
OLR Bill Analysis

sSB 1139 (File 497, as amended by Senate "A")*

AN ACT CONCERNING CHANGES TO PROGRAM APPROVAL FOR INSTITUTIONS OF HIGHER EDUCATION.

SUMMARY:

This bill modifies the academic program approval process for independent higher education institutions, which is administered by the Office of Higher Education (OHE). With certain exceptions, it deems applications for new and modified programs approved if OHE does not require any further action from the applicant within 45 days after receiving the application. It specifies criteria under which OHE may conduct a focused or on-site review of an application and establishes nine-member academic review commissions to review and adjudicate appeals of licensure or accreditation denials.

Under current law, the State Board of Education (SBE) must give final approval to OHE's decisions concerning licensure and accreditation of independent higher education institutions and programs. The bill instead requires OHE to make the final decisions, including holding hearings requested by certain aggrieved parties (§§ 1-3, 7-22).

The bill eliminates a requirement that the Board of Regents for Higher Education (BOR) approve UConn's new and modified degree programs, thus making the UConn Board of Trustees the final approving authority for these programs. The bill requires both UConn and BOR to notify OHE of their new and modified degree programs (§§ 4-6). It appears that this change may make several state statutes inapplicable to UConn in the future.

The bill eliminates (1) a provision allowing OHE to establish an advisory council on accreditation to advise it on existing or proposed regulations; (2) a requirement that an evaluation of a program or

institution be completed by SBE-appointed competent educators before a new license or accreditation is granted; and (3) an obsolete provision that allowed an existing institution to be issued a temporary, annually renewable one-year license.

*Senate Amendment "A" (1) with certain exceptions, deems approved within 45 days all applications submitted to OHE; (2) eliminates the requirement that BOR approve UConn's new academic programs, (3) requires BOR and UConn to notify OHE of their newly-approved academic programs; (4) defines "focused" and "on-site" reviews; (5) specifies that OHE may, rather than must, accept programmatic accreditation by another entity; and (6) makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2013

§ 1 — REVIEW STANDARDS

By law, any independent higher education institution seeking to operate in Connecticut or offer a new degree program must receive approval from OHE (and, under current law, final approval by SBE). The institution must follow a process outlined in OHE regulations that generally includes (1) a planning assessment to evaluate the need for the program and the adequacy of resources; (2) a quality assessment, which is based on either a review of written material or a site visit, and which may be concurrent with the planning assessment; (3) review by the Advisory Committee on Accreditation; and (4) review and action by SBE (Conn. Agencies Reg., § 10a-34-4).

Under current law, SBE can license a program or simultaneously license and accredit it. A license allows the program to begin operations and admit students, but not to grant degrees. In order to grant degrees, a licensed program must attain accreditation. The bill eliminates SBE's role in this process (thus making OHE the final approving authority) and creates new review standards for program modifications, nonsubstantive changes, licensure, and accreditation.

Under the bill, a "program modification" is a change that does not

clearly qualify as a new program or nonsubstantive change, such as (1) a new program consisting primarily of coursework from a previously approved program; (2) an approved program to be offered off-campus; (3) a change in a degree title, or (4) a change in a program title.

A “nonsubstantive change” is a new (1) undergraduate certificate program, within an existing program of higher learning, of 30 or fewer semester hours that falls under an approved program; (2) baccalaureate minor of 18 or fewer semester credit hours; or (3) option or certificate program of (a) 15 or fewer semester credit hours at the undergraduate level or (b) 12 or fewer semester credit hours at the graduate level.

Both definitions are nearly identical to definitions in OHE’s regulations (Conn. Agencies Reg., § 10a-34-2).

OHE Review

The bill requires OHE to consider academic standards established in existing regulations (e.g., faculty and curriculum requirements) when reviewing all applications for program modifications, nonsubstantive changes, licensure, and accreditation. With certain exceptions noted below, the bill deems approved all of these applications if 45 days pass without the need for further action. The program modifications must meet the academic standards to be deemed approved, but this requirement does not apply to the other changes. The bill requires OHE to notify the institution of the approval within 45 days of receiving the application.

The bill generally conforms to existing regulations concerning the adjudication of nonsubstantive changes and program modifications. Under these regulations, nonsubstantive changes do not require prior approval; they are reported to OHE for informational purposes only. Program modifications are submitted to OHE and, within 45 days, either (1) deemed approved by OHE, (2) submitted to SBE for an approval decision, or (3) subjected to a full review by OHE (Conn. Agencies Reg., § 10a-34-3).

