities providing postsecondary education that are not established by name in the Florida Statutes and are not required to be licensed to operate educational programs beyond secondary education. These independent colleges and universities are exempt from licensure because they meet the following criteria:

- Institution is eligible to participate in the William L. Boyd, IV, Florida Resident Access Grant program (FRAG);⁹

¹ Jodi L. Edelson, *Higher Education To Higher Default: A Re-examination of the Guaranteed Student Loan Program*, 11 ANN. REV. BANKING L. 475, 476-477 (1992).

² FinAid, *Reauthorization of the Higher Education Act of 1965*, available at, <http://www.finaid.org/educators/reauthorization.phtml> (last visited April 1, 2011).

³ U.S. Department of Education, Federal Student Aid Gateway, *About Federal Student Aid*, available at, <http://federalstudentaid.ed.gov/about/index.html> (last visited April 1, 2011).

⁴ 34 C.F.R. s. 600.9; *see also* 75 FR 66832 (Oct. 29, 2010).

⁵ 34 C.F.R. s. 600.9(a)(1)(i)(A).

⁶ 75 FR 66832 and 66859 (Oct. 29, 2010).

⁷ Section 1000.21(3) and (6), F.S.

⁸ Section 1005.21(1), F.S. Pursuant to s. 1005.21(2), F.S., the Commission for Independent Education within the Florida Department of Education functions “in matters concerning independent postsecondary educational institutions in consumer protection, program improvement, and licensure for institutions under its purview.”

⁹ Section 1009.89, F.S. The William L. Boyd, IV, Florida Resident Access Grant (FRAG) program provides tuition assistance to Florida undergraduate students attending an eligible private, nonprofit college or university in Florida. One of the thirty-one independent institutions, Keiser University, will become eligible for FRAG during the 2011-12 fiscal year. Telephone interview with staff from the Florida Department of Education (April 1, 2011).

- Institution is a nonprofit independent college or university;
- Institution is located and chartered in this state; and
- Institution is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools (SACS) to grant baccalaureate degrees.¹⁰

Other States

Memorials/resolutions similar to the one offered in CS/HM 1445 are being proposed in the Texas and California State Legislature.¹¹ The two states are similar to Florida in that nonprofit private institutions in Texas and California are exempt from state licensure pursuant to regional accreditation, and are therefore not established by name under their state law.

Effect of Proposed Changes

The memorial names the following thirty-one independent colleges and universities in Florida that are not under the purview of the Commission for Independent Education, are exempt from obtaining licensure, are accredited by the Commission on Colleges of the Southern Association of Colleges and Schools, and are eligible to participate in Florida's student financial aid programs: 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, Webber International University, Keiser University, and Everglades University. By naming these independent colleges and universities in law as authorized to operate educational programs beyond the secondary level in Florida, the memorial meets a requirement of the federal regulation that will allow the institutions to continue to participate in federal student aid programs.¹²

The memorial provides that the Florida Legislature inform the USDOE that the colleges and universities named in the memorial are authorized to operate educational programs beyond the secondary level. The memorial will be dispatched to each college and university named in the memorial, to the United States Secretary of Education, the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

B. SECTION DIRECTORY:

Not Applicable.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

¹⁰ Section 1005.06(1)(c), F.S.

¹¹ Texas House Joint Resolution 130 and draft of California Resolution is on file with House Education Committee staff.

¹² 34 C.F.R. s. 600.9(a)(1)(i)(A).

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

On April 13, 2011, the Education Committee reported PCS for CS/HM 1445 favorably as a committee substitute. The CS/CS/HM 1445 rephrases the state requirements and annual reporting requirements that the institutions that are named in the House Memorial must meet, and deletes a reference to the federal regulation.