House
Legislative
Analysis
Section

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REG. PROPRIETARY SCHOOLS

House Bill 5209
Sponsor: Rep. Nelson Saunders
Committee: Higher Education

Complete to 11-30-93

A SUMMARY OF HOUSE BILL 5209 AS INTRODUCED 11-17-93

House Bill 5209 would repeal, as of January 1, 1994, two acts that currently deal with proprietary schools: Public Act 156 of 1993, and Public Act 157 of 1993. House Bill 5209 would create the Proprietary School Educational Assurance Act under which a Tuition Reimbursement Fund would be created in the state treasury to reimburse students when a school closed and to provide them alternative instruction (through so-called teachout arrangements). The bill would also establish a process for determining assessments to be charged proprietary school licensees for the reimbursement fund, and require that the state board of education promulgate rules to implement the act according to the requirements of the Administrative Procedures Act. The following is a description of the main provisions of House Bill 5209:

Tuition Reimbursement Fund

** A Tuition Reimbursement Fund would be created within the Department of Treasury, to be administered by the Department of Education. Money received from any source, including assessments charged to licensed schools, would be deposited in the fund, and used only for tuition refunds to students, for authorized costs incurred by the department in arranging teachout opportunities when they weren't otherwise available, and, with the approval of the state board of education, for the purchase of insurance or reinsurance to guarantee that the fund's obligations could be met.

** The process for determining assessments to be charged licensees would be structured so that each licensee would pay an equitable assessment, based on the school's enrollment, tuition charges, and claims history. The initial assessments would be calculated to generate at least $30,000, and the assessment process would have to guarantee that the fund balance at the beginning of each fiscal year was at least $30,000, minus any amount paid for insurance or reinsurance. (The bill also says that "the process could be structured so that assessments were imposed and collected to satisfy the obligations of the fund only as they arose, or to maintain a fund balance of at least $30,000, minus insurance or reinsurance payments.") Emergency assessments could also be imposed.

** The auditor general and the Department of Education would each be required to audit the fund annually. In addition, the auditor general would be required to produce an annual financial statement for the fund according to generally accepted accounting principles. If either determined, as a result of an audit, that the resources of the fund were inadequate to meet actual or anticipated obligations, then both would be required to make recommendations to the state board of education on changes to ensure that the fund would have adequate resources.

** The department would be required to develop, adopt, and submit to the state board a plan of operation for the tuition reimbursement fund within six months after the effective date of the act. Copies of the plan would also have to be provided to the standing committees of the legislature responsible for higher education legislation, and would include at least a process for determining debts and liabilities to be paid from the fund and a process for determining assessments. At least 30 days after the department submitted its plan of operation, the state board would be required to approve, disapprove, or modify the process for determining assessments and to notify the department and the legislative standing committees for higher education legislation.

** The department would be considered a party in interest in all proceedings involving a claim against the fund, could investigate a claim to determine its validity, and could compromise, settle, and pay a valid claim and deny an invalid claim.

<u>Tuition Refunds</u>

** A student would be eligible for a refund if a school closed or ceased instruction and the student was not offered a teachout opportunity according to a teachout plan developed by the department for the instructional program in which he or she was enrolled, or if continuing instruction at a teachout school would be an undue hardship for the student. The portion of the tuition payment made by or on behalf of the student from funds other than federal or state student financial aid would be repaid to the student in full. The portion of the tuition payment paid from federal or state student financial aid funds would be refunded in accordance with applicable state or federal law.

** Until the amount of a tuition refund was exhausted, a tuition refund would be paid in the following order of priority: first, to repay the unpaid balance of a guaranteed student loan taken out by the claimant for payment of tuition; second, to repay a state or federal government agency that had paid tuition on behalf of the claimant; and third, to refund to the claimant actual personal tuition expenditures or money borrowed from other sources.

** Refund recipients would be considered to have assigned or subrogated their tuition refund rights against the proprietary school to the education department on behalf of the reimbursement fund for the amount refunded.

<u>Teachout Arrangements</u>

** If a proprietary school closed or ceased instruction, the department would have to develop a teachout plan that made arrangements with one or more other schools to provide teachout opportunities. A proprietary school would be required to participate in a teachout plan developed by the department. (As noted earlier, a student could decline to enroll at a teachout school if his or her participation would result in undue hardship, and could instead seek a refund from the Tuition Reimbursement Fund.)

** Under a teachout plan, teachout opportunities would be arranged with one or more teachout schools offering an instructional program or course that was substantially similar to that offered in the school that ceased instruction. The teachout school would have to fulfill the enrollment agreement signed by a student at the school ceasing instruction, except that the department, in consultation with the teachout school and with the approval of each student, could modify the agreement's requirements. However, the teachout plan could not require a teachout school to provide teachout opportunities in a particular instructional program to a number of students that exceeded ten percent of the school's average enrollment for the program over the immediately preceding three years.

** A teachout school could not subject a student enrolling under a teachout plan to any costs beyond the total costs in the original enrollment agreement. The school, however, would be entitled to receive any tuition still owed to the school that had closed or ceased instruction under the enrollment agreement.

Penalties

** A violation of the act would be considered a misdemeanor, punishable by a fine of up to $1,000, imprisonment for up to 90 days, or both.