Focused and On-Site Reviews. The bill requires the OHE executive director or a designee to conduct a focused or on-site review of an application if the director or designee determines that it is needed due at least in part to the applicant offering instruction in a new degree program or a new degree level. It is unclear if focused or on-site reviews can be conducted for other reasons (e.g., for a new certificate program that is not within an existing program).

The bill also allows the OHE executive director or designee to require a focused or on-site review of any application in a health-related field where a license to practice in Connecticut is required.

The bill requires an on-site review of a new institution once OHE determines that its licensure application is complete. Each program must be reviewed at the institutional level, and it appears that OHE's decisions can be appealed to an academic review commission (see below). OHE must complete the review process for a new institution within nine months of receiving the application.

The bill defines a focused review as one by an out-of-state curriculum expert and an on-site review as a full team evaluation by OHE at the higher education institution. It allows the applicant to state any objection regarding an individual chosen to review an application on behalf of the OHE executive director.

Accreditation by Another Entity

Under current law, institutions that are regionally or nationally accredited must have that accreditation accepted by OHE unless there is cause not to rely on it. The bill specifies that the requirement to accept national accreditation applies only to those institutions accredited before July 1, 2013. It also allows OHE to deem accredited any program for which evidence of programmatic accreditation is presented (e.g., accreditation by a professional association).

§ 1 — ACADEMIC REVIEW COMMISSIONS

The bill allows institutions to appeal any denial of a licensure or accreditation application to a nine-member academic review

commission. They must do so within 10 days of the denial.

The bill requires OHE to establish the commissions, which must be selected from a 25-member panel composed of five appointments each by the governor and the House and Senate majority and minority leaders. Each appointing authority must select representatives from both higher education and business and industry, but no more than three from either category. The bill does not establish a term length for the appointees but, under existing law, it appears that they would serve at the pleasure of the appointing authority, but no later than the appointing authority's term of office (CGS § 4-1a).

The bill requires the OHE executive director or a designee to select a commission for each individual appeal. Each commission must have (1) one representative from each appointing authority and (2) a total of five business and industry representatives and four higher education representatives. It has 30 days from the date of an appeal to review and adjudicate it.

§§ 4-6 — PUBLIC INSTITUTION PROGRAM APPROVAL

The bill eliminates a requirement that BOR approve UConn's new and modified degree programs, thus making the UConn Board of Trustees the final approving authority for these programs. It similarly eliminates BOR's authority to assess UConn for violations of program approval and licensure and accreditation requirements. The bill requires both UConn and BOR to notify OHE of their new and modified degree programs (§§ 4-6). Under existing law, BOR approves degree programs for the Connecticut State University System, regional community-technical colleges, and Charter Oak State College.

It appears that this change may make various provisions in state law inapplicable to UConn in the future. Under current law, BOR licenses and accredits all public institutions in the state, including UConn. The bill eliminates BOR's licensure and accreditation of UConn, but there are several statutes that apply specifically to institutions accredited by BOR or SBE (changed by the bill to OHE). Because, under the bill, UConn appears to fall into neither category, it

is unclear if these statutes would apply to UConn once its current accreditation expires. (UConn was most recently accredited by the former Department of Higher Education (now OHE), and so UConn would remain covered by the statutes until this accreditation expires.)

These statutes include, among other things, (1) eligibility for a teacher incentive loan program (§ 18), (2) a provision that exempts training programs from the definition of services under the sales tax (§ 19), and (3) eligibility for university beer and wine and beer permits (but not a university liquor permit) (§ 22).

§ 23 — LIABILITY WAIVER

The bill exempts from liability any independent higher education institution that provides to certain entities, upon request, student data or records containing information that is confidential under federal or state law. These entities are any local or regional board of education or any state agency or department, and the disclosure must have been made in accordance with federal or state law and pursuant to a written agreement.

The exemption applies to any breach of confidentiality, use, retention, or destruction of the student data or records resulting from an act or omission of the board, department, agency, or any person providing access to the data or records obtained by these entities. The bill specifies that the data and records include personally identifiable information as defined in the federal Family Educational Rights and Privacy Act of 1974's implementing regulations.

COMMITTEE ACTION

Higher Education and Employment Advancement Committee

Joint Favorable Substitute

Yea 16 Nay 3 (03/26/2013)