

1 SB159
2 164677-3
3 By Senator Glover
4 RFD: Education and Youth Affairs
5 First Read: 05-MAR-15

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8 SYNOPSIS: Under existing law, the state is authorized
9 to participate in reciprocity agreements whereby
10 colleges and universities of member states are
11 allowed to operate, without additional state
12 approval or authorization, in other member states.

13 This bill would clarify the exemption from
14 state approval or authorization for regional
15 accrediting authorities or accredited degree
16 granting entities operating under the terms of an
17 approved reciprocity agreement.

18 This bill would also establish the State
19 Reciprocity Committee, and would provide for the
20 duties and powers of the reciprocity committee.
21

22 A BILL

23 TO BE ENTITLED

24 AN ACT
25

26 To amend Sections 16-5-10 and 16-46-3, Code of
27 Alabama 1975, as amended by Act 2014-245 and Act 2014-330 of

1 the 2014 Regular Session, relating to exemptions from state
2 approval for entities participating in reciprocity agreements;
3 to clarify the exemption for regional accrediting authorities
4 and accredited degree granting entities; and to establish the
5 State Reciprocity Committee and provide for the duties and
6 powers of the reciprocity committee.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

11 "§16-5-10.

12 "The commission shall exercise the following powers
13 and duties in addition to those otherwise specified in this
14 article:

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

19 "(2) To recommend to the Legislature of Alabama the
20 enactment of such legislation as it deems necessary or
21 desirable to insure the highest quality of higher education in
22 this state taking into consideration the orderly development
23 and maintenance of the state system of public higher education
24 to meet trends in population and the change in social and
25 technical requirements of the economy.

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

4 "(4) To establish definitions of a junior college, a
5 community college, a technical college or institute, a senior
6 college, a university and university system; provided, that
7 nothing herein shall be construed as authorizing the
8 commission to establish or create any university system, nor
9 to alter any university system presently existing.

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

12 "a. For changing the classification of any public
13 institution of higher education; and

14 "b. For determining the need for new public junior
15 colleges, public senior colleges, universities or university
16 systems.

17 "Any proposed statute which would establish an
18 additional institution of higher education may be submitted,
19 either prior to introduction or by the standing committee
20 considering same to the commission for its opinion as to the
21 need for the state therefore, and the commission shall report
22 its findings to the Governor and the Legislature.

23 "(6) To cause studies to be made for the purpose of
24 classifying and prescribing the role and scope for each public
25 institution of higher education in Alabama and to recommend
26 such changes in classification or role and scope for such
27 institutions as it deems necessary and which may be agreed to

1 by the governing board of the institution. In making studies
2 and recommendations for the purpose of classifying and
3 prescribing the role and scope of institutions, the commission
4 shall do so without regard for race and traditional role of
5 the institution, provided, however, that in the absence of
6 compelling reasons to the contrary the commission shall give
7 priority to institutions having seniority in years of
8 operation in the service area. When making recommendations for
9 the elimination of duplication of educationally unnecessary
10 programs, absent justifiable reasons to the contrary, the
11 commission shall recommend the replacement of such programs
12 and/or services with programs and/or services that will
13 strengthen and enhance the role of the institution affected.

14 "(7) To hear applications from the institutions for
15 changes in classification or role and scope and to recommend
16 to the Legislature for clarification such classifications in
17 role or scope which may not be agreed to by the governing
18 board of any institution.

19 "(8) To make continuing studies, on its own
20 initiative or upon the request of the Governor or the
21 Legislature, of the financial needs of public higher education
22 and issue such reports to the Governor and the Legislature as
23 may result from its studies.

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

1 "a. Statements of the nature, progress or result of
2 any studies undertaken or completed during the past fiscal
3 year;

4 "b. Comments upon major developments, trends, new
5 policies, budgets and financial considerations which, in the
6 judgment of the commission will be useful in planning a sound
7 program of higher education; and

8 "c. Recommendations respecting postsecondary
9 education in this state as may be appropriate.

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

13 "(11) To encourage the establishment and development
14 of formal consortia for the advancement of higher education
15 comprised of institutions of higher education in the state.

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

19 "(13) To serve as the state agency for the
20 administration of those titles of the Higher Education Act of
21 1965 (Public Law 89-329) as amended for those programs
22 requiring a single state agency for which the commission
23 qualifies, unless otherwise designated by executive order.

24 "(14) To authorize and regulate instructional
25 programs or units offered by non-Alabama institutions of
26 postsecondary education in the State of Alabama. No
27 institution of postsecondary education located outside of

1 Alabama may offer units or programs of instruction within
2 Alabama without prior approval of the commission, except for
3 those accredited units or programs approved by regional
4 accrediting authorities or accredited degree granting entities
5 located in states participating in reciprocity agreements
6 entered into by the Governor or the commission. The commission
7 under its rule-making authority shall establish criteria for
8 the approval of such institutions and programs. The commission
9 shall promulgate a schedule of programmatic review fees,
10 commensurate with the cost of commission activities related to
11 programmatic review, not exceeding fifteen thousand dollars
12 (\$15,000) per institution. Any programmatic review fee
13 collected from a non-Alabama institution of postsecondary
14 education shall be deposited in the State Treasury to the
15 credit of the commission and funds collected are hereby
16 appropriated to the commission.

