

1 SB159
2 165819-7
3 By Senator Glover
4 RFD: Education and Youth Affairs
5 First Read: 05-MAR-15

1 SB159

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4 ENROLLED, An Act,

5 To amend Sections 16-5-10 and 16-46-3, Code of
6 Alabama 1975, as amended by Act 2014-245 and Act 2014-330 of
7 the 2014 Regular Session, relating to exemptions from state
8 approval for entities participating in reciprocity agreements;
9 to clarify the exemption for regional accrediting authorities
10 and accredited degree granting entities; and to establish the
11 State Reciprocity Committee and provide for the duties and
12 powers of the reciprocity committee.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Sections 16-5-10 and 16-46-3, Code of
15 Alabama 1975, as amended by Act 2014-245 and Act 2014-330 of
16 the 2014 Regular Session, are amended to read as follows:

17 "§16-5-10.

18 "The commission shall exercise the following powers
19 and duties in addition to those otherwise specified in this
20 article:

21 "(1) To cause to be made such surveys and
22 evaluations of higher education as are believed necessary for
23 the purpose of providing appropriate information to carry out
24 its powers and duties.

1 "(2) To recommend to the Legislature of Alabama the
2 enactment of such legislation as it deems necessary or
3 desirable to insure the highest quality of higher education in
4 this state taking into consideration the orderly development
5 and maintenance of the state system of public higher education
6 to meet trends in population and the change in social and
7 technical requirements of the economy.

8 "(3) To advise and counsel the Governor, at his
9 request, regarding any area of, or matter pertaining to,
10 postsecondary education.

11 "(4) To establish definitions of a junior college, a
12 community college, a technical college or institute, a senior
13 college, a university and university system; provided, that
14 nothing herein shall be construed as authorizing the
15 commission to establish or create any university system, nor
16 to alter any university system presently existing.

17 "(5) To develop and publish criteria which may be
18 used by the Legislature as a basis:

19 "a. For changing the classification of any public
20 institution of higher education; and

21 "b. For determining the need for new public junior
22 colleges, public senior colleges, universities or university
23 systems.

24 "Any proposed statute which would establish an
25 additional institution of higher education may be submitted,

1 either prior to introduction or by the standing committee
2 considering same to the commission for its opinion as to the
3 need for the state therefore, and the commission shall report
4 its findings to the Governor and the Legislature.

5 "(6) To cause studies to be made for the purpose of
6 classifying and prescribing the role and scope for each public
7 institution of higher education in Alabama and to recommend
8 such changes in classification or role and scope for such
9 institutions as it deems necessary and which may be agreed to
10 by the governing board of the institution. In making studies
11 and recommendations for the purpose of classifying and
12 prescribing the role and scope of institutions, the commission
13 shall do so without regard for race and traditional role of
14 the institution, provided, however, that in the absence of
15 compelling reasons to the contrary the commission shall give
16 priority to institutions having seniority in years of
17 operation in the service area. When making recommendations for
18 the elimination of duplication of educationally unnecessary
19 programs, absent justifiable reasons to the contrary, the
20 commission shall recommend the replacement of such programs
21 and/or services with programs and/or services that will
22 strengthen and enhance the role of the institution affected.

23 "(7) To hear applications from the institutions for
24 changes in classification or role and scope and to recommend
25 to the Legislature for clarification such classifications in

1 role or scope which may not be agreed to by the governing
2 board of any institution.

3 "(8) To make continuing studies, on its own
4 initiative or upon the request of the Governor or the
5 Legislature, of the financial needs of public higher education
6 and issue such reports to the Governor and the Legislature as
7 may result from its studies.

8 "(9) To submit to the Governor and the Legislature
9 on or before the first day in January of each year a written
10 report covering the activities of the commission and the state
11 of higher education in Alabama. The report shall include:

12 "a. Statements of the nature, progress or result of
13 any studies undertaken or completed during the past fiscal
14 year;

15 "b. Comments upon major developments, trends, new
16 policies, budgets and financial considerations which, in the
17 judgment of the commission will be useful in planning a sound
18 program of higher education; and

19 "c. Recommendations respecting postsecondary
20 education in this state as may be appropriate.

21 "(10) To make rules and regulations for its
22 meetings, procedures and execution of the powers and duties
23 delegated to it by this article.

1 "(11) To encourage the establishment and development
2 of formal consortia for the advancement of higher education
3 comprised of institutions of higher education in the state.

4 "(12) To conduct a program of public information in
5 order to inform citizens of the state of matters of importance
6 to higher education in Alabama.

7 "(13) To serve as the state agency for the
8 administration of those titles of the Higher Education Act of
9 1965 (Public Law 89-329) as amended for those programs
10 requiring a single state agency for which the commission
11 qualifies, unless otherwise designated by executive order.

12 "(14) To authorize and regulate instructional
13 programs or units offered by non-Alabama institutions of
14 postsecondary education in the State of Alabama. No
15 institution of postsecondary education located outside of
16 Alabama may offer units or programs of instruction within
17 Alabama without prior approval of the commission, except for
18 those accredited units or programs approved by regional
19 accrediting authorities or accredited degree granting entities
20 located in states participating in reciprocity agreements
21 entered into by the Governor or the commission. The commission
22 under its rule-making authority shall establish criteria for
23 the approval of such institutions and programs. The commission
24 shall promulgate a schedule of programmatic review fees,
25 commensurate with the cost of commission activities related to

1 programmatic review, not exceeding fifteen thousand dollars
2 (\$15,000) per institution. Any programmatic review fee
3 collected from a non-Alabama institution of postsecondary
4 education shall be deposited in the State Treasury to the
5 credit of the commission and funds collected are hereby
6 appropriated to the commission.

7 "(15) The powers and duties of the commission shall
8 apply equally to all postsecondary institutions regardless of
9 any authority that may be, or has been, conferred upon them by
10 the constitution or by statutes.

11 "§16-46-3.

12 "(a) This chapter shall not apply to any school
13 offering instruction in grades K-12, or any combination
14 thereof, including any person in regard to the operation of
15 such K-12 school.

16 "(b) This chapter shall not apply to any of the
17 following private postsecondary institutions, including any
18 person in regard to the operation of such private
19 postsecondary institution:

20 "(1) Schools operated on a nonprofit basis offering
21 only courses or programs of study which do not lead to an
22 associate or baccalaureate degree and are limited in nature to
23 the performance of or preparation for the ministry of any
24 established church, denomination, or religion.

1 "(2) Courses conducted by employers exclusively for
2 their employees and courses conducted by labor unions
3 exclusively for their members.

4 "(3) Schools, colleges, and universities principally
5 operated and supported by the State of Alabama or its
6 political subdivisions.

7 "(4) Seminars and short courses sponsored or offered
8 by professional business, trade, or religious organizations
9 primarily for benefit of members thereof, or similar public
10 programs of training where the majority of the students have
11 at least half of their tuition and enrollment fees paid by
12 their employers, provided that evidence is supplied supporting
13 this exemption continuously over the preceding five years.

14 "(5) Any private postsecondary institution
15 conducting resident courses whose principal base of operation
16 is within the State of Alabama which has been in continuous
17 operation for 20 years or more as of July 1, 2004, and that
18 held accreditation as of that date by an accrediting agency
19 recognized by the United States Department of Education.

20 "(6) Programs of study regulated by other state
21 public boards, commissions, or agencies requiring school
22 licensure or performance bonding, or both, except where the
23 appropriate regulatory agency requires a license under this
24 chapter.

1 "(7) Any private postsecondary institution
2 conducting resident courses that has been in operation within
3 Alabama for at least five years as of July 1, 2004, and that
4 is accredited by an accrediting agency recognized by the
5 United States Department of Education shall be accorded the
6 following provisions: Upon proof of such accreditation, such
7 private postsecondary schools shall be issued a license and
8 representative permits after required fees are paid to the
9 Alabama Department of Postsecondary Education. The requisite
10 accreditation shall satisfy the minimum standards of this
11 chapter.

12 "~~(8) Any out-of-state nonprofit entity that offers~~
13 ~~online programs of instruction, is approved by a regional~~
14 ~~accreditation authority, and is located in degree granting~~
15 ~~entity accredited by an accrediting body recognized by the~~
16 ~~United States Department of Education and located in and~~
17 ~~authorized by a state participating in a regional or national~~
18 ~~authorization reciprocity agreement approved by that the State~~
19 ~~of Alabama has joined with the approval of the Governor or the~~
20 ~~Alabama Commission on Higher Education, and operating under~~
21 ~~the terms of that agreement.~~

22 "(c) Any private postsecondary institution exempted
23 in this section shall retain the exempted status as long as
24 the conditions of exemption remain valid. An accredited
25 private postsecondary institution or program of study not

1 elsewhere exempted whose accreditation is withdrawn,
2 suspended, or revoked shall forfeit its exemption status until
3 the grant of accreditation is restored. Due process of the
4 accrediting agency shall be allowed prior to withdrawal of an
5 exemption. Private postsecondary institutions having
6 accreditation withheld as a result of transfer of ownership
7 shall be allowed a period of time to regain the grant in
8 accordance with the appropriate accrediting agency
9 regulations.

10 "(d) An exemption pursuant to this section shall not
11 be construed to constitute approval or endorsement by the
12 State of Alabama for any purpose.

13 "(e) Exempted private postsecondary institutions may
14 voluntarily request to be licensed without surety as described
15 in Sections 16-46-5 and 16-46-6.

16 "(f) Private postsecondary institutions which cease
17 operations shall place the student academic, attendance, and
18 financial aid records in the office of the appropriate
19 institutional administrator where a repository shall exist to
20 safeguard and to make available these records to authorized
21 persons upon request as follows:

22 "(1) Private postsecondary institutions which merge,
23 consolidate, or undergo change of ownership shall deposit with
24 the continuing school.

1 "(2) Private postsecondary institutions which are a
2 part of a system, organization, franchise, or a ministry of a
3 local church or a group of churches shall deposit with the
4 administrative office thereof if such is to remain in
5 operation.

