
MEMORANDUM

Legislative Fiscal Office
900 Court St. NE, Room H-178
Salem, Oregon 97301
Phone 503-986-1828
FAX 503-373-7807

To: *Education Subcommittee*

From: *Krista McDowell, Legislative Fiscal Office*
(503) 986-1838

Date: June 19, 2015

Subject: *HB 2870*
Work Session Recommendations

HB 2870 - A relates to higher education. The bill permits the Higher Education Coordinating Commission (HECC) to enter into contracts with independent nonprofit post-secondary institutions of education that are exempt from certain HECC regulations. The bill also permits HECC to adopt rules governing the resolution of complaints filed against these institutions.

The measure previously had a public hearing in the Joint Ways and Means Subcommittee on Education on May 21, 2015.

The measure has a \$198,452 Other Funds revenue impact as well as a \$198,452 Other Funds expenditure impact associated with one position (1.00 FTE), legal fees and database programming costs to the Higher Education Coordinating Commission.

Amendment

The proposed – A4 amendment to the measure contains the –A3 amendment language and also increases Higher Education Coordinating Commission Other Fund expenditure limitation by \$198,452 for the 2015-17 biennium.

Motion: Move the –A4 amendment to HB 2870 .

Measure as Modified

The measure, as amended, is recommended to be moved to the full Committee on Joint Ways and Means.

Motion: Move HB 2870 to the full committee with a “do pass” recommendation, as amended.

Assignment of Carriers

Full: _____
1st Chamber: _____
2nd Chamber: _____

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 2870 - A4

Seventy-Eighth Oregon Legislative Assembly – 2015 Regular Session
Legislative Fiscal Office

*Only Impacts on Original or Engrossed
Versions are Considered Official*

Prepared by: Krista McDowell
Reviewed by: Doug Wilson
Date: 6/18/2015

Measure Description:

Grants Higher Education Coordinating Commission authority to enter into contracts with certain independent nonprofit post-secondary institutions of education in order to review and act on complaints filed against institution.

Government Unit(s) Affected:

Higher Education Coordinating Commission

Local Government Mandate:

This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

Analysis:

The bill permits the Higher Education Coordinating Commission (HECC) to enter into contracts with independent nonprofit post-secondary institutions of education that are exempt from certain HECC regulations. The bill also permits the HECC to adopt rules governing the resolution of complaints filed against these institutions. The –A4 amendment provides specific activities that the HECC may undertake to develop the process to resolve these complaints.

The expenditure and revenue impact of this legislation will be driven entirely by the affected institutions requested caseload. This implementation of rules, contracts, and the fulfillment of tasks and responsibilities associated with the review, investigation, hearing process, and resolution of complaints will only be undertaken when an institution enters into an agreement with the HECC; then expenses for services rendered will be reimbursed by the contracting institution. Contract expenses are likely to include temporary staff or contract expertise, database programming costs associated with adding the ability to register and track cases, as well as legal fees.

Other Funds expenditure limitation is provided in the amount of \$198,452 in the 2015-17 biennium. The noted uncertainty surrounding this measure's fiscal impact suggests that the agency may need to request additional Other Funds expenditure limitation at a later time when caseload demand can be more accurately projected.

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 2870**

1 On page 1 of the printed A-engrossed bill, line 2, after the semicolon in-
2 sert “creating new provisions;” and after “351.735” insert “; and declaring
3 an emergency”.

4 Delete lines 4 through 25 and delete pages 2 through 6 and insert:

5 **“SECTION 1.** ORS 351.735, as amended by section 2, chapter 83, Oregon
6 Laws 2014, and section 1, chapter 113, Oregon Laws 2014, is amended to read:

7 “351.735. (1) As used in this section, ‘student access programs’ means
8 scholarship, loan, grant and access programs described in ORS chapter 348.

9 “(2) The Higher Education Coordinating Commission shall be guided by
10 the legislative findings in ORS 341.009, 351.001 and 351.003 and the goals and
11 mission of post-secondary education set forth in ORS 351.006 and 351.009.

12 “(3) The Higher Education Coordinating Commission shall:

13 “(a) Advise and assist the Oregon Education Investment Board on:

14 “(A) State goals and associated achievement compacts for the state post-
15 secondary education system, including community colleges and public uni-
16 versities listed in ORS 352.002, and for student access programs.

17 “(B) Strategic investments in the state’s community colleges, public uni-
18 versities and student access programs necessary to achieve state post-
19 secondary education goals.

