
HOUSE BILL 2014

State of Washington

66th Legislature

2019 Regular Session

By Representatives Van Werven, Graham, Gildon, Young, Sutherland, and Rude

1 AN ACT Relating to implementing recommendations from the work
2 group on private degree-granting institutions and private vocational
3 schools and providing other procedural protections; amending RCW
4 28B.85.230, 28B.85.070, 18.16.310, 18.16.140, 28B.77.110, and
5 28C.10.084; adding a new section to chapter 28C.18 RCW; and adding a
6 new section to chapter 82.32 RCW.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 **Sec. 1.** RCW 28B.85.230 and 2018 c 203 s 11 are each amended to
9 read as follows:

10 (1)(a) For the purpose of providing relief to students impacted
11 by the voluntary or involuntary closure and other unforeseen acts of
12 schools regulated under this chapter, the council shall establish,
13 maintain, and administer a student achievement council tuition
14 recovery trust fund created in RCW 28B.85.240. All funds collected
15 for the student achievement council tuition recovery trust fund are
16 payable to the state for the benefit and protection of any student or
17 enrollee of a private school licensed under this chapter, for
18 purposes including but not limited to the settlement of claims
19 related to (~~school~~) institution closures, loss of accreditation,
20 and unfair business practices. Funds in the student achievement
21 council tuition recovery trust fund may only be used for the purposes

1 provided for under this section and no part of the fund may be
2 transferred or diverted to any other fund or for any other use.

3 (b) No liability accrues to the state from claims made against
4 the student achievement council tuition recovery trust fund.

5 (2) (a) The council may impose a fee structure, set forth in rule,
6 on ~~((schools licensed))~~ institutions authorized to operate under this
7 chapter to fund the student achievement council tuition recovery
8 trust fund.

9 (b) The council must determine an amount that would be sufficient
10 in the student achievement council tuition recovery trust fund to
11 provide relief to students in the event of ~~((a school))~~ an
12 institution closure. The council shall adopt schedules of times and
13 amounts for effecting payments of fees. To reach the amount
14 determined, the council may phase in the collection of fees, but must
15 achieve the amount determined to be sufficient no later than ~~((five))~~
16 ten years from June 7, 2018.

17 (3) Money from the student achievement council tuition recovery
18 trust fund may be used only for:

19 (a) Providing refunds to students ~~((affected by school))~~ of
20 tuition and fees that were paid for courses in which the student was
21 unable to earn credits due to an institution's closures, loss of
22 accreditation, unfair business practices, or other acts constituting
23 an institution's failure to comply with the authorization
24 requirements specified in this chapter;

25 (b) Securing and administering student records; and

26 (c) Any other response the council determines is necessary to
27 mitigate impacts of a potential or actual ~~((school))~~ institution
28 closure.

29 (4) In order for ~~((a school))~~ an institution to be and remain
30 ~~((licensed))~~ authorized under this chapter, each ~~((school owner))~~
31 institution shall, in addition to other requirements under this
32 chapter, make cash deposits on behalf of the ~~((school))~~ institution
33 into a student achievement council tuition recovery trust fund.

34 (5) The student achievement council tuition recovery trust fund's
35 liability with respect to each participating ~~((school))~~ institution
36 commences on the date of the initial deposit into the student
37 achievement council tuition recovery trust fund made on its behalf
38 and ceases one year from the date the ~~((school))~~ institution is no
39 longer ~~((licensed))~~ authorized to operate under this chapter.

1 (6) The council shall adopt by rule a matrix for calculating the
2 deposits into the student achievement council tuition recovery trust
3 fund on behalf of each (~~school~~) institution.

4 (7) No vested right or interest in deposited funds is created or
5 implied for the depositor at any time during the operation of the
6 student achievement council tuition recovery trust fund or at any
7 such future time that the student achievement council tuition
8 recovery trust fund may be dissolved. All funds deposited are payable
9 to the state for the purposes described under this section. The
10 council shall maintain the student achievement council tuition
11 recovery trust fund, serve appropriate notices to affected (~~owners~~)
12 institutions when scheduled deposits are due, collect deposits, and
13 make disbursements to settle claims against the student achievement
14 council tuition recovery trust fund.

