



State of Tennessee

PUBLIC CHAPTER NO. 790

SENATE BILL NO. 2294

By Bell

Substituted for: House Bill No. 2363

By Lynn

AN ACT to amend Tennessee Code Annotated, Title 49, relative to postsecondary authorization.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-7-2004, is amended by deleting subdivision (a)(6)(D) in its entirety and substituting instead:

(D) Meets and maintains financial standards deemed acceptable by the accreditor for the purpose of maintaining accreditation or the United States department of education for the purpose of being a Title IV eligible institution; and

SECTION 2. Tennessee Code Annotated, Section 49-7-2008, is amended by deleting subdivision (e)(2) in its entirety and substituting instead:

(2) In the event of a change in ownership of the institution, a new owner or governing body must, within five (5) business days after the change in ownership, apply for a new authorization to operate as provided for by the commission; and in the event of failure to do so, the institution's authorization to operate shall terminate.

SECTION 3. Tennessee Code Annotated, Section 49-7-2013, is amended by deleting subdivision (a)(3) in its entirety and substituting instead:

(3) The bond shall be conditioned to:

(A) Initially provide indemnification to any student or enrollee or the student's or enrollee's parents or guardian, or class thereof, determined to have suffered loss or damage as a result of any act or practice that is a violation of this part by the postsecondary educational institution, and that the bonding company shall pay any final, nonappealable judgment rendered by the commission or any court of this state having jurisdiction, upon receipt of written notification of the judgment; and

(B) Pay, from any remaining funds to the special agency account established pursuant to § 49-7-2014, an amount to be assessed by the commission for the administrative costs associated with maintaining academic records pursuant to § 49-7-2016, including the collection, conversion, and retention of all academic records.

SECTION 4. Tennessee Code Annotated, Section 49-7-2016, is amended by deleting subsections (b), (c), and (d) in their entireties and substituting instead:

(b) The academic records shall include, at a minimum, the transcripts or certificates in a format that is customarily required by postsecondary educational institutions when considering students for transfer or advanced study, or by other third parties, such as employers.

(c) In the event it appears to the commission that the academic records of an institution discontinuing its operations are in danger of being destroyed, secreted, mislaid, or otherwise made unavailable to the commission, the commission may seize and take possession of the records, on its own motion, and without order of court.

(d) The commission shall maintain, or cause to be maintained, a permanent file of the transcripts or certificates provided by subsection (b) that come into its possession.

SECTION 5. Tennessee Code Annotated, Section 49-7-2018, is amended by deleting subsection (a) in its entirety and substituting instead:

(a) The general assembly recognizes:

(1) The need to establish a fund from which reimbursement can be made to students who reside in Tennessee or attend an authorized location with a Tennessee address, or an entity making loans to those students at postsecondary educational institutions that close without earning tuition collected from enrollees; and

(2) That the moneys for the fund can be most properly raised based on the level of tuition collections at each such educational institution.

SECTION 6. Tennessee Code Annotated, Section 49-7-2018, is amended by deleting subsection (c) in its entirety and substituting instead:

(c) There is established the board of directors of the tuition guaranty fund, which shall be composed of the comptroller of the treasury, the commissioner of finance and administration, the state treasurer, the executive director of the Tennessee higher education commission, a member of the committee on postsecondary educational institutions named by the chair of the commission, and a representative of the private postsecondary education industry named by the chair of the commission, or their designees, so designated in writing. The state treasurer or the state treasurer's designee shall be chair. The board is authorized to take any actions necessary to administer the fund, including promulgation of rules and bylaws. The board shall report annually to the general assembly and governor on the condition of the fund.

SECTION 7. Tennessee Code Annotated, Section 49-7-2022, is amended by deleting subsection (c) in its entirety and substituting instead:

(c) Eligibility for optional expedited authorization is available annually to degree-granting postsecondary educational institutions that submit the following documentation to the commission:

(1) Evidence of good-standing and valid institutional accreditation from a regional or national institutional accrediting agency recognized by the United States department of education;

(2) Documentation evidencing an established, clearly articulated, and comprehensive process for the resolution of consumer complaints;

(3) If the institution is not authorized in this state, documentation evidencing that the institution is authorized or exempt from authorization in the state where it is primarily located;

(4) A signed and notarized application for optional expedited authorization on a form provided by the commission;

(5) If applicable, documentation evidencing all requisite program approvals from other state licensing boards or commissions; and

(6) Documentation evidencing that the institution meets and maintains financial standards and institutional stability acceptable by the accreditor for the purpose of maintaining accreditation or the United States department of education for the purpose of being a Title IV eligible institution.

SECTION 8. Tennessee Code Annotated, Section 49-7-2022(h)(2), is amended by adding the following as new, appropriately designated subdivisions:

() A change of ownership;

() A change of institutional director;

SECTION 9. Tennessee Code Annotated, Section 49-7-2022, is amended by deleting subdivision (h)(5) in its entirety and substituting instead:

(5) Provide the following data, subject to the commission's requirements:

- (A) Student-level data on enrollment and credential attainment;
- (B) Job placement data;
- (C) Costs of attendance;
- (D) Federal student cohort default rates; and
- (E) A comprehensive list of all programs offered at the institution.

