

BILL ANALYSIS

C.S.H.B. 4220
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Higher Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that greater oversight of certain for-profit, degree-granting postsecondary educational institutions is necessary to protect students. C.S.H.B. 4220 seeks to address this issue by reforming the law regarding the regulation of certain degree-granting postsecondary educational institutions.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Higher Education Coordinating Board in SECTIONS 1 and 2 of this bill.

ANALYSIS

C.S.H.B. 4220 amends the Education Code to condition the exemption of a private postsecondary educational institution that is fully accredited by a recognized accrediting agency from statutory provisions relating to the regulation of such institutions on the institution also being in good standing with a recognized accrediting agency. The bill clarifies that the authority to issue a certificate of authorization to grant degrees to an exempt institution or person lies with the Texas Higher Education Coordinating Board and authorizes the coordinating board to adopt rules regarding a process to allow an exempt institution or person to apply for and receive such a certificate. The bill authorizes the coordinating board by rule to require an exempt institution or person, or an institution operating or seeking to operate under a certificate of authority, to ensure that the financial resources and financial stability of the institution or person, as applicable, are adequate to provide education of a good quality and to fulfill the institution's or person's commitments to its enrolled students and to require the institution or person to provide to the coordinating board documentation of the institution's or person's compliance with those requirements. The bill requires the adopted rules to require the institution or person to maintain reserves, lines of credit, or surety instruments that, when combined with tuition and fee receipts, are sufficient to allow the institution or person to fulfill its educational obligations to its enrolled students if the institution or person is unable to admit new students in an academic year for any reason and to require that those reserves, lines of credit, or surety instruments be conditioned to allow only the coordinating board to withdraw funds for the benefit of the institution's or person's enrolled students under that circumstance.

C.S.H.B. 4220 authorizes the coordinating board by rule, for purposes of enabling the coordinating board to verify the conditions under which a certificate of authorization to grant degrees is held, to require an exempt institution or person to report to the coordinating board on a continuing basis other appropriate information beyond the required documentation relating to

financial resources and financial stability. The bill replaces the requirement that the coordinating board provide for due process and procedures for revoking the exemption status of an institution or person with a requirement that the coordinating board by rule provide for due process and provide procedures for revoking or placing conditions on the exemption status of an institution or person or for revoking or placing conditions on a previously issued certificate of authorization.

C.S.H.B. 4220 limits the coordinating board's authority to revoke or place conditions on an institution's or person's exemption status or certificate of authorization under those rules to a circumstance in which the coordinating board has reasonable cause to believe that the institution or person has violated provisions relating to the regulation of private postsecondary educational institutions or any rule adopted under those provisions. The bill requires the coordinating board, before taking such an action, to provide to the institution or person written notice of the coordinating board's impending action and to include the grounds for that action. The bill authorizes the coordinating board, if it places conditions on an institution's or person's exemption status or certificate of authorization, to reexamine the applicable institution or person at least twice annually following the date the coordinating board provided notice of the action until it removes the conditions. The bill requires the coordinating board to adopt the rules required by the bill's provisions.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 4220 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subchapter G, Chapter 61, Education Code, is amended by adding Section 61.3025 to read as follows:

Sec. 61.3025. DEFINITION: ACADEMIC RECORDS. (a) In this subchapter, "academic records" means any information that is:

(1) directly related to a student's educational efforts;

(2) intended to support the student's progress toward completing a degree program; and

(3) regardless of the format or manner in which or the location where the information is held, maintained by an institution for the purpose of sharing among academic officials.

(b) The term "academic records" includes a student's educational history but does not include medical records, alumni records other than educational history, human resources records, or criminal history record information or other law enforcement records.

HOUSE COMMITTEE SUBSTITUTE

No equivalent provision.

SECTION 2. Section 61.303, Education Code, is amended

SECTION 3. Subchapter G, Chapter 61, Education Code, is amended.

SECTION 4. Section 61.315, Education Code, is amended to read as follows:

Sec. 61.315. AGENTS AND RECORDS; ACADEMIC RECORDS REPOSITORY.

(a) The authorized or certified institutions may be required to provide [furnish] a list of their agents to the board, and to maintain in a manner specified by the board the academic records of enrolled or former students [enrolled], including records of credits [awarded,] and degrees awarded, and provide those records to the board on request [in a manner specified by the board].

(b) The board may maintain a repository for academic records from closed institutions that were exempt or were authorized to operate under a certificate of authorization or certificate of authority. The board may discontinue its maintenance of the repository if adequate funding is not provided for that maintenance. The academic records repository is considered to be a repository of last resort. If a closed institution is part of a larger educational system or corporation, that system or corporation shall maintain the academic records. If students of the closed institution transfer to another institution through an agreement between the institutions to continue the students' degree programs, the institution responsible for accepting the transferring students shall maintain those academic records.

SECTION 5. Section 61.316, Education Code, is amended by adding Subsection (e-1) to read as follows:

(e-1) Any authorized or certified institution that fails to maintain in a manner specified by the board the academic records of enrolled or former students, including records of credits and degrees awarded, or that fails to protect the personally identifiable information of enrolled or former students shall be assessed an administrative penalty of not less than \$100 or more than \$500 for each student whose academic record was not maintained or whose personally identifiable information

SECTION 1. Substantially the same as introduced version.

SECTION 2. Same as introduced version.

No equivalent provision.

No equivalent provision.

was not protected.

SECTION 6. The Texas Higher Education Coordinating Board shall adopt the rules required by Subchapter G, Chapter 61, Education Code, as amended by this Act, as soon as practicable after the effective date of this Act.

SECTION 7. This Act takes effect September 1, 2017.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.