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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1988



ENROLLED

Com. Sub. for
HOUSE BILL No. 4580

(By Mr. Del Southern + Williams)



Passed March 10, 1988

In Effect Ninety Days From Passage

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.

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

9 The application for a permit shall be made on forms
10 to be furnished by the board, and a ten dollar fee shall
11 be required. The application shall be accompanied by a
12 surety bond in the penal sum of thirty-five thousand
13 dollars for any school which has its physical facilities
14 located in this state and which has operated in this state
15 for at least ten years. For any other school a surety bond
16 in the penal sum of not less than thirty-five thousand
17 dollars, but not more than one hundred thousand
18 dollars, shall be required, such amount to be determined
19 in accordance with the rules of the state board. Schools
20 with more than one campus within the state shall be
21 required to provide a bond for each of its campuses in
22 an amount equal to the bond required for its oldest
23 established campus in this state. The bond may be
24 continuous and shall be conditioned to provide indem-
25 nification to any student suffering loss as a result of any
26 fraud or misrepresentation used in procuring the
27 student's enrollment or failure of the school to meet
28 contractual obligations. The bond shall be given by the
29 school itself as a blanket bond covering all of its
30 representatives. The surety on any such bond may
31 cancel the same upon giving thirty days' notice in
32 writing to the principal on said bond and to the state
33 board of education and thereafter shall be relieved of
34 liability for any breach of condition occurring after the
35 effective date of said cancellation. The ten dollar fee will

36 entitle a school to register up to two individual solicitors.
37 Additional solicitors may be registered by paying a five
38 dollar fee for each registration submitted.

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

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

66 All correspondence, business, occupational or trade
67 schools which have been issued a permit shall make
68 annual reports to the state board of education on forms
69 furnished by the board and shall provide such approp-
70 riate information as the board reasonably may require.
71 All correspondence, business, occupational or trade
72 schools which have been issued a permit shall furnish
73 to the West Virginia board of education a list of its
74 official representatives. Each school shall be issued a
75 certificate of identification by the state board of
76 education for each of its official representatives.

77 The issuance of a permit pursuant to this section does
78 not constitute approval or accreditation of any course or
79 school. No school nor any representative of a school shall
80 make any representation stating, asserting or implying
81 that a permit issued pursuant to this section constitutes
82 approval or accreditation by the state of West Virginia,
83 state board of education or any other department or
84 agency of the state.

85 The state board of education is hereby authorized to
86 adopt rules and conduct on-site reviews to evaluate
87 academic standards maintained by schools for the
88 awarding of certificates, diplomas and specialized
89 associate degrees, which standards may include curric-
90 ulum, personnel, facilities, materials and equipment:
91 *Provided*, That in the case of accredited correspondence,
92 business, occupational and trade schools under permit
93 on the effective date of this section, having their physical
94 facilities located in this state, and which are accredited
95 by the appropriate nationally recognized accrediting
96 agency or association approved by the United States
97 department of education, the accrediting agency's
98 standards, procedures and criteria shall be accepted as
99 meeting applicable laws, standards, rules and regula-
100 tions of the state board of education: *Provided, however*,
101 That the state board of education may authorize an
102 investigation of written student complaints alleging a
103 violation of this section, or state board rules or accred-
104 itation standards and may take appropriate action based
105 on the findings of such an investigation.

106 The state board of education is hereby authorized to
107 adopt rules for the awarding of any specialized associate
108 degree: *Provided*, That nothing contained herein shall
109 infringe upon the rights of accredited West Virginia
110 proprietary schools operating in West Virginia to confer
111 specialized associate degrees, diplomas or certificates
112 based on credit or clock hours in accordance with
113 standards of the appropriate nationally recognized
114 accrediting agency or association that is approved by the
115 United States department of education. For the pur-
116 poses of this section, schools that award specialized
117 associate degrees shall be defined as proprietary

118 vocational-technical institutions, and specialized asso-
119 ciate degrees shall mean degrees awarded by such
120 institutions pursuant to a program of not less than two
121 academic years.

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

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

ARTICLE 26. WEST VIRGINIA BOARD OF REGENTS.

§18-26-2. Definitions.

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

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

8 (b) The term "state colleges" shall mean Bluefield
9 State College, Concord College, Fairmont State College,

10 Glenville State College, Shepherd College, West Liberty
11 State College, West Virginia Institute of Technology,
12 West Virginia State College, West Virginia School of
13 Osteopathic Medicine and any state community college
14 or other state institution of higher education which may
15 hereafter be established and not designated as a
16 "university."

17 (c) The term "state college" shall mean one of the state
18 colleges.

19 (d) The terms "state universities" and "universities"
20 shall mean Marshall University and West Virginia
21 University and any other state institution of higher
22 education which may hereafter be established and
23 designated as a "university."

24 (e) The terms "state university" and "university" shall
25 mean one of the state universities.

26 (f) The term "community college" shall mean any
27 institution of higher education which has been desig-
28 nated as a community college by the West Virginia
29 board of regents under the provisions of section thirteen-
30 b of this article.

31 (g) The term "higher educational institution" shall
32 mean any institution as defined by sections 401(f), (g),
33 (h) of the Federal Higher Education Facilities Act of
34 1963, as amended.

**§18-26-13a. Accreditation of institutions of higher educa-
tion; standards for degrees.**

1 The West Virginia board of regents shall make rules
2 and regulations for the accreditation of all colleges,
3 universities and other institutions of higher education in
4 the state, and shall determine the minimum standards
5 for the conferring of degrees, with the exception of
6 specialized associate degrees awarded by proprietary
7 vocational-technical institutions pursuant to section ten,
8 article two of this chapter. No institution of higher
9 educational status may confer any degree on any basis
10 of work or merit below the minimum standards pres-
11 cribed by the West Virginia board of regents. Nothing
12 contained herein shall infringe upon the rights, includ-

13 ing rights to award degrees, granted to any institution
14 by charter given according to law, or by actions of the
15 West Virginia board of regents, previous to the adoption
16 of this section: *Provided*, That such right granted to a
17 private, proprietary correspondence, business, occupa-
18 tional or trade school shall be deemed as granted by the
19 state board of education, which shall regulate such
20 schools pursuant to the provision of section ten, article
21 two of this chapter.

22 No charter or other instrument containing the right
23 to confer degrees of higher educational status, with the
24 exception of specialized associate degrees awarded by
25 proprietary vocational-technical institutions pursuant to
26 section ten, article two of this chapter, shall be granted
27 by the state of West Virginia to any institution,
28 association or organization within the state, nor shall
29 any such degree be awarded until the condition of
30 conferring such degree has first been approved in
31 writing by the West Virginia board of regents.

W. B. ...
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Enr. Com. Sub. for H. B. 4580] 8

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Bruce O. Williams
Chairman Senate Committee

Bernard V. Kelly
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Jedd C. Withers
Clerk of the Senate

Donald Z. Kopp
Clerk of the House of Delegates

Sam Taylor
President of the Senate

Robert C. Kopp
Speaker of the House of Delegates

The within *approved* this the *30th*
March day of _____, 1988.

Archa Shroyer
Governor

PRESENTED TO THE

GOVERNOR

Date 3/18/88

Time 4:27 p.m.

RECEIVED

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE