



Senate

General Assembly

File No. 497

January Session, 2013

Substitute Senate Bill No. 1139

Senate, April 15, 2013

The Committee on Higher Education and Employment Advancement reported through SEN. BYE of the 5th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

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

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 10a-34 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2013*):

3 (a) For the purposes of this section, (1) "program of higher learning"
4 means any course of instruction for which it is stated or implied that
5 college or university-level credit may be given or may be received by
6 transfer; (2) "degree" means any letters or words, diploma, certificate
7 or other symbol or document which signifies satisfactory completion
8 of the requirements of a program of higher learning; (3) "institution of
9 higher [learning] education" means any person, school, board,
10 association, limited liability company or corporation which is licensed
11 or accredited to offer one or more programs of higher learning leading
12 to one or more degrees; (4) "license" means the authorization by the
13 [State Board of Education] Office of Higher Education to operate a

14 program or institution of higher learning for a specified initial period;
15 (5) "accreditation" means the authorization by said [board] office to
16 continue operating a program or institution of higher learning for
17 subsequent periods, and in such periods to confer specified degrees;
18 (6) "program modification" means (A) a change in a program of higher
19 learning that does not clearly qualify as a new program of higher
20 learning or a nonsubstantive change, including, but not limited to, a
21 new program of higher learning consisting primarily of course work
22 for a previously approved program of higher learning, (B) an
23 approved program of higher learning to be offered at an off-campus
24 location, (C) a change in the title of a degree, or (D) a change in title of
25 a program of higher learning; (7) "nonsubstantive change" means (A) a
26 new undergraduate certificate program of not more than thirty
27 semester credit hours that falls under an approved program of higher
28 learning, (B) a new baccalaureate minor of not more than eighteen
29 semester credit hours, (C) a new undergraduate option or certificate
30 program of not more than fifteen semester credit hours, or (D) a new
31 graduate option or certificate program of not more than twelve
32 semester credit hours; and (8) "substantive change" means any change
33 in a program of higher learning that does not constitute a new
34 program of higher learning or qualify as a nonsubstantive change.

35 (b) The Office of Higher Education shall establish regulations, in
36 accordance with chapter 54, concerning the requirements for licensure
37 and accreditation, such regulations to concern administration, finance,
38 faculty, curricula, library, student admission and graduation, plant and
39 equipment, records, catalogs, program announcements and any other
40 criteria pertinent thereto, as well as the periods for which licensure and
41 accreditation may be granted, and the costs and procedures of
42 evaluations as provided in subsections (c) and (d) of this section. [Said
43 office may establish an advisory council for accreditation composed of
44 representatives of public and private institutions of higher learning
45 and the public at large to advise the office regarding existing or
46 proposed regulations.] Said office shall establish academic review
47 commissions to hear each appeal of a denial by said office of an
48 application by an institution of higher education for licensure or

49 accreditation of a program of higher learning or institution of higher
50 education. For each individual appeal, the executive director of said
51 office, or the executive director's designee, shall select a commission
52 that is comprised of four higher education representatives and five
53 business and industry representatives chosen from a panel of twenty-
54 five members, who shall be appointed as follows: (1) The Governor
55 shall appoint five members; (2) the majority leader of the House of
56 Representatives shall appoint five members; (3) the majority leader of
57 the Senate shall appoint five members; (4) the minority leader of the
58 House of Representative shall appoint five members; and (5) the
59 minority leader of the Senate shall appoint five members. The
60 executive director of said office, or the executive director's designee,
61 shall ensure that each commission contains at least one member
62 appointed by each of the appointing authorities. Each appointing
63 authority shall select both higher education representatives and
64 business and industry representatives, but not more than three from
65 either category of representatives.

66 (c) No person, school, board, association or corporation shall confer
67 any degree unless authorized by act of the General Assembly. No
68 application for authority to confer any such degree shall be approved
69 by the General Assembly or any committee thereof, nor shall any such
70 authority be included in any charter of incorporation until such
71 application has been evaluated and approved by the State Board of
72 Education in accordance with regulations established by the Office of
73 Higher Education.