15 (8) The council shall eliminate the surety bond requirement under
16 RCW 28B.85.070 if the threshold amount for the student achievement
17 council tuition recovery trust fund has been met and the council
18 determines that students of the institution would be adequately
19 protected without a surety bond or other security in lieu of a bond.

20 (9) The council shall adopt rules to address notifying potential
21 claimants, settling claims, disbursing funds, and any other processes
22 necessary to implement the purpose of this section.

23 **Sec. 2.** RCW 28B.85.070 and 2012 c 229 s 548 are each amended to
24 read as follows:

25 (1) Except as provided under RCW 28B.85.230(8), the council may
26 require any degree-granting institution to have on file with the
27 council an approved surety bond or other security in lieu of a bond
28 in an amount determined by the council.

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

1 (3) Each bond shall:

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

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

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

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

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

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

21 (5) If a complaint is filed under RCW 28B.85.090(1) against an
22 institution, the council may file a claim against the surety and
23 settle claims against the surety by following the procedure in this
24 subsection.

25 (a) The council shall attempt to notify all potential claimants.
26 If the absence of records or other circumstances makes it impossible
27 or unreasonable for the council to ascertain the names and addresses
28 of all the claimants, the council after exerting due diligence and
29 making reasonable inquiry to secure that information from all
30 reasonable and available sources, may make a demand on a bond on the
31 basis of information in the council's possession. The council is not
32 liable or responsible for claims or the handling of claims that may
33 subsequently appear or be discovered.

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

38 (c) After reviewing the claims, the council may make demands upon
39 the bond on behalf of those claimants whose claims have been filed.

1 The council may settle or compromise the claims with the surety and
2 may execute and deliver a release and discharge of the bond.

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

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

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

12 **Sec. 3.** RCW 18.16.310 and 2018 c 203 s 9 are each amended to
13 read as follows:

14 (1)(a) For the purpose of providing relief to students impacted
15 by the voluntary or involuntary closure and other unforeseen acts of
16 schools regulated under this chapter, the director shall establish,
17 maintain, and administer a department of licensing tuition recovery
18 trust fund created in RCW 18.16.320. The department of licensing
19 tuition recovery trust fund shall be established no later than
20 January 1, 2019. All funds collected for the department of licensing
21 tuition recovery trust fund are payable to the state for the benefit
22 and protection of any student or enrollee of a private school
23 licensed under this chapter, for purposes including but not limited
24 to the settlement of claims related to school closures, loss of
25 accreditation, and unfair business practices. Funds in the department
26 of licensing tuition recovery trust fund may only be used for the
27 purposes provided for under this section and no part of the fund may
28 be transferred or diverted to any other fund or for any other use.

29 (b) No liability accrues to the state from claims made against
30 the department of licensing tuition recovery trust fund.

31 (2)(a) The director may impose a fee structure, set forth in
32 rule, on schools licensed under this chapter to fund the department
33 of licensing tuition recovery trust fund.

34 (b) The director must determine an amount that would be
35 sufficient in the department of licensing tuition recovery trust fund
36 to provide relief to students in the event of a school closure. The
37 director shall adopt schedules of times and amounts for effecting
38 payments of fees. To reach the amount determined, the director may
39 phase in the collection of fees, but must achieve the amount

1 determined to be sufficient no later than (~~five~~) ten years from
2 June 7, 2018.

3 (3) Money from the department of licensing tuition recovery trust
4 fund may be used only for:

5 (a) Providing refunds to students (~~affected by~~) of tuition and
6 fees that were paid for courses in which the student was unable to
7 earn credits due to school closures, loss of accreditation, unfair
8 business practices, or other acts constituting a school's failure to
9 comply with the authorization requirements specified in this chapter;

10 (b) Securing and administering student records; and

11 (c) Any other response the director determines is necessary to
12 mitigate impacts of a potential or actual school closure.

