

AMENDED IN SENATE APRIL 1, 2009

SENATE BILL

No. 489

Introduced by Senator Liu

February 26, 2009

An act to add *Section 66907 to, and to add Chapter 7* (commencing with Section 94700) to Part 59 of Division 10 of Title 3 of, the Education Code, relating to private postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

SB 489, as amended, Liu. Private postsecondary education: Private Postsecondary and Vocational Education Reform and Student Consumer Protection Act of 2009.

The former Private Postsecondary and Vocational Education Reform Act of 1989, which became inoperative on July 1, 2007, and was repealed on January 1, 2008, was administered by the Bureau for Private Postsecondary and Vocational Education in the Department of Consumer Affairs. The former act generally effectuated legislative intent to ensure minimum standards of instructional quality and institutional stability in private postsecondary educational institutions and required the bureau, among other things, to review and investigate all institutions, programs, and courses of instruction approved under the act.

This bill would enact the Private Postsecondary and Vocational Education Reform and Student Consumer Protection Act of 2009, which would express the intent of the Legislature to, among other things, provide for the protection, education, and welfare of California's citizens, postsecondary educational institutions, and students, as specified. *The bill would require the California Postsecondary Education Commission to establish a Bureau for Private Postsecondary Education to function as the statewide private postsecondary and*

vocational educational licensing and enforcement agency, in accordance with the act. The bill would require the commission, working through its executive director, to fulfill specified functions and responsibilities under the act. The bill would require each private postsecondary education institution desiring to operate in this state to apply to the bureau for licensure. The bill would establish procedures and standards for application and bureau licensure. The bill would authorize the commission to impose a school licensure fee on each institution making application to the bureau, in accordance with an unspecified fee schedule, and would require the costs of implementing the act to be covered by fee revenues.

The bill would require the Legislative Analyst's Office, by January 1, 2013, to review the effectiveness of the bureau in implementing the act and submit a report of its findings to the commission, the Legislature, and the Governor.

The bill would provide that a private postsecondary institution approved under the former Private Postsecondary and Vocational Education Reform Act of 1989 as of June 30, 2007, shall, at a minimum, be recognized as an approved institution through the reapproval period that the institution had as of June 30, 2007, plus 2 additional years beyond that date.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 66907 is added to the Education Code,
2 to read:
3 66907. (a) In addition to the functions and responsibilities
4 described in Section 66903, the commission shall have the
5 responsibility for developing policies and regulations and for
6 overseeing the administration of policies and regulations for the
7 approval and regulation of private postsecondary education
8 institutions in California.
9 (b) The commission, working through its executive director,
10 shall fulfill the functions and responsibilities of the commission
11 established in Chapter 7 (commencing with Section 94700) of Part
12 59 of Division 10.

1 SECTION 1.

2 SEC. 2. Chapter 7 (commencing with Section 94700) is added
3 to Part 59 of Division 10 of Title 3 of the Education Code, to read:

4
5 CHAPTER 7. THE PRIVATE POSTSECONDARY AND VOCATIONAL
6 EDUCATION REFORM AND STUDENT CONSUMER PROTECTION ACT
7 OF 2009

8
9 94700. This chapter shall be known, and may be cited, as the
10 Private Postsecondary and Vocational Education Reform and
11 Student Consumer Protection Act of 2009.

12 94705. The Legislature finds and declares all of the following:

13 (a) It is the intent of the Legislature to promote the effective
14 integration of private postsecondary education into all aspects of
15 California's educational system and to foster and improve the
16 educational programs and services of private postsecondary
17 educational institutions while protecting the citizens of the state
18 from fraudulent or substandard operations.

19 (b) It is further the intent of the Legislature to recognize the
20 enormous diversity and quality of California's private
21 postsecondary educational expertise, with its approximately 1,600
22 privately supported institutions of academic and vocational
23 education. These private colleges and universities play an important
24 role in training California's workforce, enrolling approximately
25 400,000 students annually.

26 (c) It is further the intent of the Legislature to assure that
27 graduates of state approved colleges and universities are eligible
28 to sit for state licensure exams provided by the Board of Behavioral
29 Sciences and the Board of Psychology.