74 (d) The Office of Higher Education shall review all applications for
75 nonsubstantive and substantive changes, licensure and accreditation.
76 The office shall review each application in consideration of the
77 academic standards set forth in the regulations for licensure and
78 accreditation adopted by said office in accordance with the provisions
79 of subsection (b) of this section. Any application that is determined by
80 the office to be a program modification that meets all such academic
81 standards or for a nonsubstantive change to an existing program shall
82 be deemed approved, and the office shall notify the institution of such

83 approval, not later than thirty days from the date the office receives
84 such application without requiring any further action from the
85 applicant.

86 (e) If the executive director of the Office of Higher Education, or the
87 executive director's designee, determines that further review of an
88 application is needed due at least in part to the applicant offering
89 instruction in a new program of higher learning or new degree level,
90 then the executive director or the executive director's designee shall
91 conduct a focused or on-site review. Such applicant shall have an
92 opportunity to state any objection regarding any individual selected to
93 review an application on behalf of the executive director.

94 (f) The executive director of the Office of Higher Education, or the
95 executive director's designee, may require a focused or on-site review
96 of any program application in a health-related field where a license in
97 Connecticut is required to practice in such field.

98 (g) Any application for licensure of a new institution in this state
99 shall be subject to an on-site review upon a determination by the Office
100 of Higher Education that the application is complete and shall be
101 reviewed at the institutional level for each program as described in
102 subsection (b) of this section. Such process shall be completed not later
103 than nine months from the date said office receives the application.

104 (h) If the Office of Higher Education denies an application for
105 licensure or accreditation of a program or institution of higher
106 education, the applicant may appeal the denial not later than ten days
107 from the date of denial. The academic review commission shall review
108 the appeal and make a decision on such appeal not later than thirty
109 days from the date the applicant submits the appeal to said office.

110 [(d)] (i) No person, school, board, association or corporation shall
111 operate a program or institution of higher learning unless it has been
112 licensed or accredited by the [State Board of Education] Office of
113 Higher Education, nor shall it confer any degree unless it has been
114 accredited in accordance with this section. [The board shall not grant

115 any new license or accreditation until it has received a report of an
116 evaluation of such program or institution by competent educators
117 approved by the board.] The [board] office shall accept regional [or,
118 where appropriate, national] accreditation, in satisfaction of the
119 requirements of this subsection unless the [board] office finds cause
120 not to rely upon such accreditation. If any institution of higher
121 education provides evidence of programmatic accreditation, the office
122 shall consider such accreditation in satisfaction of the requirements of
123 this subsection and deem the program at issue in the application for
124 accreditation to be accredited in accordance with this section. National
125 accreditation for Connecticut institutions of higher education
126 accredited prior to July 1, 2013, shall be accepted as being in
127 satisfaction of the requirements of this subsection unless the office
128 finds cause not to rely on such national accreditation.

129 [(e)] (j) No person, school, board, association or corporation shall
130 use in any way the term "junior college" or "college" or "university" or
131 use any other name, title, literature, catalogs, pamphlets or descriptive
132 matter tending to designate that it is an institution of higher learning,
133 or that it may grant academic or professional degrees, unless the
134 institution possesses a license from, or has been accredited by, the
135 [board] office, nor shall it offer any program of higher learning without
136 approval of the [State Board of Education] Office of Higher Education.

137 [(f)] (k) Accreditation of any program or institution or authority to
138 award degrees granted in accordance with law prior to July 1, 1965,
139 shall continue in effect.

140 [(g) If an existing institution, adversely affected by this section,
141 applies to the board for licensure or accreditation, said board may
142 grant licensure on a temporary basis to expire within one year and
143 renewable from year to year, if, in the judgment of the board,
144 reasonable progress is being made by such institution toward meeting
145 the standards required by regulations of the board.]

