

ACT 132

S.B. NO. 1382

A Bill for an Act Relating to Education.

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

SECTION 1. In October 2010, the United States Department of Education issued new regulations for programs authorized under Title IV of the Higher Education Act of 1965, as amended, to hold programs accountable for preparing students for gainful employment, protect students from misleading recruiting practices, ensure that only eligible students receive financial aid, and strengthen federal student aid programs at for-profit, non-profit, and public institutions. The regulations also include requirements for state authorization of institutions that offer educational programs beyond secondary education for purposes of federal program eligibility.

The state post-secondary education commission, established under section 304A-3151, Hawaii Revised Statutes, qualifies the State to receive funds made available under the Higher Education Act of 1965, as amended, and may serve as the state agency for the receipt of federal funds when necessary. However, the commission does not authorize institutions to operate educational programs beyond secondary education, as may be required under new federal regulations.

Further, the commission is established under the University of Hawaii for administrative purposes. The legislature finds that either the establishment of a new entity or the placement of the existing post-secondary commission under a different department of state government may result in an entity that is more broadly representative of post-secondary education in the State and more appropriate to serve as the authorizing state agency for the diverse institutions that operate educational programs beyond secondary education.

The State was unable to satisfy all of the requirements relating to state authorization by the July 1, 2011, deadline. However, the United States Department of Education provided the opportunity for states and institutions to receive an extension to July 1, 2013, for certain regulations. In the meantime, it is the intent of the legislature to proactively seek solutions by determining what actions and changes are required for the State to come into compliance with the new regulations. This Act is a good faith attempt to begin to meet the federal requirements of the Higher Education Act of 1965, as amended.

Accordingly, the purpose of this Act is to request the auditor to examine the Higher Education Act of 1965, as amended, and regulations pursuant to that Act, and examine and recommend a possible regulatory framework to ensure the State's compliance with provisions relating to the authorization of institutions that offer educational programs beyond secondary education.

SECTION 2. (a) The auditor shall examine the federal Higher Education Act of 1965, as amended, and federal regulations pursuant to that Act, and recommend the best available options to the State, including a regulatory framework, to ensure the State's compliance with provisions relating to the authorization of institutions that offer educational programs beyond secondary education in the State for the purposes of federal program eligibility.

(b) In conducting the examination and making recommendations pursuant to subsection (a), the auditor shall:

- (1) Examine the feasibility of establishing an entity within an existing department of state government to regulate the authorization, record-keeping, and handling of complaints of and against institutions providing post-secondary education within the State or such institutions based within the State;
- (2) Examine potential governance and organizational structures for the entity described in paragraph (1), including an analysis of whether there is any role for an advisory body;
- (3) Recommend policies and procedures for the entity described in paragraph (1) to handle grievances and complaints against any post-secondary educational institution authorized and registered in the State;
- (4) Identify the types of institutions that will be subject to the regulatory framework recommended in subsection (a), including but not limited to degree and non-degree granting institutions;
- (5) Recommend a framework for an authorization system, as well as a process for exemptions, in order for educational institutions to provide post-secondary education within the State or to be based within the State;
- (6) Examine any potential issues with imposing a fee for post-secondary educational institutions; and
- (7) Examine whether the entity described in paragraph (1) may negotiate and enter into interstate reciprocity agreements with other states that will effectuate the purpose of the entity's responsibilities.

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(c) The auditor shall submit a report of the analyses performed pursuant to this Act to the legislature no later than twenty days prior to the convening of the regular session of 2013.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 19, 2012.)