13 (4) In order for a school to be and remain licensed under this
14 chapter, each school owner shall, in addition to other requirements
15 under this chapter, make cash deposits on behalf of the school into
16 the department of licensing tuition recovery trust fund.

17 (5) The department of licensing tuition recovery trust fund's
18 liability with respect to each participating school commences on the
19 date of the initial deposit into the department of licensing tuition
20 recovery trust fund made on its behalf and ceases one year from the
21 date the school is no longer licensed under this chapter.

22 (6) The director shall adopt by rule a matrix for calculating the
23 deposits into the department of licensing tuition recovery trust fund
24 on behalf of each school.

25 (7) No vested right or interest in deposited funds is created or
26 implied for the depositor at any time during the operation of the
27 department of licensing tuition recovery trust fund or at any such
28 future time that the department of licensing tuition recovery trust
29 fund may be dissolved. All funds deposited are payable to the state
30 for the purposes described in this section. The director shall
31 maintain the department of licensing tuition recovery trust fund,
32 serve appropriate notices to affected owners when scheduled deposits
33 are due, collect deposits, and make disbursements to settle claims
34 against the department of licensing tuition recovery trust fund.

35 (8) The department shall eliminate the surety bond requirement
36 under RCW 18.16.140 if the threshold amount for the department of
37 licensing tuition recovery trust fund has been met and the department
38 determines that students would be adequately protected without a
39 surety bond or other security in lieu of a bond.

1 (9) The director shall adopt rules to address notifying potential
2 claimants, settling claims, disbursing funds, and any other processes
3 necessary to implement the purpose of this section.

4 **Sec. 4.** RCW 18.16.140 and 2002 c 111 s 9 are each amended to
5 read as follows:

6 (1) Any person wishing to operate a school shall, before opening
7 such a school, pay the license fee and file with the director for
8 approval a license application containing the following information:

9 (a) The names and addresses of all owners, managers, and
10 instructors;

11 (b) A copy of the school's curriculum satisfying the curriculum
12 requirements established by the director;

13 (c) A sample copy of the school's catalog, brochure, enrollment
14 contract, and cancellation and refund policies that will be used or
15 distributed by the school to students and the public;

16 (d) Except as provided under RCW 18.16.3108), a surety bond in an
17 amount not less than ten thousand dollars, or ten percent of the
18 annual gross tuition collected by the school, whichever is greater.
19 The approved security shall not exceed fifty thousand dollars and
20 shall run to the state of Washington for the protection of unearned
21 prepaid student tuition. The school shall attest to its gross tuition
22 at least annually on forms provided by the department. When a new
23 school license is being applied for, the applicant will estimate its
24 annual gross tuition to establish a bond amount. This subsection
25 shall not apply to community colleges and vocational technical
26 schools.

27 Upon approval of the application and documents, the director
28 shall issue a license to operate a school.

29 (2) Changes to the information provided by schools shall be
30 submitted to the department within fifteen days of the implementation
31 date.

32 (3) A change involving the controlling interest of the school
33 requires a new license application and fee. The new application shall
34 include all required documentation, proof of ownership change, and be
35 approved prior to a license being issued.

36 (4) School and instructor licenses issued by the department shall
37 be posted in the reception area of the school.

1 **Sec. 5.** RCW 28B.77.110 and 2018 c 203 s 13 are each amended to
2 read as follows:

3 (1) Within existing resources, the student achievement council,
4 the workforce training and education coordinating board, and the
5 department of licensing shall collaborate to create a single portal
6 for student complaints regarding issues related to consumer
7 protection, disclosures, school or program closures, or other
8 violations committed by institutions regulated by those three
9 agencies. The persons staffing the portal shall refer complaints to
10 the appropriate agency and work as a liaison between the student and
11 relevant agency to assist in resolving the concerns or complaint.
12 Each agency shall ensure that all students enrolled in, applying to
13 enroll in, or obtaining loans at, institutions regulated by the
14 agency are informed of the portal and how to file complaints. The
15 persons staffing the portal will report to the legislature annually
16 by November 1, 2018, the number of complaints and their resolution
17 status.