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

21 "§16-46-3.

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

26 "(b) This chapter shall not apply to any of the
27 following private postsecondary institutions, including any

1 person in regard to the operation of such private
2 postsecondary institution:

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

8 "(2) Courses conducted by employers exclusively for
9 their employees and courses conducted by labor unions
10 exclusively for their members.

11 "(3) Schools, colleges, and universities principally
12 operated and supported by the State of Alabama or its
13 political subdivisions.

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

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

1 "(6) Programs of study regulated by other state
2 public boards, commissions, or agencies requiring school
3 licensure or performance bonding, or both, except where the
4 appropriate regulatory agency requires a license under this
5 chapter.

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

17 "~~(8) Any out-of-state nonprofit entity that offers~~
18 ~~online programs of instruction, is approved by a regional~~
19 ~~accreditation authority, and is located in~~ accredited degree
20 granting entity located in and authorized by a state
21 participating in a regional or national authorization
22 reciprocity agreement approved by that the State of Alabama
23 has joined with the approval of the Governor, and operating
24 under the terms of that agreement.

25 "(c) Any private postsecondary institution exempted
26 in this section shall retain the exempted status as long as
27 the conditions of exemption remain valid. An accredited

1 private postsecondary institution or program of study not
2 elsewhere exempted whose accreditation is withdrawn,
3 suspended, or revoked shall forfeit its exemption status until
4 the grant of accreditation is restored. Due process of the
5 accrediting agency shall be allowed prior to withdrawal of an
6 exemption. Private postsecondary institutions having
7 accreditation withheld as a result of transfer of ownership
8 shall be allowed a period of time to regain the grant in
9 accordance with the appropriate accrediting agency
10 regulations.

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

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

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

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

26 "(2) Private postsecondary institutions which are a
27 part of a system, organization, franchise, or a ministry of a

1 local church or a group of churches shall deposit with the
2 administrative office thereof if such is to remain in
3 operation.

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

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

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

12 (2) The President of Auburn University, or his or
13 her designee.

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

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

18 (b) At the organizational meeting of the committee,
19 and annually thereafter, the membership of the reciprocity
20 committee shall select the chair from among the membership of
21 the reciprocity committee. The reciprocity committee shall
22 make recommendations to the Governor on all issues, decisions,
23 appointments, and designations necessary for the State of
24 Alabama to participate and comply with reciprocity agreements.

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

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

4 (2) Negotiating reciprocal agreements allowing
5 institutions of higher education in other states to offer
6 educational services in this state.

7 (3) Coordinating Alabama's compliance with efforts
8 relating to reciprocity agreements.

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

11 (1) Conferring with other institutions of higher
12 education within the State of Alabama.

13 (2) Promptly informing the reciprocity committee of
14 all developments.

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

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

21 (f) (1) The reciprocity committee shall select a
22 portal agency. For the purposes of this section, a portal
23 agency is an entity designated and managed by the reciprocity
24 committee to serve as the point of contact for questions,
25 complaints, and other communications from State Authorization
26 Reciprocity Agreements (SARA) and other reciprocity agreements
27 entered into by the State of Alabama that seek to establish

1 comparable national standards for interstate offerings of
2 postsecondary distance-education courses and programs.

3 (2) The reciprocity committee shall manage the
4 activities of the portal agency through the coordinator and
5 the portal agency shall make reports at least quarterly or
6 more frequently upon the request of the coordinator. The
7 quarterly reports shall include, at a minimum, data requested
8 by the reciprocity committee and the coordinator.

9 (3) Commencing on the effective date of the act
10 adding this subdivision, every five years the reciprocity
11 committee shall compile the data necessary to evaluate the
12 effectiveness of SARA and other reciprocity agreements. Based
13 on the compiled data, the reciprocity committee may recommend
14 to the Governor that the state withdraw from any reciprocity
15 agreement if the data indicates overly high enrollment in
16 institutions with low completion rates and high default rates.

17 (g)(1) The reciprocity committee may annually
18 collect fees from each Alabama SARA institution based on
19 full-time enrollment and commensurate with the costs of
20 administering SARA and other reciprocity agreements entered
21 into by the State of Alabama that seek to establish comparable
22 national standards for interstate offerings of postsecondary
23 distance-education courses and programs, except that such fees
24 shall be limited as follows:

25 a. Initial application and subsequent annual renewal
26 fees which, by dollar amount, may not exceed the respective

1 individual institution fees assessed by the National Council
2 for SARA, or its successor entity.

3 b. In the event the National Council for SARA,
4 determines to waive or terminate the assessment of fees for
5 participating institutions, then the fee applicable to
6 participating Alabama SARA institutions shall be the same as
7 those fees assessed in the prior fiscal year.

8 (2) All fees collected pursuant to this subsection
9 shall be deposited in the State Treasury and credited to a
10 dedicated reciprocity committee account.

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

14 Section 3. This act shall become effective
15 immediately following its passage and approval by the
16 Governor, or its otherwise becoming law.