SECTION 10. Tennessee Code Annotated, Section 49-7-2022, is amended by deleting subsections (i), (j), and (k) in their entireties and substituting instead:

(i) Optional expedited authorization shall remain available only to those institutions maintaining the eligibility standards required under this section, as submitted in the documentation accompanying the institution's annual optional expedited authorization application. Optional expedited authorization shall be issued to the owner or governing body of the applicant institution and shall be nontransferable. In the event of a change of ownership, the new owner or governing body must apply for a new authorization to operate as provided for by the commission; failure to do so shall result in termination of the institution's authorization to operate.

(j) The commission may revoke or make conditional an issued optional expedited authorization for:

- (1) Loss of or failure to meet any of the listed criteria for authorization in subsection (c);
- (2) Just cause; or
- (3) Failure to fulfill the requirements in subsection (h).

(k) Upon the commission's revocation of any institution's optional expedited authorization, the institution shall then immediately be subject to all remaining provisions of this part, applicable administrative rules and procedures for issuance of authorization, and shall reapply for commission authorization under § 49-7-2008. Any institution whose optional expedited authorization is revoked by the commission shall be ineligible to reapply for optional expedited authorization for no less than twenty-four (24) months from the date of revocation.

SECTION 11. Tennessee Code Annotated, Section 49-7-2022, is amended by deleting subsection (p) in its entirety and substituting instead:

(p) No later than June 30, 2018, the commission shall develop, and make available on its website, graduation rates and statistics on credential attainment for institutions authorized under this section and a hyperlink to the institutions' website.

SECTION 12. Tennessee Code Annotated, Section 49-7-2022, is amended by deleting subdivision (q)(1) in its entirety and substituting instead:

(1) Any person aggrieved by a decision of the commission with respect to denial of, revocation of, or making conditional an optional expedited authorization to operate as provided by subsection (j) shall have the right to a hearing and review of the decision by the commission as provided by this subsection (q).

SECTION 13. Tennessee Code Annotated, Section 49-7-2022, is amended by adding the following as new, appropriately designated subsection:

() Institutions authorized under this section shall develop and make available to the public on the institutions' websites the most current version of the following information:

- (1) Costs of attendance;
- (2) Information on whether academic credits attained are transferable to other institutions operating in Tennessee;
- (3) Executed articulation and transfer of credit agreements with other institutions operating in Tennessee, if applicable; and
- (4) Federal student cohort default rates.

SECTION 14. Tennessee Code Annotated, Section 49-7-207, is amended by deleting subsections (a) and (b) in their entireties and substituting instead:

(a) There is created, under the auspices of the Tennessee higher education commission, a committee on postsecondary educational institutions, which shall have responsibility for oversight and regulation of institutions pursuant to part 20 of this chapter. The committee shall be composed of the executive director of the Tennessee higher education commission, who shall serve as chair, and twelve (12) persons appointed by the commission. Persons appointed by the commission shall be broadly representative of the geographical characteristics of the state. Six (6) members of the committee shall be employed by, hold an ownership interest in, or otherwise be affiliated with an institution or other entity subject to the committee's supervision and oversight. Four (4) members shall be representative of the public interest and shall have no association or relationship with the institutions. Two (2) members shall be representative of community based organizations that have an interest in postsecondary occupational education. The commission may receive lists of nominees from the postsecondary institutions or from other sources to fill vacancies on the committee, who shall be considered by the commission in making its appointments.

(b) Members of the committee shall serve three-year terms, or until their successors are appointed. Members may be reappointed. A member may be removed without cause by the commission if removal is required to avoid having more than six (6) members of the committee who are affiliated with an institution subject to the committee's supervision and oversight. Members may also be removed by the commission for failure to attend official meetings of the committee, for failure to perform duties related to their position or for other reasonable cause.

SECTION 15. The member added to the committee by increasing the number of appointed members from eleven (11) to twelve (12) by the amendment to § 49-7-207(a) of this act shall serve a three-year term.

SECTION 16. Tennessee Code Annotated, Section 49-7-207 is amended by deleting subsection (f) in its entirety and substituting instead:

(f) When the committee or the commission receives a request for initial authorization of an institution or approval of a new program under part 20 of this chapter, it shall provide timely notice of the application and the programs that are proposed to be offered to state institutions of higher education within whose service area the proposed institution or program is to be located. Any affected state institution may comment on the proposal to the committee or commission.

SECTION 17. This act shall take effect upon becoming a law, the public welfare requiring it.

SENATE BILL NO. 2294

PASSED: April 9, 2018


RANDY McNALLY
SPEAKER OF THE SENATE


BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 20th day of April 2018


BILL HASLAM, GOVERNOR