18 (2) The council, the workforce training and education
19 coordinating board, and the department of licensing shall:

20 (a) Work with the institutions and schools they regulate to
21 publicize the portal and refer students to it;

22 (b) Collect information from the portal on the:

23 (i) Frequency and type of student complaints;

24 (ii) Number of complaints per institution; and

25 (iii) Number of complaints per type of institution;

26 (c) By January 1, 2020, assess the adequacy of the portal and
27 existing agency resources to respond to student complaints and meet
28 student needs; and

29 (d) Upon completion of the assessment under (c) of this
30 subsection, recommend to the legislature whether to create a new
31 ombuds position.

32 (3) The council, the workforce training and education
33 coordinating board, and the department of licensing may adopt rules
34 to implement this section.

35 NEW SECTION. **Sec. 6.** A new section is added to chapter 28C.18
36 RCW to read as follows:

37 (1) The purpose of this section is to increase transparency and
38 accountability, improve consumer choice, strengthen protections for

1 students, and create a level playing field among all postsecondary
2 institutions.

3 (2) Beginning in the 2020 reporting cycle, all Washington
4 postsecondary institutions shall make student-level data available to
5 the board to allow the board to evaluate the performance of
6 postsecondary education programs.

7 (3) The board shall compile, and where feasible independently
8 verify, the employment rates and earnings of recent graduates,
9 student completion rates, key industries where students were employed
10 after graduating, demographic characteristics of students enrolled in
11 individual education programs, and other indicators the board
12 determines is useful to implement the purposes of this section.

13 (4) The board shall:

14 (a) Determine what student-level data is needed and work with
15 postsecondary institutions to streamline data reporting; and

16 (b) Enter into data-sharing agreements, if necessary, with the
17 postsecondary institutions, the student achievement council, the
18 state board for community and technical colleges, the council of
19 presidents, the education data center, and the department of revenue.

20 (5) For programs in which short-term outcomes are not sufficient
21 to gauge long-term success, other performance measures may be used,
22 as determined by the board.

23 (6)(a) Postsecondary institutions may be subject to sanctions for
24 failing to make available student-level data to the board, as
25 required under this section.

26 (b) The board may notify the regulatory agency with jurisdiction
27 over the postsecondary institution if the postsecondary institution
28 fails to make student-level data available to the board as required
29 under this section.

30 (c) The agency regulating the postsecondary institution may take
31 action against the postsecondary institution by first issuing a
32 warning notice to the postsecondary institution. If the postsecondary
33 institution fails to comply after being issued a warning notice, the
34 regulatory agency may institute graduated sanctions, including
35 additional warnings, monetary fines, placing the postsecondary
36 institution on probationary status, or take other appropriate action
37 proportionate to the postsecondary institution's noncompliance.

38 (7) For the purposes of this section, "postsecondary institution"
39 means any entity that is an institution of higher education as
40 defined in RCW 28B.10.016, a degree-granting institution as defined

1 in RCW 28B.85.010, and a private vocational school as defined in RCW
2 28C.10.020.

3 (8) The board may adopt rules to implement this section.

