ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 4580
(By DELEGATES SOUTHERN and WILLIAMS)

[Passed March 10, 1988; in effect ninety days from passage.]

AN ACT to amend and reenact section ten, article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact sections two and thirteen-a, article twenty-six of said chapter, all relating to correspondence, business, occupational and trade schools; transferring jurisdiction of such schools offering specialized associate degrees from the board of regents to the state board; raising the amount required for a surety bond for such schools; allowing such schools time for corrective measures before a permit to operate can be revoked; authorizing the board of education to conduct on-site reviews to evaluate such schools; excepting schools in this state with certain accreditation as of the effective date of this section from such rules except upon written student complaint; and defining terms.

Be it enacted by the Legislature of West Virginia:

That section ten, article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that sections two and thirteen-a, article twenty-six of said chapter be amended and reenacted, all to read as follows:
ARTICLE 2. BOARD OF EDUCATION.

§18-2-10. Permits required for correspondence, business, occupational and trade schools; surety bonds and fees; issuance, renewal and revocation of permit; reports; rules and regulations; penalty and enforcement.

It shall be unlawful for any person representing a correspondence, business, occupational or trade school inside or outside this state to solicit, sell or offer to sell courses of instruction to any resident of this state for consideration or remuneration unless the school first obtains a permit from the West Virginia board of education in the manner and on the terms herein prescribed.

The application for a permit shall be made on forms to be furnished by the board, and a ten dollar fee shall be required. The application shall be accompanied by a surety bond in the penal sum of thirty-five thousand dollars for any school which has its physical facilities located in this state and which has operated in this state for at least ten years. For any other school a surety bond in the penal sum of not less than thirty-five thousand dollars, but not more than one hundred thousand dollars, shall be required, such amount to be determined in accordance with the rules of the state board. Schools with more than one campus within the state shall be required to provide a bond for each of its campuses in an amount equal to the bond required for its oldest established campus in this state. The bond may be continuous and shall be conditioned to provide indemnification to any student suffering loss as a result of any fraud or misrepresentation used in procuring the student’s enrollment or failure of the school to meet contractual obligations. The bond shall be given by the school itself as a blanket bond covering all of its representatives. The surety on any such bond may cancel the same upon giving thirty days’ notice in writing to the principal on said bond and to the state board of education and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of said cancelation. The ten dollar fee will
entitle a school to register up to two individual solicitors. Additional solicitors may be registered by paying a five dollar fee for each registration submitted.

A permit shall be valid for one year corresponding to the effective date of the bond and, upon application, accompanied by the required fee and the surety bond as herein required, may be renewed. All fees collected for the issuance or renewal of such permit shall be deposited in the state treasury to the credit of the general school fund.

The board may refuse a permit to any school if the board finds that the school engages in practices which are inconsistent with this section or with rules and regulations issued pursuant thereto. A permit issued hereunder, upon fifteen days' notice and after a hearing, if a hearing is requested by the school, may be suspended or revoked by the board of education for fraud or misrepresentation in soliciting or enrolling students, for failure of the school to fulfill its contract with one or more students who are residents of West Virginia, or for violation of or failure to comply with any provision of this section or with any regulation of the state board of education pertinent thereto. Prior to the board taking any adverse action, including refusal, suspension or revocation of a permit, the school shall be given reasonable opportunity to take corrective measures. Any refusal, suspension or revocation of a permit, or any other adverse action against a school, shall comply with all constitutional provisions, including due process, relating to the protection of property rights.

All correspondence, business, occupational or trade schools which have been issued a permit shall make annual reports to the state board of education on forms furnished by the board and shall provide such appropriate information as the board reasonably may require. All correspondence, business, occupational or trade schools which have been issued a permit shall furnish to the West Virginia board of education a list of its official representatives. Each school shall be issued a certificate of identification by the state board of education for each of its official representatives.
The issuance of a permit pursuant to this section does not constitute approval or accreditation of any course or school. No school nor any representative of a school shall make any representation stating, asserting or implying that a permit issued pursuant to this section constitutes approval or accreditation by the state of West Virginia, state board of education or any other department or agency of the state.