30 (d) It is further the intent of the Legislature to provide for the
31 protection, education, and welfare of California's citizens,
32 postsecondary educational institutions, and students by providing
33 for all of the following:

34 (1) Ensuring minimum standards of instructional quality and
35 institutional stability for all students in all types of institutions,
36 and thereby encouraging the recognition by public and private
37 institutions of completed coursework and degrees and diplomas
38 issued by private institutions in order to provide students equal
39 opportunities for equal accomplishment and ability.

1 (2) Establishing minimum standards concerning the quality of
2 education, ethical and business practices, health and safety, and
3 fiscal responsibility to provide protection against substandard,
4 transient, unethical, deceptive, or fraudulent institutions and
5 practices.

6 (3) Prohibiting the granting of false or misleading educational
7 credentials.

8 (4) Prohibiting misleading literature, advertising, solicitation,
9 or representations by private educational institutions or their agents.

10 (5) Recognizing the importance of providing adequate funding
11 through application and renewal fees and federal funding for the
12 veteran's approval process, in order to support the state's activities
13 in implementing this chapter.

14 (6) Protecting consumers and students against fraud,
15 misrepresentation, or other practices that may lead to an improper
16 loss of funds paid for educational costs, whether financed through
17 personal resources or state and federal student financial aid.

18 (7) Establishing a path for the development of institutions
19 offering fields of study or methods of instruction and innovative
20 educational delivery systems that have not been previously
21 recognized, in order to encourage those institutions to become
22 fully approved institutions.

23 (8) Recognizing and encouraging quality nongovernmental
24 accreditation, while not ceding to that or any other
25 nongovernmental process the responsibility for state oversight for
26 purposes of approval, if the accreditation process fails either to
27 protect minimum standards of quality or to acknowledge legitimate
28 innovative methods in postsecondary education.

29 (9) Providing an administrative agency staffed by individuals
30 who are knowledgeable about private academic and vocational
31 education, and charged with the responsibility of developing
32 policies and procedures for the oversight and approval of private
33 postsecondary and vocational education. The administrative agency
34 should have responsibility for managing a broadly construed policy
35 and planning process that seeks to improve state accountability
36 for private postsecondary and vocational education and to improve
37 the articulation of private postsecondary and vocational education
38 with the public and independent postsecondary educational
39 community. The administrative agency should provide the
40 leadership and planning needed to maintain and develop a strong

1 private sector within the public and independent postsecondary
2 educational community.

3 *(10) Developing and maintaining a strong, vigorous, and widely*
4 *respected sector of private colleges, universities, and vocational*
5 *training institutions.*

6 *(e) It is further the intent of the Legislature that this function*
7 *and the work of the bureau be funded solely through school*
8 *licensure fees.*

9 *94706. As used in this chapter:*

10 *(a) "Bureau" means the Bureau for Private Postsecondary*
11 *Education established pursuant to Section 94707.*

12 *(b) "Commission" means the California Postsecondary*
13 *Education Commission.*

14 *94707. The commission shall establish a Bureau for Private*
15 *Postsecondary Education to function as the statewide private*
16 *postsecondary and vocational educational licensing and*
17 *enforcement agency, in accordance with this chapter. The*
18 *commission shall have all of the following functions and*
19 *responsibilities:*

20 *(a) Appointment of a director for the bureau and staff members*
21 *working within the bureau.*

22 *(b) Establishment of policies for the administration of this*
23 *chapter.*

24 *(c) Establishment of minimum criteria for the approval of private*
25 *postsecondary or vocational educational institutions to operate*
26 *in California and award degrees and diplomas, and for the*
27 *approval of institutions that meet the criteria.*

28 *(d) Publication of an Internet Web site directory of all private*
29 *postsecondary and vocational educational institutions approved*
30 *to operate in California under this chapter.*

31 *(e) Monitoring participation by all institutions covered by this*
32 *statute in the Integrated Postsecondary Education Data System*
33 *(IPEDS) reporting system.*

34 *(f) Empaneling of special committees of technically qualified*
35 *persons to assist the bureau in the development of standards for*
36 *education and educational institutions and the evaluation of an*
37 *application or institutions pursuant to this chapter.*