20 “(C) Coordination of the post-secondary elements of data collection and
21 structure, with the advice and recommendation of the state’s independent
22 institutions, community colleges and public universities, as appropriate, in

1 order to assist the Oregon Education Investment Board in the construction
2 of a state longitudinal data system, as authorized by law.

3 “(b) Adopt a strategic plan for achieving state post-secondary education
4 goals, taking into consideration the contributions of this state’s independent
5 institutions, philanthropic organizations and other organizations dedicated
6 to helping Oregonians reach state goals. State post-secondary education
7 goals as described in this section should include, but need not be limited to:

8 “(A) Increasing the educational attainment of the population;

9 “(B) Increasing this state’s global economic competitiveness and the
10 quality of life of its residents;

11 “(C) Ensuring affordable access for qualified Oregon students at each
12 college or public university;

13 “(D) Removing barriers to on-time completion; and

14 “(E) Tracking progress toward meeting the state’s post-secondary educa-
15 tion goals established in the strategic plan described in this paragraph.

16 “(c)(A) Each biennium, after receiving funding requests from the state’s
17 community colleges and public universities as authorized by law, recommend
18 to the Governor and the Oregon Education Investment Board a consolidated
19 higher education budget request aligned with the strategic plan described in
20 [*subsection (3)(b) of this section*] **paragraph (b) of this subsection**, including
21 appropriations for:

22 “(i) Student access programs;

23 “(ii) Public universities listed in ORS 352.002, including but not limited
24 to education and general operations, statewide public services and state-
25 funded debt service;

26 “(iii) Community colleges, including but not limited to education and
27 general operations and state-funded debt service;

28 “(iv) New facilities or programs;

29 “(v) Capital improvements and deferred maintenance; and

30 “(vi) Special initiatives and investments.

1 “(B) In the development of the consolidated higher education budget re-
2 quest:

3 “(i) Determine the costs necessary to provide quality post-secondary edu-
4 cation;

5 “(ii) Solicit input from educators, education policy experts, appropriate
6 legislative committees, students and other persons interested in the develop-
7 ment of the funding model; and

8 “(iii) Solicit public input regarding educational priorities.

9 “(d) Adopt rules governing the distribution of appropriations from the
10 Legislative Assembly to community colleges, public universities listed in
11 ORS 352.002 and student access programs. These rules must be based on al-
12 location formulas developed in consultation with the state’s community col-
13 leges and public universities, as appropriate.

14 “(e) Approve or disapprove any significant change to the academic pro-
15 gram of a community college or a public university listed in ORS 352.002. In
16 reaching a decision under this paragraph, the commission shall consider the
17 recommendation from the community college or public university seeking to
18 make the change to an academic program that is issued pursuant to the ob-
19 ligation of the governing board of a community college or public university
20 to review and approve academic programs. The commission shall ensure that
21 approved programs:

22 “(A) Are consistent with the mission statement of the community college
23 or public university;

24 “(B) Do not unnecessarily duplicate academic programs offered by
25 Oregon’s other community colleges or public universities;

26 “(C) Are not located in a geographic area that will cause undue hardship
27 to Oregon’s other community colleges or public universities; and

28 “(D) Are allocated among Oregon’s community colleges and public uni-
29 versities to maximize the achievement of statewide needs and requirements.

30 “(f) For public universities listed in ORS 352.002:

1 “(A) Approve the mission statement adopted by a governing board of a
2 public university or by the State Board of Higher Education.

3 “(B) Review and determine whether a proposed annual increase of resi-
4 dent undergraduate enrollment fees, as described in ORS 351.063, of greater
5 than five percent is appropriate.

6 “(C) Advise the Governor and the Legislative Assembly on issues of uni-
7 versity governance.

8 “(D) Approve and authorize degrees.

9 “(g) Authorize degrees to be offered by independent post-secondary insti-
10 tutions in this state under ORS 348.594 to 348.615.

11 “(h) Oversee the licensing of career schools under ORS 345.010 to 345.450.

12 “(i) Have the authority to enter into and administer interstate agreements
13 regarding the provision of post-secondary distance education. The partic-
14 ipation by an educational institution that is not based in this state in dis-
15 tance learning courses or programs that are part of an interstate agreement
16 entered into and administered under this paragraph does not constitute op-
17 erating in this state for purposes of ORS 348.594 to 348.615. The commission,
18 by rule, may impose a fee on any educational institution that seeks to oper-
19 ate under or participate in such interstate agreements. The fee amount shall
20 be established to recover designated expenses incurred by the commission in
21 participating in such agreements.