The state board of education is hereby authorized to adopt rules and conduct on-site reviews to evaluate academic standards maintained by schools for the awarding of certificates, diplomas and specialized associate degrees, which standards may include curriculum, personnel, facilities, materials and equipment: Provided, That in the case of accredited correspondence, business, occupational and trade schools under permit on the effective date of this section, having their physical facilities located in this state, and which are accredited by the appropriate nationally recognized accrediting agency or association approved by the United States department of education, the accrediting agency's standards, procedures and criteria shall be accepted as meeting applicable laws, standards, rules and regulations of the state board of education: Provided, however, That the state board of education may authorize an investigation of written student complaints alleging a violation of this section, or state board rules or accreditation standards and may take appropriate action based on the findings of such an investigation.

The state board of education is hereby authorized to adopt rules for the awarding of any specialized associate degree: Provided, That nothing contained herein shall infringe upon the rights of accredited West Virginia proprietary schools operating in West Virginia to confer specialized associate degrees, diplomas or certificates based on credit or clock hours in accordance with standards of the appropriate nationally recognized accrediting agency or association that is approved by the United States department of education. For the purposes of this section, schools that award specialized associate degrees shall be defined as proprietary
vocational-technical institutions, and specialized associate degrees shall mean degrees awarded by such institutions pursuant to a program of not less than two academic years.

The state board of education is hereby authorized to adopt rules for the administration and enforcement of the provisions of this section and shall establish an advisory committee of not less than five owners or other representatives of resident, privately owned correspondence, business, occupational and trade schools.

A representative of any school violating any provision of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than two hundred dollars per day of violation, not to exceed a maximum of two thousand dollars per violation, or imprisoned in the county jail not more than sixty days, or both fined and imprisoned. No correspondence, business, occupational or trade school shall maintain an action in any court of this state to recover for services rendered pursuant to a contract solicited by the school if the school did not hold a valid permit at the time the contract was signed by any of the parties thereto. The attorney general or any county prosecuting attorney, at the request of the state board of education or upon his or her own motion, may bring any appropriate action or proceeding in any court of competent jurisdiction for the enforcement of the provisions of this section relating to permits, bonds and sureties.

ARTICLE 26. WEST VIRGINIA BOARD OF REGENTS.

§18-26-2. Definitions.

Notwithstanding the provisions of section one, article one of this chapter, the following words when used in this article shall have the meaning hereafter ascribed to them unless the context clearly indicates a different meaning:

(a) The term "board" shall mean the West Virginia board of regents.

(b) The term "state colleges" shall mean Bluefield State College, Concord College, Fairmont State College,
(c) The term “state college” shall mean one of the state colleges.

(d) The terms “state universities” and “universities” shall mean Marshall University and West Virginia University and any other state institution of higher education which may hereafter be established and designated as a “university.”

(e) The terms “state university” and “university” shall mean one of the state universities.

(f) The term “community college” shall mean any institution of higher education which has been designated as a community college by the West Virginia board of regents under the provisions of section thirteen-b of this article.

(g) The term “higher educational institution” shall mean any institution as defined by sections 401(f), (g), (h) of the Federal Higher Education Facilities Act of 1963, as amended.

§18-26-13a. Accreditation of institutions of higher education; standards for degrees.

The West Virginia board of regents shall make rules and regulations for the accreditation of all colleges, universities and other institutions of higher education in the state, and shall determine the minimum standards for the conferring of degrees, with the exception of specialized associate degrees awarded by proprietary vocational-technical institutions pursuant to section ten, article two of this chapter. No institution of higher educational status may confer any degree on any basis of work or merit below the minimum standards prescribed by the West Virginia board of regents. Nothing contained herein shall infringe upon the rights, includ-
ing rights to award degrees, granted to any institution
by charter given according to law, or by actions of the
West Virginia board of regents, previous to the adoption
of this section: Provided, That such right granted to a
private, proprietary correspondence, business, occupa-
tional or trade school shall be deemed as granted by the
state board of education, which shall regulate such
schools pursuant to the provision of section ten, article
two of this chapter.

No charter or other instrument containing the right
to confer degrees of higher educational status, with the
exception of specialized associate degrees awarded by
proprietary vocational-technical institutions pursuant to
section ten, article two of this chapter, shall be granted
by the state of West Virginia to any institution,
association or organization within the state, nor shall
any such degree be awarded until the condition of
conferring such degree has first been approved in
writing by the West Virginia board of regents.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within ................. this the .......... day of ....................., 1988.

Governor
PRESENTED TO THE
GOVERNOR
3/8/88
Date

Time
4:27 p.m.