

CHAPTER 2017-87

Committee Substitute for Committee Substitute for House Bill No. 859

An act relating to postsecondary distance education; creating s. 1000.35, F.S.; providing a purpose; defining terms; establishing the Postsecondary Reciprocal Distance Education Coordinating Council within the Department of Education; requiring the Commission for Independent Education to provide administrative support for the council; providing membership and duties of the council; authorizing the Governor to request the council to convene for the purpose of reconsidering participation in a reciprocity agreement; requiring the council to provide recommendations to the Governor within a specified period after such request; authorizing the Governor to withdraw the state from participation in a reciprocity agreement; defining the term “current academic term”; requiring the council to collect annual fees from Florida institutions participating in a reciprocity agreement based on total full-time equivalent enrollment; requiring the council to submit an annual report to the Governor and the Legislature by a specified date; providing for deposit of such fees into a specified trust fund; specifying that such fees are nonrefundable unless paid in error; authorizing the council to revoke a Florida institution’s participation in a reciprocity agreement for noncompliance; authorizing a Florida institution to withdraw from participation in a reciprocity agreement after providing notice; exempting council decisions from the Administrative Procedure Act; providing that provisions relating to the jurisdiction of the commission are not superseded; requiring the State Board of Education to adopt rules; amending s. 1005.06, F.S.; providing that the commission does not have jurisdiction over certain non-Florida institutions participating in a reciprocity agreement; amending s. 1005.31, F.S.; authorizing an agent to solicit prospective students for enrollment in certain postsecondary educational institutions; amending s. 1010.83, F.S.; requiring that the Institutional Assessment Trust Fund administered by the department consist of certain fees and fines; requiring the department to maintain a separate account within such trust fund for the operation of a reciprocity agreement; authorizing the use of funds from such trust fund for certain expenses related to administration of a reciprocity agreement; providing an appropriation; providing a directive to the Division of Law Revision and Information; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 1000.35, Florida Statutes, is created to read:

1000.35 Reciprocity agreement.—

(1) The purpose of this section is to authorize this state to participate in a reciprocity agreement with other states for the delivery of postsecondary

distance education. Each member state or institution participating in a reciprocity agreement must accept each other's authorization of accredited institutions to operate in their state to offer distance educational services beyond state boundaries.

(2) For purposes of this section, the term:

(a) "Commission" means the Commission for Independent Education.

(b) "Complaint" means a formal assertion in writing that a person, institution, state, agency, or other entity operating under a reciprocity agreement has violated the terms of a reciprocity agreement or the laws, standards, or regulations incorporated therein.

(c) "Council" means the Postsecondary Reciprocal Distance Education Coordinating Council, which serves as the single portal entity designated by the state to administer a reciprocity agreement and serves as the interstate point of contact for questions, complaints, and other matters related to a reciprocity agreement.

(d) "Department" means the Department of Education.

(e) "Florida institution" means a postsecondary educational institution approved by the council to participate in a reciprocity agreement.

(f) "Institution" means a public or private postsecondary degree-granting college or university that is accredited by a federally recognized accrediting body and that awards, at a minimum, associate-level degrees requiring at least 2 years of full-time equivalent college work.

(g) "Member state" means a state, territory, or district of the United States which has been approved to participate in a reciprocity agreement.

(h) "Non-Florida institution" means an institution approved by a member state other than this state to participate in a reciprocity agreement.

(i) "Reciprocity agreement" means an agreement that establishes reciprocity between a member state that accepts other member states' authorization of accredited institutions to operate in their states to offer distance educational services beyond state boundaries pursuant to the terms and conditions set forth in the agreement.

(j) "State board" means the State Board of Education.

(3) The council is created within the department for the purpose of administering a reciprocity agreement. The council shall consist of the following persons or their designees: the Chancellor of the State University System, the Chancellor of the Florida College System, the Commissioner of Education, the executive director of the commission, and the president of the Independent Colleges and Universities of Florida. The commission shall provide administrative support for the council. The council shall:

(a) Within 60 days after the effective date of this act, apply for this state to participate as a member state of a reciprocity agreement;

(b) Serve as the single portal entity for administration of a reciprocity agreement;

(c) Review and approve applications from institutions in this state to participate in a reciprocity agreement and establish an appeals process for institutions that are not approved to participate in a reciprocity agreement;

(d) Ensure compliance by Florida institutions with the terms and provisions of a reciprocity agreement, including, but not limited to, accreditation and institutional quality, consumer information and protection, disclosure and reporting requirements, complaint mechanisms, and financial responsibility;

(e) Comply with the terms and provisions of a reciprocity agreement relating to any member state, Florida institution, or non-Florida institution;

(f) Comply with the reporting requirements in a reciprocity agreement and post all such reports on the council's website;

(g) Consistent with the complaint resolution processes in a reciprocity agreement, develop and administer a complaint resolution process to resolve complaints related to a reciprocity agreement after all complaint processes in place at a Florida institution have been exhausted by the complainant;

(h) Delegate any responsibilities, obligations, or authorities necessary for the administration of this state's participation in a reciprocity agreement to the commission's staff; and

(i) Recommend rules necessary to administer this section for adoption by the state board.

(4) The Governor may request that the council convene for the purpose of reconsidering this state's participation in a reciprocity agreement. The council shall provide a recommendation to the Governor within 14 days. Regardless of the council's recommendation, or lack thereof, the Governor may withdraw this state from participation in a reciprocity agreement. Such withdrawal shall take effect 90 days after the Governor's decision or by the end of the current academic term of each participating Florida institution, whichever occurs later. For purposes of this subsection, the term "current academic term" means the academic term in which a participating Florida institution has enrolled students at the time of the Governor's decision to withdraw. If the Governor decides to withdraw this state from participation in a reciprocity agreement, each participating Florida institution must provide the end date of its current academic term to the council.