22 **“(4)(a) The Higher Education Coordinating Commission shall im-
23 plement a process to resolve student complaints against any school
24 operating in this state. As part of the process implemented under this
25 subsection, the commission may:**

26 **“(A) Receive student complaints from students regarding a school;**

27 **“(B) Specify the type of information that must be included in a
28 student complaint;**

29 **“(C) Investigate any student complaint filed against a school;**

30 **“(D) Establish a process to review and resolve student complaints**

1 **against a school, including but not limited to reviewing school records,**
2 **holding administrative hearings and issuing final orders;**

3 **“(E) Assess a fee to cover the costs of any proceeding brought under**
4 **this subsection, including but not limited to the costs of an investi-**
5 **gation or administrative hearing;**

6 **“(F) Require a school to make full or partial restitution to a student**
7 **or to cease an act or practice that is challenged in a student com-**
8 **plaint;**

9 **“(G) Adopt rules to implement the provisions of this subsection; and**

10 **“(H) Enter into agreements to implement the provisions of this**
11 **subsection.**

12 **“(b) Any hearing held under this subsection is subject to the pro-**
13 **visions of ORS chapter 183.**

14 **“(c) As used in this subsection:**

15 **“(A) ‘School’ means a school that meets the requirements of ORS**
16 **348.597 (2)(d); and**

17 **“(B) ‘Student’ means a person who is enrolled or accepted for en-**
18 **rollment at a school for the purpose of obtaining a degree, certificate**
19 **or other recognized educational credential offered by that school.**

20 **“[(4)] (5) In addition to the duties described in subsections (2) [and (3)]**
21 **to (4) of this section, the Higher Education Coordinating Commission shall**
22 **advise the Legislative Assembly, the Governor, community colleges, public**
23 **universities and other state boards and commissions on policies in order to:**

24 **“(a) Ensure or improve access to higher education by diverse and under-**
25 **served populations.**

26 **“(b) Encourage student success and completion initiatives.**

27 **“(c) Improve the coordination of the provision of educational services,**
28 **including:**

29 **“(A) Transfers and coenrollment throughout the higher education system;**

30 **“(B) Accelerated college credit programs for high school students;**

1 “(C) Applied baccalaureate and other transfer degrees;

2 “(D) Programs and grants that span multiple institutions; and

3 “(E) Reciprocity agreements with other states.

4 “(d) In coordination with the State Board of Education, enhance the use
5 and quality of dual credit, career and technical pathways and efforts to cre-
6 ate a culture of college attendance in this state.

7 “(e) In coordination with the State Workforce Investment Board, local
8 workforce investment boards, the Oregon Health and Science University and
9 independent institutions, ensure that the state’s colleges and universities
10 offer programs in high-demand occupations that meet Oregon’s workforce
11 needs.

12 “(f) Improve economies of scale by encouraging and facilitating the use
13 of the shared services among post-secondary institutions in this state.

14 “[5] (6) The Higher Education Coordinating Commission, in a manner
15 consistent with ORS chapter 183, may adopt administrative rules.

16 “[6] (7) With the exception of the rulemaking authority granted in sub-
17 section [(5)] (6) of this section, the Higher Education Coordinating Commis-
18 sion may delegate any of its powers, duties or functions to a committee of
19 the commission or to the executive director of the commission.

20 “[7] (8) The Higher Education Coordinating Commission may establish
21 technical or advisory committees to assist the commission in exercising its
22 powers, duties and functions.

23 “[8] (9) The Higher Education Coordinating Commission may exercise
24 only powers, duties and functions expressly granted by the Legislative As-
25 sembly. Except as otherwise expressly provided by law, all other authorities
26 reside at the institutional level with the respective boards of the post-
27 secondary institutions.

28 “**SECTION 2.** ORS 351.735, as amended by section 2, chapter 83, Oregon
29 Laws 2014, and sections 1 and 2, chapter 113, Oregon Laws 2014, is amended
30 to read:

1 “351.735. (1) As used in this section, ‘student access programs’ means
2 scholarship, loan, grant and access programs described in ORS chapter 348.

3 “(2) The Higher Education Coordinating Commission shall be guided by
4 the legislative findings in ORS 341.009, 351.001 and 351.003 and the goals and
5 mission of post-secondary education set forth in ORS 351.006 and 351.009.

6 “(3) The Higher Education Coordinating Commission shall:

7 “(a) Develop state goals and associated achievement compacts for the
8 state post-secondary education system, including community colleges and
9 public universities listed in ORS 352.002, and for student access programs.

10 “(b) Determine strategic investments in the state’s community colleges,
11 public universities and student access programs necessary to achieve state
12 post-secondary education goals.