6 "(3) Other private postsecondary institutions not
7 elsewhere designated shall deposit with the Department of
8 Postsecondary Education."

9 Section 2. (a) There is created the State
10 Reciprocity Committee. The membership of the committee shall
11 consist of the following members:

12 (1) The Chancellor of the University of Alabama
13 System, or his or her designee.

14 (2) The President of Auburn University, or his or
15 her designee.

16 (3) The President of the University of South
17 Alabama, or his or her designee.

18 (4) The Chancellor of the Department of
19 Postsecondary Education, or his or her designee.

20 (5) A president of a historically black college or
21 university, or his or her designee, appointed by the Governor.

22 (b) At the organizational meeting of the committee,
23 and annually thereafter, the membership of the reciprocity
24 committee shall select the chair from among the membership of
25 the reciprocity committee. The reciprocity committee shall

1 make recommendations to the Governor on all issues, decisions,
2 appointments, and designations necessary for the State of
3 Alabama to participate and comply with reciprocity agreements.

4 (c) The reciprocity committee shall appoint and
5 direct a state coordinator in doing all of the following:

6 (1) Negotiating reciprocal agreements with other
7 states regarding the offering of educational services of
8 Alabama institutions of higher education in other states.

9 (2) Negotiating reciprocal agreements allowing
10 institutions of higher education in other states to offer
11 educational services in this state.

12 (3) Coordinating Alabama's compliance with efforts
13 relating to reciprocity agreements.

14 (d) The coordinator shall act under the direction of
15 the reciprocity committee in doing all of the following:

16 (1) Conferring with other institutions of higher
17 education within the State of Alabama, including independent
18 colleges and universities, and the Alabama Commission on
19 Higher Education.

20 (2) Promptly informing the reciprocity committee of
21 all developments.

22 (3) Coordinating and leading all activities, action,
23 and efforts necessary for the State of Alabama to participate
24 and comply with reciprocity agreements.

1 (e) The coordinator shall have no power to bind the
2 State of Alabama to any agreements, as that power is reserved
3 for the Governor.

4 (f) (1) The reciprocity committee shall select a
5 portal agency. For the purposes of this section, a portal
6 agency is an entity designated and managed by the reciprocity
7 committee to serve as the point of contact for questions,
8 complaints, and other communications from State Authorization
9 Reciprocity Agreements (SARA) and other reciprocity agreements
10 entered into by the State of Alabama that seek to establish
11 comparable national standards for interstate offerings of
12 postsecondary distance-education courses and programs.

13 (2) The reciprocity committee shall manage the
14 activities of the portal agency through the coordinator and
15 the portal agency shall make reports at least quarterly or
16 more frequently upon the request of the coordinator. The
17 quarterly reports shall include, at a minimum, data requested
18 by the reciprocity committee and the coordinator.

19 (3) Commencing on the effective date of the act
20 adding this subdivision, every five years the reciprocity
21 committee shall compile the data necessary to evaluate the
22 effectiveness of SARA and other reciprocity agreements. Based
23 on the outcomes of the evaluation, the committee may recommend
24 to the Governor that the state withdraw from any reciprocity
25 agreement that is counter to the best interests of Alabama

1 students or the state for reasons including, but not limited
2 to, overly high enrollment in institutions with low completion
3 rates and high student loan default rates.

4 (g) (1) The reciprocity committee may annually
5 establish fees to be collected by the portal agency from each
6 Alabama SARA institution based on full-time enrollment and
7 commensurate with the costs of administering SARA and other
8 reciprocity agreements entered into by the State of Alabama
9 that seek to establish comparable national standards for
10 interstate offerings of postsecondary distance-education
11 courses and programs, except that such fees shall be limited
12 as follows: Initial application and subsequent annual renewal
13 fees which, by dollar amount, may not exceed the respective
14 individual institution fees assessed by the National Council
15 for SARA, or its successor entity. In the event the National
16 Council for SARA determines to waive or terminate the
17 assessment of fees for participating institutions, then the
18 fee applicable to participating Alabama SARA institutions
19 shall be the same as those fees assessed in the prior fiscal
20 year.

21 (2) All fees collected pursuant to this subsection
22 shall be deposited and credited to a dedicated Reciprocity
23 Fund, which is hereby created in the State Treasury, for use
24 by the portal agency as designated by the reciprocity
25 committee. All monies deposited into the Reciprocity Fund are

1 hereby appropriated to the portal agency for the fiscal year
2 ending September 30, 2015, and for the fiscal year ending
3 September 30, 2016.

4 (3) The fees to be collected by the reciprocity
5 committee shall accompany an application for voluntary
6 participation in SARA and the annual renewal thereof.

7 (h) If the institution of a member of the
8 reciprocity committee is under investigation for a SARA
9 complaint, the member shall recuse himself or herself from any
10 discussions or proceedings relating to that investigation.

11 Section 3. This act shall become effective
12 immediately following its passage and approval by the
13 Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB159

Senate 07-APR-15

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris
Secretary

House of Representatives
Passed: 28-APR-15

By: Senator Glover