146 Sec. 2. Subsection (d) of section 10a-34a of the general statutes is
147 repealed and the following is substituted in lieu thereof (*Effective July*

148 1, 2013):

149 (d) The person, school, board, association or corporation aggrieved
150 by the order of the executive director imposing an administrative
151 penalty pursuant to subsection (c) of this section shall, not later than
152 fifteen days after such order is mailed, request, in writing, a hearing
153 before the [State Board of Education] Office of Higher Education. Such
154 hearing shall be held in accordance with the provisions of chapter 54.

155 Sec. 3. Section 10a-34c of the general statutes is repealed and the
156 following is substituted in lieu thereof (*Effective July 1, 2013*):

157 The executive director of the Office of Higher Education may
158 conduct an investigation and, through the Attorney General, maintain
159 an action in the name of the state against any person, school, board,
160 association or corporation to restrain or prevent the establishment or
161 operation of an institution that is not licensed, accredited or authorized
162 to award degrees by the [State Board of Education] Office of Higher
163 Education pursuant to the provisions of section 10a-34, as amended by
164 this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2013</i>	10a-34
Sec. 2	<i>July 1, 2013</i>	10a-34a(d)
Sec. 3	<i>July 1, 2013</i>	10a-34c

HED *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 14 \$	FY 15 \$
Various State Agencies	GF - Potential Cost	less than \$1,000	less than \$1,000

Municipal Impact: None

Explanation

The bill establishes nine-member academic review commissions to review and adjudicate appeals of licensure or accreditation denials. There may be a cost of less than \$1,000 to agency staff participating on an Academic Review Commission, to reimburse staff for mileage expenses. Additionally, the bill modifies the academic program approval process for independent institutions of higher education, which results in no fiscal impact to the state.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the rate of mileage reimbursement.

OLR Bill Analysis**sSB 1139*****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). It requires an expedited review process of applications for certain program changes and specifies criteria under which OHE may conduct a focused or on-site review of an application. It 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. However, other sections of the law, unchanged by the bill, maintain SBE's approval authority (see COMMENT).

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.

EFFECTIVE DATE: July 1, 2013

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).

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 creates new review standards for program modifications, nonsubstantive changes, and substantive changes.

Definitions

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 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.

A “substantive change” is one that is not nonsubstantive or that is not a new program. It is unclear how a substantive change differs from a program modification.

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 substantive and nonsubstantive changes, licensure, and accreditation (but apparently not program modifications).

Although the bill does not explicitly require OHE to review program modifications, it specifies that any program modification must be deemed approved if it meets all of the academic standards in existing regulations. It also deems approved any nonsubstantive change to an existing program (but presumably not other nonsubstantive changes). It does not specify how OHE must process substantive changes. OHE must notify the institution of the approval within 30 days of receiving the application. This appears to conflict with the review authority that OHE possesses under existing law (see COMMENT).

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), as the bill does not specify a process for handling applications that meet neither the criteria for (1) receiving expedited approval nor (2) triggering a focused or on-site review.

The bill allows the applicant to state any objection regarding an individual chosen to review an application on behalf of the OHE executive director. It 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 within nine months of receiving the application.

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 requires OHE to deem accredited any program for which evidence of programmatic accreditation is presented (e.g., accreditation by a professional association).

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 from 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 the appeal to review and adjudicate it.

COMMENT

SBE's Role in Program Approval

Under current law, SBE must give final approval to OHE's decisions concerning licensure and accreditation of independent higher education institutions. The bill removes this authority in some instances. However, existing law, unchanged by the bill, has numerous provisions that require final approval by SBE (e.g., CGS § 10a-1d).

OHE Review Authority

The bill requires an expedited approval process for certain academic program changes sought by independent institutions. However, existing law allows OHE to conduct, without time constraints, any necessary review, inspection, or investigation regarding (1) an institution's application for licensure or accreditation or (2) possible violations of the licensure and accreditation laws and regulations (CGS § 10a-34e).

COMMITTEE ACTION

Higher Education and Employment Advancement Committee

Joint Favorable Substitute

Yea 16 Nay 3 (03/26/2013)