13 “(c) Coordinate the post-secondary elements of data collection and struc-
14 ture, with the advice and recommendation of the state’s independent insti-
15 tutions, community colleges and public universities, as appropriate, in order
16 to construct a state longitudinal data system.

17 “(d) Adopt a strategic plan for achieving state post-secondary education
18 goals, taking into consideration the contributions of this state’s independent
19 institutions, philanthropic organizations and other organizations dedicated
20 to helping Oregonians reach state goals. State post-secondary education
21 goals as described in this section should include, but need not be limited to:

22 “(A) Increasing the educational attainment of the population;

23 “(B) Increasing this state’s global economic competitiveness and the
24 quality of life of its residents;

25 “(C) Ensuring affordable access for qualified Oregon students at each
26 college or public university;

27 “(D) Removing barriers to on-time completion; and

28 “(E) Tracking progress toward meeting the state’s post-secondary educa-
29 tion goals established in the strategic plan described in this paragraph.

30 “(e)(A) Each biennium, after receiving funding requests from the state’s

1 community colleges and public universities as authorized by law, recommend
2 to the Governor a consolidated higher education budget request aligned with
3 the strategic plan described in [*subsection (3)(d) of this section*] **paragraph**
4 **(d) of this subsection**, including appropriations for:

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7 to education and general operations, statewide public services and state-
8 funded debt service;

9 “(iii) Community colleges, including but not limited to education and
10 general operations and state-funded debt service;

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19 legislative committees, students and other persons interested in the develop-
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18 than five percent is appropriate.

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24 “(j) Oversee the licensing of career schools under ORS 345.010 to 345.450.

25 “(k) Have the authority to enter into and administer interstate agree-
26 ments regarding the provision of post-secondary distance education. The
27 participation by an educational institution that is not based in this state in
28 distance learning courses or programs that are part of an interstate agree-
29 ment entered into and administered under this paragraph does not constitute
30 operating in this state for purposes of ORS 348.594 to 348.615. The commis-

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2 operate under or participate in such interstate agreements. The fee amount
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20 or to cease an act or practice that is challenged in a student com-
21 plaint;**

22 **“(G) Adopt rules to implement the provisions of this subsection; and**

23 **“(H) Enter into agreements to implement the provisions of this
24 subsection.**

25 **“(b) Any hearing held under this subsection is subject to the pro-
26 visions of ORS chapter 183.**

27 **“(c) As used in this subsection:**

28 **“(A) ‘School’ means a school that meets the requirements of ORS
29 348.597 (2)(d); and**

30 **“(B) ‘Student’ means a person who is enrolled or accepted for en-**

1 **rollment at a school for the purpose of obtaining a degree, certificate**
2 **or other recognized educational credential offered by that school.**

3 “[4] (5) In addition to the duties described in subsections (2) [and (3)]
4 **to (4)** of this section, the Higher Education Coordinating Commission shall
5 advise the Legislative Assembly, the Governor, community colleges, public
6 universities and other state boards and commissions on policies in order to:

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8 served populations.

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11 including:

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19 ate a culture of college attendance in this state.

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21 workforce investment boards, the Oregon Health and Science University and
22 independent institutions, ensure that the state’s colleges and universities
23 offer programs in high-demand occupations that meet Oregon’s workforce
24 needs.

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26 of the shared services among post-secondary institutions in this state.

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28 consistent with ORS chapter 183, may adopt administrative rules.

29 “[6] (7) With the exception of the rulemaking authority granted in sub-
30 section [(5)] (6) of this section, the Higher Education Coordinating Commis-

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2 the commission or to the executive director of the commission.

3 “[7] (8) The Higher Education Coordinating Commission may establish
4 technical or advisory committees to assist the commission in exercising its
5 powers, duties and functions.

6 “[8] (9) The Higher Education Coordinating Commission may exercise
7 only powers, duties and functions expressly granted by the Legislative As-
8 sembly. Except as otherwise expressly provided by law, all other authorities
9 reside at the institutional level with the respective boards of the post-
10 secondary institutions.

11 **“SECTION 3. Notwithstanding any other law limiting expenditures,**
12 **the amount of \$198,452 is established for the biennium beginning July**
13 **1, 2015, as the maximum limit for payment of expenses from fees,**
14 **moneys or other revenues, including Miscellaneous Receipts, but ex-**
15 **cluding lottery funds and federal funds, collected or received by the**
16 **Higher Education Coordinating Commission as part of a process of**
17 **resolving student complaints against schools operating in this state.**

18 **“SECTION 4. This 2015 Act being necessary for the immediate**
19 **preservation of the public peace, health and safety, an emergency is**
20 **declared to exist, and this 2015 Act takes effect on its passage.”.**

21