38 *(g) The commission, working with the bureau, and in*
39 *consultation with the Attorney General, shall adopt regulations*
40 *that are necessary and appropriate to exercise its authority under*

1 *this chapter, including, but not limited to, minimum state standards*
2 *for contracts, attendance policies, financial responsibility, and*
3 *consumer disclosures.*

4 94708. *Protection of the public shall be the highest priority*
5 *for the bureau in exercising its licensing, regulatory, and*
6 *disciplinary functions. Whenever the protection of the public is*
7 *inconsistent with other interests sought to be promoted, the*
8 *protection of the public shall be paramount.*

9 94709. *The bureau shall take possession and control of all*
10 *records and papers held for the benefit or use of the former Bureau*
11 *of Private Postsecondary Education.*

12 94710. (a) *Each private postsecondary education institution*
13 *desiring to operate in this state shall apply to the bureau for*
14 *licensure, upon forms provided by the bureau. The application*
15 *shall include, at a minimum, all of the following:*

16 (1) *A catalog published, or proposed to be published, by the*
17 *institution containing the information specified in the criteria*
18 *adopted by the bureau.*

19 (2) *Copies of media advertising and promotional literature.*

20 (3) *Copies of all student enrollment agreement or contract forms*
21 *and instruments evidencing indebtedness.*

22 (4) *The name and California address of a designated agent*
23 *upon whom any process, notice, or demand may be served. The*
24 *agent address shall not be the same as the institution address.*

25 (5) *The institution's most current financial report and proof of*
26 *insurance or certificate of liability coverage.*

27 (b) *All institutions licensed under this chapter shall be*
28 *maintained and operated, or in the case of a new institution, shall*
29 *demonstrate that it will be maintained and operated, in compliance*
30 *with all of the following minimum standards:*

31 (1) *That the institution is financially capable of fulfilling its*
32 *commitments to its students.*

33 (2) *That upon satisfactory completion of study or training, the*
34 *student is given an appropriate degree or certification by the*
35 *institution, indicating that the program or programs of instruction*
36 *have been satisfactorily completed by the student.*

37 (3) *That the institution provides quality instruction as an*
38 *essential component of its educational program.*

39 (c) *Each institution licensed under this chapter shall participate*
40 *in and report to the United States Department of Education's*

1 *Integrated Postsecondary Education Data System (IPEDS),*
2 *through the commission, all of the following information for all*
3 *educational programs offered:*

4 (1) *The total number of students enrolled, by level of degree or*
5 *type of diploma program.*

6 (2) *The number of degrees and diplomas awarded, by level of*
7 *degree.*

8 (3) *The degree levels offered.*

9 (4) *The schedule of tuition and fees required for each term,*
10 *program, course of instruction, or degree offered.*

11 (5) *Institutional financial information.*

12 (d) *Each institution licensed under this chapter shall provide*
13 *the bureau with copies of all accrediting agency reports, including*
14 *preliminary reports and reports of visiting committees, all audit*
15 *reports prepared by the United States Department of Education*
16 *and student loan guaranty agencies, including preliminary reports,*
17 *and the institution's written responses to these reports.*

18 (e) *Any written contract or agreement with a licensed institution*
19 *signed by a prospective student shall not become operative until*
20 *the student attends the first class or session of instruction.*

21 (f) *The institution shall provide to students and other interested*
22 *persons, prior to enrollment, a catalog or brochure containing,*
23 *at a minimum, all of the following information:*

24 (1) *Descriptions of the instruction provided under each course*
25 *offered by the institution including the length of programs offered.*

26 (2) *The number of credit hours or clock hours of instruction or*
27 *training per unit or units required for completion of the educational*
28 *degree or certificate program.*

29 (3) *The attendance, dropout, and leave-of-absence policies.*

30 (4) *The faculty and their qualifications.*

31 (5) *The schedule of tuition payments, fees, and all other charges*
32 *and expenses necessary for the term of instruction and the*
33 *completion of the course of study.*