4 **Sec. 7.** RCW 28C.10.084 and 2014 c 11 s 5 are each amended to
5 read as follows:

6 (1) The agency shall establish, maintain, and administer a
7 tuition recovery trust fund. All funds collected for the tuition
8 recovery trust fund are payable to the state for the benefit and
9 protection of any student or enrollee of a private vocational school
10 licensed under this chapter, in the case of a minor, his or her
11 parents or guardian, or an agency or business that paid tuition and
12 fees on behalf of Washington state students, for purposes including
13 but not limited to the settlement of claims related to school
14 closures under subsection (10) of this section and the settlement of
15 claims under RCW 28C.10.120. The fund shall be liable for settlement
16 of claims and costs of administration but shall not be liable to pay
17 out or recover penalties assessed under RCW 28C.10.130 or 28C.10.140.
18 No liability accrues to the state of Washington from claims made
19 against the fund. Funds in the tuition recovery trust fund may only
20 be used for the purposes provided for under this section and no part
21 of the fund may be transferred or diverted to any other fund or for
22 any other use.

23 (2) By June 30, 1998, a minimum operating balance of one million
24 dollars shall be achieved in the fund and maintained thereafter. If
25 disbursements reduce the operating balance below two hundred thousand
26 dollars at any time before June 30, 1998, or below one million
27 dollars thereafter, each participating owner shall be assessed a pro
28 rata share of the deficiency created, based upon the incremental
29 scale created under subsection (6) of this section for each private
30 vocational school. The agency shall adopt schedules of times and
31 amounts for effecting payments of assessment.

32 (3) In order for a private vocational school to be and remain
33 licensed under this chapter each owner shall, in addition to other
34 requirements under this chapter, make cash deposits on behalf of the
35 school into a tuition recovery trust fund as a means to assure
36 payment of claims brought under this chapter.

37 (4) The amount of liability that can be satisfied by this fund on
38 behalf of each private vocational school licensed under this chapter
39 shall be the amount of unearned prepaid tuition and fees. If the

1 claimant provides evidence to the agency of the lack of availability
2 to continue his or her program of study at another institution, the
3 agency's executive director or the executive director's designee has
4 the authority to reimburse the student, agency, or business up to the
5 full value of tuition and fees paid to date, subject to subsection
6 (10) of this section. The agency may use the fund to pay for prior
7 learning assessments for students who choose to attend another
8 institution.

9 (5) The fund's liability with respect to each participating
10 private vocational school commences on the date of the initial
11 deposit into the fund made on its behalf and ceases one year from the
12 date the school is no longer licensed under this chapter.

13 (6) The agency shall adopt by rule a matrix for calculating the
14 deposits into the fund on behalf of each vocational school. Proration
15 shall be determined by factoring the school's share of liability in
16 proportion to the aggregated liability of all participants under the
17 fund by grouping such prorations under the incremental scale created
18 by subsection (4) of this section. Expressed as a percentage of the
19 total liability, that figure determines the amount to be contributed
20 when factored into a fund containing one million dollars. The total
21 amount of its prorated share, minus the amount paid for initial
22 capitalization, shall be payable in up to twenty increments over a
23 ten-year period, commencing with the sixth month after the initial
24 capitalization deposit has been made on behalf of the school.
25 Additionally, the agency shall require deposits for initial
26 capitalization, under which the amount each owner deposits is
27 proportionate to the school's share of two hundred thousand dollars,
28 employing the matrix developed under this subsection.

29 (7) No vested right or interests in deposited funds is created or
30 implied for the depositor, either at any time during the operation of
31 the fund or at any such future time that the fund may be dissolved.
32 All funds deposited are payable to the state for the purposes
33 described under this section. The agency shall maintain the fund,
34 serve appropriate notices to affected owners when scheduled deposits
35 are due, collect deposits, and make disbursements to settle claims
36 against the fund. When the aggregated deposits total five million
37 dollars and the history of disbursements justifies such
38 modifications, the agency may at its own option reduce the schedule
39 of deposits whether as to time, amount, or both and the agency may
40 also entertain proposals from among the licensees with regard to

1 disbursing surplus funds for such purposes as vocational
2 scholarships.