(5) The council shall collect an annual fee from each Florida institution participating in a reciprocity agreement. The fee shall be based on the Florida institution's total full-time equivalent (FTE) enrollment as shown in

the Integrated Postsecondary Education Data System and shall be assessed as follows:

(a) Not to exceed \$1,500 per year for a Florida institution participating in a reciprocity agreement with fewer than 2,500 total FTE enrollment.

(b) Not to exceed \$3,000 per year for a Florida institution participating in a reciprocity agreement with at least 2,500 but not more than 9,999 total FTE enrollment.

(c) Not to exceed \$4,500 per year for a Florida institution participating in a reciprocity agreement with 10,000 or more total FTE enrollment.

Within the limitations imposed under this subsection, the fee shall be set at an amount that will generate no more than the total revenue necessary for the council's operation. The council shall lower the fee if the total revenue generated is higher than the total revenue necessary for the council's operation. By February 15, 2018, and each February 15 thereafter, the council shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must show that the total revenue generated is not higher than the total revenue necessary for the council's operation, must include a justification of staff needed for the council, and must include the number of Florida institutions participating in a reciprocity agreement. All fees collected pursuant to this subsection shall be submitted by the department to the Chief Financial Officer for deposit into a separate account within the Institutional Assessment Trust Fund. Any fee collected by the council pursuant to this subsection is nonrefundable unless paid in error.

(6) The council may revoke a Florida institution's approval to participate in a reciprocity agreement if the council determines that such institution is not in compliance with the terms and provisions of the reciprocity agreement.

(7) A Florida institution participating in a reciprocity agreement may withdraw from participation in the reciprocity agreement by submitting notice of its intent to withdraw to the council, which shall become effective at the beginning of the next academic term after receipt of such notice.

(8) Decisions of the council are not subject to chapter 120.

(9) This section does not supersede the requirements in chapter 1005 relating to postsecondary educational institutions under the jurisdiction of the commission.

(10) The state board shall adopt rules to implement this section.

Section 2. Paragraph (h) is added to subsection (1) of section 1005.06, Florida Statutes, to read:

1005.06 Institutions not under the jurisdiction or purview of the commission.—

(1) Except as otherwise provided in law, the following institutions are not under the jurisdiction or purview of the commission and are not required to obtain licensure:

(h) Any non-Florida institution that has been approved by a member state to participate in a reciprocity agreement, as those terms are defined in s. 1000.35(2), if the degree programs that may be offered and the activities that may be conducted by such institution in this state are limited to the distance education degree programs and activities provided in and consistent with the terms and provisions of the reciprocity agreement.

Section 3. Subsection (11) of section 1005.31, Florida Statutes, is amended to read:

1005.31 Licensure of institutions.—

(11) The commission shall establish minimum standards for the approval of agents. The commission may adopt rules to ensure that licensed agents meet these standards and uphold the intent of this chapter. An agent may not solicit prospective students in this state for enrollment in any independent postsecondary educational institution under the commission's purview or in any out-of-state independent postsecondary educational institution unless the agent has received a license as prescribed by the commission or solicits for a postsecondary educational institution that is not under the jurisdiction of the commission pursuant to s. 1005.06(1)(h).

Section 4. Subsection (1) of section 1010.83, Florida Statutes, is amended, and paragraph (d) is added to subsection (2) of that section, to read:

1010.83 Institutional Assessment Trust Fund.—

(1) Chapter 99-32, Laws of Florida, re-created the Institutional Assessment Trust Fund to be administered by the Department of Education pursuant to this section and rules of the State Board of Education. The trust fund shall consist of:

(a) All fees and fines imposed upon nonpublic colleges and schools pursuant to chapter 1005 and this chapter, including all fees collected from nonpublic colleges and schools for participation in the Student Protection Fund pursuant to s. 1005.37.

(b) All fees imposed upon nonpublic colleges and schools for participation in the statewide course numbering system pursuant to s. 1007.24.

(c) All fees collected from institutions for participation in a reciprocity agreement pursuant to s. 1000.35.

The department shall maintain separate accounts for the operation of the Commission for Independent Education, the Student Protection Fund, a reciprocity agreement pursuant to s. 1000.35, and the Department of Education all fees and fines imposed upon nonpublic colleges and schools pursuant to this chapter and chapter 1005, including all fees collected from nonpublic colleges and schools for participation in the Student Protection Fund and the statewide course numbering system. The department shall maintain separate accounts for the operation of the Commission for Independent Education; the Student Protection Fund; and the Department of Education.

(2) Funds from the trust fund shall be used for purposes including, but not limited to, the following:

(d) Expenses authorized by the Department of Education related to a reciprocity agreement.

Section 5. For the 2017-2018 fiscal year, the sum of \$225,534 in recurring funds is appropriated from the Institutional Assessment Trust Fund to the Department of Education and two full-time equivalent positions with associated salary rate of 110,000 are authorized for the purpose of implementing the requirements of this act.

Section 6. The Division of Law Revision and Information is directed to replace the phrase “the effective date of this act” wherever it occurs in this act with the date this act becomes a law.

Section 7. This act shall take effect upon becoming a law.

Approved by the Governor June 9, 2017.

Filed in Office Secretary of State June 9, 2017.