34 (6) *The cancellation and refund policies.*

35 (7) *For institutions that participate in federal and state financial*
36 *aid programs, all consumer information that the institution is*
37 *required to disclose to the student.*

38 (8) *All other material facts concerning the institution and the*
39 *program or course of instruction that are reasonably likely to*

1 *affect the decision of the student to enroll, as prescribed by rules*
2 *and regulations adopted by the commission.*

3 *(9) A description of the institution's placement assistance, if*
4 *any.*

5 *(g) Each licensed institution offering a degree or diploma*
6 *program designed to prepare students for a particular vocational,*
7 *trade, or career field shall provide to each prospective student a*
8 *school performance fact sheet disclosing all of the following*
9 *information:*

10 *(1) The number and percentage of students who begin the*
11 *institution's program and successfully complete the entire program.*

12 *(2) The passage rates of graduates in the program for the most*
13 *recent calendar year on any licensure or certificate examination*
14 *required by the state for employment in the particular vocational,*
15 *trade, or career field and for any licensing preparation*
16 *examination as required by law.*

17 *(3) The number and percentage of students who begin the*
18 *program and secure employment in the field for which they were*
19 *trained.*

20 *(4) The average annual starting wages or salary of graduates*
21 *of the institution's programs. The bureau may add any additional*
22 *disclosure requirements as determined by the bureau.*

23 *(h) Each licensed institution shall provide a written statement*
24 *containing its refund policy, together with examples of the*
25 *application of the policy, to each student prior to signing the*
26 *enrollment contract, and shall make its policy known to currently*
27 *enrolled students.*

28 *(i) If the bureau determines after an investigation that a licensed*
29 *institution has violated this chapter or regulations adopted*
30 *pursuant to this chapter, the bureau, working through the*
31 *commission, may order the institution to pay the costs and expenses*
32 *incurred in connection with the investigation and any civil or*
33 *administrative proceeding involving the violation that was*
34 *investigated, including charges made by the Attorney General for*
35 *his or her services, and any expenses incurred by a district*
36 *attorney.*

37 *94711. (a) The costs of implementing this chapter shall be*
38 *covered by revenues of school licensure fees paid to the bureau*
39 *in accordance with the fee schedule set forth in Section 94712.*

1 (b) The commission, working with the director of the bureau,
2 shall annually determine the funding level needed for the effective
3 operation of the bureau in the approval and oversight of private
4 postsecondary education in California and propose to the
5 Legislature any change in existing school licensure fees needed
6 to provide appropriate revenue levels to fund the effective work
7 of the bureau in implementing this chapter.

8 (c) On and after January 1, 2011, a minimum of 50 percent of
9 the funds available to the bureau for this responsibility shall be
10 used to cover the costs of the following:

11 (1) Enforcing this chapter and regulations adopted pursuant to
12 this chapter by taking actions against violators while ensuring due
13 process for all licensed institutions.

14 (2) Ensuring that independent onsite evaluations and random
15 and targeted inspections and audits of licensed institutions are
16 conducted, and that students have easy access to information
17 concerning their rights to contract cancellation, withdrawal,
18 refunds, and remedies.

19 (d) Any institution more than 30 days delinquent in the payment
20 of any fee or order for the recovery of costs and expenses under
21 this chapter, may be assessed a penalty fee by the bureau.

22 94712. The commission may impose a school licensure fee on
23 each institution making application to the bureau under this
24 chapter, in accordance with the following schedule:

25 (a) ____.

26 (b) ____.

27 94713. By January 1, 2013, the Legislative Analyst's Office
28 shall review the effectiveness of the bureau in implementing this
29 chapter and submit a report of its findings to the commission, the
30 Legislature, and the Governor. This performance review shall
31 include specific recommendations for any changes in this chapter
32 or in the operations of the commission or the bureau, or both, and
33 the reasons for any recommended changes.

34 94714. A private postsecondary institution approved under the
35 former Private Postsecondary and Vocational Education Reform
36 Act of 1989 as of June 30, 2007, shall, at a minimum, be recognized
37 as an approved institution through the reapproval period that the

- 1 *institution had as of June 30, 2007, plus two additional years*
- 2 *beyond that date.*

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