

time employment, flex-time and other alternative work schedules, flex-workplace opportunities, leave policies, orientation and training regarding personnel practices relating to working parent concerns, and the potential for developing state information and referral services.

(4) The state personnel board and the higher education personnel board shall coordinate and submit a joint report containing the results of the studies required under this section. The report shall include a description of the rules that have been adopted or modified or those proposed for adoption or modification, and recommended changes or additions to state law necessary to carry out the purposes of this act. The report shall be submitted no later than October 30, 1986, to (a) the governor, and (b) the chief clerk of the house of representatives and the secretary of the senate for submittal to and review by the appropriate standing committees of the legislature.

Passed the House February 13, 1986.

Passed the Senate March 6, 1986.

Approved by the Governor March 31, 1986.

Filed in Office of Secretary of State March 31, 1986.

## CHAPTER 136

[Engrossed Substitute House Bill No. 1688]

### HIGHER EDUCATION DEGREE GRANTING INSTITUTIONS—REGULATED

AN ACT Relating to higher education; amending RCW 28B.80.360; adding a new chapter to Title 28B RCW; creating a new section; prescribing penalties; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

**NEW SECTION.** Sec. 1. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

(1) "Board" means the higher education coordinating board.

(2) "Degree" means any designation, appellation, letters, or words including but not limited to "associate," "bachelor," "master," "doctor," or "fellow" which signify or purport to signify satisfactory completion of the requirements of an academic program of study beyond the secondary school level.

(3) "Degree granting institution" means an entity that offers educational credentials, instruction, or services prerequisite to or indicative of an academic or professional degree beyond the secondary level.

**NEW SECTION.** Sec. 2. The board:

(1) Shall adopt by rule minimum standards for degree granting institutions concerning granting of degrees, quality of education, unfair business

practices, financial stability, and other necessary measures to protect citizens of this state against substandard, fraudulent, or deceptive practices. The board shall adopt the rules in accordance with chapter 34.04 RCW;

(2) May investigate any entity the board reasonably believes to be subject to the jurisdiction of this chapter. In connection with the investigation, the board may administer oaths and affirmations, issue subpoenas and compel attendance, take evidence, and require the production of any books, papers, correspondence, memorandums, or other records which the board deems relevant or material to the investigation. The board, including its staff and any other authorized persons, may conduct site inspections and examine records of all institutions subject to this chapter;

(3) Shall develop an interagency agreement with the commission for vocational education or its successor agency to regulate degree-granting private vocational schools with respect to nondegree programs.

**NEW SECTION.** Sec. 3. A degree granting institution shall not operate and shall not grant or offer to grant any degree unless the institution has obtained current authorization from the board.

**NEW SECTION.** Sec. 4. (1) An institution or person shall not advertise, offer, sell, or award a degree or any other type of educational credential unless the student has enrolled in and successfully completed a prescribed program of study, as outlined in the institution's publications. This prohibition shall not apply to honorary credentials clearly designated as such on the front side of the diploma or certificate and awarded by institutions offering other educational credentials in compliance with state law.

(2) Except as provided in subsection (1) of this section, this chapter shall not apply to:

(a) Any public college, university, or other entity operating as part of the public educational system of this state.

(b) Institutions that have been accredited by an accrediting association recognized by the agency for the purposes of this chapter, provided that an institution, branch, extension, or facility operating within the state of Washington which is affiliated with an institution operating in another state must be a separately accredited member institution of any such accrediting association to qualify for this exemption.

(c) Institutions of a religious character, but only as to those education programs devoted exclusively to religious or theological objectives if the programs are represented in an accurate manner in institutional catalogs and other official publications.

(d) Institutions not otherwise exempt which offer only workshops or seminars lasting no longer than three calendar days and for which academic credit is not awarded.

**NEW SECTION.** Sec. 5. All degree-granting institutions subject to this chapter shall file information with the board as the board may require.

NEW SECTION. Sec. 6. The board shall impose fees on any degree-granting institution authorized to operate under this chapter. Fees shall be set and revised by the board by rule at the level necessary to approximately recover the staffing costs incurred in administering this chapter. Fees shall be deposited in the general fund.

NEW SECTION. Sec. 7. (1) The board may require any degree-granting institution to have on file with the board an approved surety bond or other security in lieu of a bond in an amount determined by the board.

(2) In lieu of a surety bond, an institution may deposit with the board a cash deposit or other negotiable security acceptable to the board. The security deposited with the board in lieu of the surety bond shall be returned to the institution one year after the institution's authorization has expired or been revoked if legal action has not been instituted against the institution or the security deposit at the expiration of the year. The obligations and remedies relating to surety bonds authorized by this section, including but not limited to the settlement of claims procedure in subsection (5) of this section, shall apply to deposits filed with the board, as applicable.

(3) Each bond shall:

(a) Be executed by the institution as principal and by a corporate surety licensed to do business in the state;

(b) Be payable to the state for the benefit and protection of any student or enrollee of an institution, or, in the case of a minor, his or her parents or guardian;

(c) Be conditioned on compliance with all provisions of this chapter and the board's rules adopted under this chapter;

(d) Require the surety to give written notice to the board at least thirty-five days before cancellation of the bond; and

(e) Remain in effect for one year following the effective date of its cancellation or termination as to any obligation occurring on or before the effective date of cancellation or termination.

