

STAND. COM. REP. NO. 562

Honolulu, Hawaii
February 15, 2013

RE: H.B. No. 1200
H.D. 2

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred H.B. No. 1200, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO EDUCATION,"

begs leave to report as follows:

The purpose of this measure is to protect post-secondary students in the State by establishing the State Post-secondary Education Commission (Commission) within the Department of Commerce and Consumer Affairs (DCCA) to comply with new federal regulations for post-secondary educational institutions. This measure also repeals the current state Post-secondary Education Commission, established within the University of Hawaii.

The University of Hawaii, Hawaii Pacific University, University of Phoenix, Chaminade University of Honolulu, and Hawaii Association of Independent Schools supported this measure. The Department of Commerce and Consumer Affairs opposed this measure. Heald College provided comments.

Your Committee has amended this measure by:

- (1) Amending the definitions for "accredited" and "seminary or religious institution" to conform with federal law;
- (2) Adding a definition for "nationally recognized accrediting agency";

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- (3) Excluding barber and cosmetology schools licensed by DCCA from the authorization requirements under the Commission;
- (4) Requiring an entity excluded from the authorization requirements that requests authorization to meet the criteria for and comply with all authorization requirements before authorization is granted;
- (5) Requiring the members of the Commission to select a chairperson and vice chairperson upon the appointment of the initial members and by July 1 of each subsequent year;
- (6) Requiring the members of the Commission to select a chairperson pro tempore in the event that neither the chairperson nor the vice chairperson is present to preside over a meeting;
- (7) Requiring the Commission to adopt procedures for the handling of proprietary information;
- (8) Requiring the Commission to meet at least once per year;
- (9) Amending the powers and authority of the Commission for clarity and to authorize the Commission to, among other things:
 - (A) Issue declaratory rulings or informal non-binding interpretations, and conduct contested case proceedings pursuant to chapter 91, Hawaii Revised Statutes;
 - (B) Investigate and conduct hearings regarding violations;
 - (C) Create fact-finding committees;
 - (D) Contract with qualified individuals to assist in the exercise of the Commission's duties; and
 - (E) Do any and all things necessary or incidental to the exercise of the Commission's duties;



- (10) Clarifying that specified enrollment and degree completion data is to be submitted to the Commission, rather than DCCA;
- (11) Requiring the Commission to include in its policies regarding the collection of enrollment and degree completion data, whether such data may be disclosed to the public;
- (12) Deleting requirements that DCCA make recommendations to the Commission regarding authorizations;
- (13) Clarifying that DCCA is required to provide specified administrative support to the Commission;
- (14) Requiring DCCA to make a list of authorized institutions available to the public, and to publicly disclose the nature and outcome of any complaints received and investigations initiated;
- (15) Authorizing the Commission to delegate to DCCA any other powers or duties it deems reasonable and proper, with specified exceptions;
- (16) Authorizing DCCA to assess fees to administer responsibilities delegated by the Commission;
- (17) Clarifying that authorization application forms will be prescribed by the Commission, rather than DCCA;
- (18) Deleting provisions that permit a private college or university to operate without accreditation under provisional authorization;
- (19) Authorizing the Commission to confirm the authorization of an institution;
- (20) Amending provisions relating to prohibited practices to conform with those applicable to other DCCA licensees;
- (21) Authorizing DCCA to issue sanctions for violations of specified prohibited practices;
- (22) Narrowing the condition for authorization revocation based on a violation of criminal law to those violations



that are directly relevant to the institution's authorization status;


- (23) Inserting requirements for an institution to maintain authorization, including provisions for automatic suspension upon the loss of accreditation and provisions for automatic probationary status;
- (24) Specifying that an institution has an affirmative duty to cooperate with requests from DCCA for information regarding any investigation or inspection;
- (25) Requiring institutions to provide DCCA with any material information concerning the transaction thirty days prior to the transaction;
- (26) Requiring institutions, upon revocation of authorization, to provide written notice to all students within thirty days;
- (27) Deleting the requirement that DCCA permanently retain student transcripts;
- (28) Clarifying that a claim may be filed with the commission as a result of loss of tuition or fees due to an institution's cessation of operations;
- (29) Specifying that DCCA shall be responsible, rather than act as a trustee, for specified funds if an authorized private college or university ceases operation;
- (30) Authorizing the Commission and DCCA to initiate complaints based on information received by the Commission;
- (31) Clarifying the complaint process to permit DCCA to take disciplinary enforcement in a manner consistent with chapter 91, Hawaii Revised Statutes;
- (32) Authorizing additional sanctions an institution may be subject to upon specified violations;
- (33) Deleting the requirement that fines be collected in a civil action;



- (34) Authorizing DCCA to assess additional fees under specified conditions;
- (35) Requiring the Governor to appoint interim commissioners to ensure that the Commission is formed in time to meet the July 1, 2013, federal deadline;
- (36) Deleting provisions that would transfer relevant positions and assets for the certification of veteran's higher education programs from the University of Hawaii to DCCA; and
- (37) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1200, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 1200, H.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Consumer
Protection & Commerce,



ANGUS L.K. MCKELVEY, Chair