3 (8) Based on annual financial data supplied by the owner, the
4 agency shall determine whether the increment assigned to that private
5 vocational school on the incremental scale established under
6 subsection (6) of this section has changed. If an increase or
7 decrease in gross annual tuition income has occurred, a corresponding
8 change in the school's incremental position and contribution schedule
9 shall be made before the date of the owner's next scheduled deposit
10 into the fund. Such adjustments shall only be calculated and applied
11 annually.

12 (9) If the majority ownership interest in a private vocational
13 school is conveyed through sale or other means into different
14 ownership, all contributions made to the date of transfer remain in
15 the fund. The new owner shall continue to make contributions to the
16 fund until the original ten-year cycle is completed. All tuition
17 recovery trust fund contributions shall remain with the private
18 vocational school transferred, and no additional cash deposits may be
19 required beyond the original ten-year contribution cycle.

20 (10)(a) To settle claims adjudicated under RCW 28C.10.120 and
21 claims resulting when a private vocational school ceases to provide
22 educational services, the agency may make disbursements from the
23 fund. Students enrolled under a training contract executed between a
24 school and a public or private agency or business are not eligible to
25 make a claim against the fund until January 1, 2016.

26 (b) In addition to the processes described for making
27 reimbursements related to claims under RCW 28C.10.120, the following
28 procedures are established to deal with reimbursements related to
29 school closures:

30 (i) The agency shall attempt to notify all potential claimants.
31 The unavailability of records and other circumstances surrounding a
32 school closure may make it impossible or unreasonable for the agency
33 to ascertain the names and whereabouts of each potential claimant but
34 the agency shall make reasonable inquiries to secure that information
35 from all likely sources. The agency shall then proceed to settle the
36 claims on the basis of information in its possession. The agency is
37 not responsible or liable for claims or for handling claims that may
38 subsequently appear or be discovered.

39 (ii) Thirty days after identified potential claimants have been
40 notified, if a claimant refuses or neglects to file a claim

1 verification as requested in such notice, the agency may be relieved
2 of further duty or action on behalf of the claimant under this
3 chapter. The executive director of the agency or the executive
4 director's designee will determine if an exemption to the thirty days
5 shall be granted if the claimant furnishes proof of an extraordinary
6 or exigent circumstance.

7 (iii) After verification and review, the agency may disburse
8 funds from the tuition recovery trust fund to settle or compromise
9 the claims for an amount up to the value of unearned prepaid tuition
10 and fees. If the claimant provides evidence to the agency of the lack
11 of availability to continue his or her program of study at another
12 institution, the agency's executive director or the executive
13 director's designee has the authority to reimburse the student,
14 agency, or business up to the full value of tuition and fees paid to
15 date, subject to (a) of this subsection. The agency may use the fund
16 to pay for prior learning assessments for students who choose to
17 attend another institution.

18 (iv) In the instance of claims against a closed school, the
19 agency shall seek to recover such disbursed funds from the assets of
20 the defaulted owner, including but not limited to asserting claims as
21 a creditor in bankruptcy proceedings.

22 (11) When funds are disbursed to settle claims against a licensed
23 private vocational school, the agency shall make demand upon the
24 owner for recovery. The agency shall adopt schedules of times and
25 amounts for effecting recoveries. An owner's failure to perform
26 subjects the school's license to suspension or revocation under RCW
27 28C.10.050 in addition to any other available remedies.

28 (12) For purposes of this section, "owner" includes, but is not
29 limited to, a person, company, firm, society, association,
30 partnership, corporation, or trust having a controlling ownership
31 interest in a private vocational school.

32 NEW SECTION. **Sec. 8.** A new section is added to chapter 82.32
33 RCW to read as follows:

34 For the purposes of the workforce training and education
35 coordinating board implementing section 6 of this act and to improve
36 the accuracy of other federal and state performance reporting, the
37 department shall work with the workforce training and education
38 coordinating board to use available tax records for addressing the
39 gap in data for self-employed individuals. Data shared by the

1 department under any data-sharing agreement entered into under this
2 section remains privileged and confidential and exempt from
3 disclosure under the public records act.

--- **END** ---