(4) Upon receiving notice of a bond cancellation, the board shall notify the institution that the authorization will be suspended on the effective date of the bond cancellation unless the institution files with the board another approved surety bond or other security. The board may suspend or revoke the authorization at an earlier date if it has reason to believe that such action will prevent students from losing their tuition or fees.

(5) If a complaint is filed under section 9(1) of this act against an institution, the board may file a claim against the surety and settle claims against the surety by following the procedure in this subsection.

(a) The board shall attempt to notify all potential claimants. If the absence of records or other circumstances makes it impossible or unreasonable for the board to ascertain the names and addresses of all the claimants, the board after exerting due diligence and making reasonable inquiry to secure that information from all reasonable and available sources, may make

a demand on a bond on the basis of information in the board's possession. The board is not liable or responsible for claims or the handling of claims that may subsequently appear or be discovered.

(b) Thirty days after notification, if a claimant fails, refuses, or neglects to file with the board a verified claim, the board shall be relieved of further duty or action under this chapter on behalf of the claimant.

(c) After reviewing the claims, the board may make demands upon the bond on behalf of those claimants whose claims have been filed. The board may settle or compromise the claims with the surety and may execute and deliver a release and discharge of the bond.

(d) If the surety refuses to pay the demand, the board may bring an action on the bond in behalf of the claimants. If an action is commenced on the bond, the board may require a new bond to be filed.

(e) Within ten days after a recovery on a bond or other posted security has occurred, the institution shall file a new bond or otherwise restore its security on file to the required amount.

(6) The liability of the surety shall not exceed the amount of the bond.

NEW SECTION. Sec. 8. The board may suspend or modify any of the requirements under this chapter in a particular case if the board finds that:

(1) The suspension or modification is consistent with the purposes of this chapter; and

(2) The education to be offered addresses a substantial, demonstrated need among residents of the state or that literal application of this chapter would cause a manifestly unreasonable hardship.

NEW SECTION. Sec. 9. (1) A person claiming loss of tuition or fees as a result of an unfair business practice may file a complaint with the board. The complaint shall set forth the alleged violation and shall contain information required by the board. A complaint may also be filed with the board by an authorized staff member of the board or by the attorney general.

(2) The board shall investigate any complaint under this section and may attempt to bring about a settlement. The board may hold a contested case hearing pursuant to the administrative procedure act, chapter 34.04 RCW, in order to determine whether a violation has occurred. If the board prevails, the degree-granting institution shall pay the costs of the administrative hearing.

(3) If, after the hearing, the board finds that the institution or its agent engaged in or is engaging in any unfair business practice, the board shall issue and cause to be served upon the violator an order requiring the violator to cease and desist from the act or practice and may impose the penalties under section 10 of this act. If the board finds that the complainant has suffered loss as a result of the act or practice, the board may order full or partial restitution for the loss. The complainant is not bound by the board's determination of restitution and may pursue any other legal remedy.

**NEW SECTION.** Sec. 10. Any person, group, or entity or any owner, officer, agent, or employee of such entity who wilfully violates any provision of this chapter or the rules adopted under this chapter shall be subject to a civil penalty of not more than one hundred dollars for each violation. Each day on which a violation occurs constitutes a separate violation. The fine may be imposed by the higher education coordinating board or by any court of competent jurisdiction.

**NEW SECTION.** Sec. 11. Any person, group, or entity or any owner, officer, agent, or employee of such entity who wilfully violates section 3 of this act shall be guilty of a gross misdemeanor and, upon conviction, shall be punished by a fine not to exceed one thousand dollars or by imprisonment in the county jail for a term not to exceed one year, or by both such fine and imprisonment. Each day on which a violation occurs constitutes a separate violation. The criminal sanctions may be imposed by a court of competent jurisdiction in an action brought by the attorney general of this state.

**NEW SECTION.** Sec. 12. A degree-granting institution, whether located in this state or outside of this state, that conducts business of any kind, makes any offers, advertises, solicits, or enters into any contracts in this state or with a resident of this state is subject to the jurisdiction of the courts of this state for any cause of action arising from the acts.

**NEW SECTION.** Sec. 13. If any degree-granting institution discontinues its operation, the chief administrative officer of the institution shall file with the board the original or legible true copies of all educational records required by the board. If the board determines that any educational records are in danger of being made unavailable to the board, the board may seek a court order to protect and if necessary take possession of the records. The board shall cause to be maintained a permanent file of educational records coming into its possession.

**NEW SECTION.** Sec. 14. If a student or prospective student is a resident of this state at the time any contract relating to payment for education or any note, instrument, or other evidence of indebtedness relating thereto is entered into, section 15 of this act shall govern the rights of the parties to the contract or evidence of indebtedness. If a contract or evidence of indebtedness contains any of the following agreements, the contract is voidable at the option of the student or prospective student:

- (1) That the law of another state shall apply;
- (2) That the maker or any person liable on the contract or evidence of indebtedness consents to the jurisdiction of another state;
- (3) That another person is authorized to confess judgment on the contract or evidence of indebtedness; or
- (4) That fixes venue.

NEW SECTION. Sec. 15. A note, instrument, or other evidence of indebtedness or contract relating to payment for education for a degree is not enforceable in the courts of this state by a degree-granting institution or holder of the instrument unless the institution was authorized to offer the degree under this chapter at the time the note, instrument, or other evidence of indebtedness or contract was entered into.

NEW SECTION. Sec. 16. The attorney general or the prosecuting attorney of any county in which a degree-granting institution or agent of the institution is found may bring an action in any court of competent jurisdiction for the enforcement of this chapter. The court may issue an injunction or grant any other appropriate form of relief.

NEW SECTION. Sec. 17. The board may seek injunctive relief, after giving notice to the affected party, in a court of competent jurisdiction for a violation of this chapter or the rules adopted under this chapter. The board need not allege or prove that the board has no adequate remedy at law. The right of injunction provided in this section is in addition to any other legal remedy which the board has and is in addition to any right of criminal prosecution provided by law. The existence of board action with respect to alleged violations of this chapter and rules adopted under this chapter does not operate as a bar to an action for injunctive relief under this section.

NEW SECTION. Sec. 18. A violation of this chapter or the rules adopted under this chapter affects the public interest and is an unfair or deceptive act or practice in violation of RCW 19.86.020 of the consumer protection act. The remedies and sanctions provided by this section shall not preclude application of other remedies and sanctions.

NEW SECTION. Sec. 19. The remedies and penalties provided for in this chapter are nonexclusive and cumulative and do not affect any other actions or proceedings.

Sec. 20. Section 7, chapter 370, Laws of 1985 and RCW 28B.80.360 are each amended to read as follows:

The board shall perform the following administrative responsibilities:

(1) Administer the programs set forth in the following statutes: Chapter 28A.58 RCW (Washington scholars); chapter 28B.04 RCW (displaced homemakers); (~~chapter 28B.05 RCW (education registration);~~) chapter 28B.— RCW (sections 1 through 19 of this 1986 act) (degree-granting institutions); RCW 28B.10.210 through 28B.10.220 (blind students subsidy); RCW 28B.10.800 through 28B.10.824 (student financial aid program); chapter 28B.12 RCW (work study); RCW 28B.15.067 through 28B.15.076 (educational costs for establishing tuition and fees); RCW 28B.15.543 (tuition waivers for Washington scholars); RCW 28B.15.760 through 28B.15.766 (math and science loans); RCW 28B.80.150 through 28B.80.170 (student exchange compact); RCW 28B.80.240 (student aid programs); and RCW 28B.80.210 (federal programs).

(2) Study the delegation of the administration of the following: RCW 28B.65.040 through 28B.65.060 (high-technology board); chapter 28B.—RCW (sections 1 through 19 of this 1986 act) (degree-granting institutions); RCW 28B.80.150 through 28B.80.170 (student exchange compact programs); RCW 28B.80.200 (state commission for federal law purposes); RCW 28B.80.210 (enumerated federal programs); RCW 28B.80.230 (receipt of federal funds); RCW 28B.80.240 (student financial aid programs); RCW 28A.58.824 through (~~28A.58.832~~) 28A.58.830 (Washington scholars); RCW 28B.15.543 (Washington scholars); RCW 28B.04.020 through 28B.04.110 (displaced homemakers); RCW 28B.10.215 and 28B.10.220 (blind students); RCW 28B.10.790, 28B.10.792, and 28B.10.802 through 28B.10.844 (student financial aid); RCW 28B.12.040 through 28B.12.070 (student work study); RCW 28B.15.100 (reciprocity agreement); RCW 28B.15.730 through 28B.15.736 (Oregon reciprocity); RCW 28B.15.750 through 28B.15.754 (Idaho reciprocity); RCW 28B.15.756 and 28B.15.758 (British Columbia reciprocity); and RCW 28B.15.760 through 28B.15.764 (math/science loans). The board shall report the results of its study and recommendations to the legislature.

NEW SECTION. Sec. 21. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 22. A degree-granting institution registered under chapter 188, Laws of 1979, as amended, as of June 30, 1986, is not required to apply for authorization under chapter 28B.—RCW (sections 1 through 19 of this act) until the expiration date of such registration.

NEW SECTION. Sec. 23. Sections 1 through 19 of this act shall constitute a new chapter in Title 28B RCW.

NEW SECTION. Sec. 24. This act shall take effect July 1, 1986.

Passed the House March 10, 1986.

Passed the Senate March 4, 1986.

Approved by the Governor March 31, 1986.

Filed in Office of Secretary of State March 31, 1986.

## CHAPTER 137

[Engrossed House Bill No. 1725]

### SCHOOL DISTRICT STUDENT LEARNING OBJECTIVES—PERIODIC REVIEW

AN ACT Relating to the periodic review of school district student learning objectives programs; and amending RCW 28A.58.090.

Be it enacted by the Legislature of the State of Washington: