

**ASSEMBLY BILL**

**No. 2810**

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**Introduced by Assembly Member Liu  
(Coauthor: Assembly Member Maze)**

February 24, 2006

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An act to amend Sections 94830 and 94831 of the Education Code, relating to private postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

AB 2810, as introduced, Liu. Private postsecondary education: fraudulent or substandard degrees.

(1) Existing law, known as the Private Postsecondary and Vocational Education Reform Act of 1989, generally sets minimum standards of instructional quality, ethical and business practices, health and safety, and fiscal responsibility for private postsecondary and vocational educational institutions, as defined. The act establishes in the Department of Consumer Affairs the Bureau for Private Postsecondary and Vocational Education, which, among other things, is required to review and investigate all institutions, programs, and courses of instruction approved under the act. A provision of the act provides for it to become inoperative on July 1, 2007, and provides for its repeal on January 1, 2008.

A provision of the act requires the Director of Consumer Affairs to appoint a Bureau for Private Postsecondary and Vocational Education Operations and Administrative Monitor, and specifies the duties and responsibilities of the person thus appointed.

This bill would express legislative findings and declarations relating to a report issued to the Legislature by the Bureau for Private Postsecondary and Vocational Education Operations and Administrative Monitor.

(2) A provision of the act sets forth grounds pursuant to which the bureau is authorized to refuse to issue or renew the approval to operate of any private postsecondary or vocational educational institution. A provision of the act sets forth various prohibited acts and representations. A provision of the act requires that a violation of these listed prohibitions is a crime.

An existing provision of the Education Code that is not within the act prohibits a person from preparing, manufacturing, or printing, or offering to prepare, manufacture, or print, a document purporting to be a degree without written authorization from a school authority, as defined. Existing law also prohibits a person from selling, bartering, offering to sell or barter, or conspiring to sell or barter, a diploma or degree, as defined. Existing law further prohibits a person from using, in connection with any business, trade, profession, or occupation, a degree or diploma that has been purchased, illegally obtained, counterfeited, materially altered, or found. Willful violations of these provisions are punishable as misdemeanors.

This bill would add to the grounds for the refusal of the issuance or renewal of approval to operate, and add to the list of prohibited acts the commission of which is a crime, the conferral, or attempt to confer, a fraudulent or substandard degree, as defined, as well as the granting or awarding of credit or a degree, diploma, or certificate in violation of the act. These provisions would impose a state-mandated local program by creating new crimes.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. The Legislature hereby finds and declares that,  
2 pursuant to Chapter 740 of the Statutes of 2004 (SB 1544), the  
3 Bureau for Private Postsecondary and Vocational Education  
4 Operations and Administrative Monitor reviewed the  
5 effectiveness of the Private Postsecondary and Vocational

1 Reform Act of 1989, and issued an initial report to the  
2 Legislature on September 26, 2005. That report set forth all of  
3 the following findings:

4 (a) The Private Postsecondary and Vocational Reform Act of  
5 1989 is California's major statute for regulating and  
6 strengthening its more than 2,000 privately operated  
7 postsecondary educational institutions, as well as the out-of-state  
8 public and private institutions that have operations in California.  
9 The private sector educates approximately 400,000 students in  
10 this state: 100,000 who are enrolled in degree-granting  
11 institutions, and 300,000 who are enrolled in nondegree-granting  
12 educational and vocational training programs.

13 (b) The act sets minimum standards of instructional quality and  
14 institutional business practices, and mandates consumer  
15 protections for students against fraud, misrepresentation, and  
16 unfair practices by schools, colleges, and universities.

17 (c) Significant problems were identified by the Operations and  
18 Administrative Monitor with nearly every component of the  
19 state's current regulatory program. Moreover, nearly all of the  
20 problems previously identified when this program was  
21 administered by the bureau's predecessor, the Council for Private  
22 Postsecondary and Vocational Education, continue to exist today.

23 (d) These pre-existing problems were exacerbated by the  
24 transfer of the regulatory responsibility from the council to the  
25 bureau in 1998. Since that time, the Department of Consumer  
26 Affairs and its Bureau for Private Postsecondary and Vocational  
27 Education have failed to fulfill their mission-critical obligations  
28 by not effectively enforcing or implementing the act, and by not  
29 allocating adequate financial or staffing resources to fulfill their  
30 statutory obligations.

31 (e) Effective implementation of the act and related activities is  
32 essential to ensure the overall integrity of postsecondary degrees  
33 offered in this state and the state's regulatory program, which is  
34 mandated to protect Californians.

35 SEC. 2. Section 94830 of the Education Code is amended to  
36 read:

37 94830. The ~~council~~ *bureau* may refuse to issue or renew any  
38 private postsecondary or vocational educational institution's  
39 approval to operate, or may revoke any approval to operate for  
40 any one, or any combination, of the following causes:

1 (a) A violation of this chapter, or any standard, rule, or  
2 regulation established under this chapter, or an order of the  
3 ~~council~~ *bureau* made under this chapter.

4 (b) Furnishing false, misleading, or incomplete information to  
5 the ~~council~~ *bureau*, or the failure to furnish information  
6 requested by the ~~council~~ *bureau* or required by this chapter.

7 (c) A finding that an owner, a person in control, a director, or  
8 an officer of an institution is not in compliance with this chapter  
9 or was not in compliance with applicable law while serving as an  
10 owner, person in control, director, or officer of an institution  
11 within the previous five-year period.

12 (d) A finding that a signatory to an application for an approval  
13 to operate was responsible for the closure of any institution in  
14 which there were unpaid liabilities to any state or federal  
15 government, or uncompensated pecuniary losses suffered by  
16 students without restitution.

17 (e) A finding that the applicant, owner, or persons in control  
18 have been found previously in any judicial or administrative  
19 procedure to have violated this chapter or admitted to having  
20 violated this chapter.

21 (f) A finding that there was either a denial of a previous  
22 application submitted by the same institution to the ~~council~~  
23 *bureau* or a revocation of the institution's approval and that the  
24 conditions or violations that were the cause of the denial or  
25 revocation have not been corrected.

26 (g) The failure of the institution to maintain the minimum  
27 educational standards prescribed by this chapter, or to maintain  
28 standards that are the same as, or substantially equivalent to,  
29 those represented in the school's applications and advertising.

30 (h) Presenting to prospective students information that is false  
31 or misleading relating to the school, to employment  
32 opportunities, or to enrollment opportunities in institutions of  
33 higher learning after entering into or completing courses offered  
34 by the school.

35 (i) The failure to maintain financial resources adequate for the  
36 satisfactory conduct of the courses of instruction offered as  
37 required by statute.

38 (j) The failure to provide timely and correct refunds to  
39 students.

1 (k) Paying a commission or valuable consideration to any  
2 persons for acts or services in violation of this chapter.

3 (l) Attempting to confer a degree, diploma, or certificate to  
4 any student in violation of *subdivision (l) of Section 94831 or any*  
5 *other provision of this chapter.*

6 (m) Misrepresenting to any students or prospective students  
7 that they are qualified, upon completion of any course, for  
8 admission to professional examination under any state  
9 occupational licensing provision.

10 (n) The failure to correct any deficiency or act of  
11 noncompliance under this chapter, or the standards, rules,  
12 regulations, and orders established and adopted under this  
13 chapter within reasonable time limits set by the ~~council~~ *bureau.*

14 (o) The conducting of business or instructional services at any  
15 location not approved by the ~~council~~ *bureau.*

16 (p) Failure on the part of an institution to comply with  
17 provisions of law or regulations governing sanitary conditions of  
18 that institution specified in Division 2 (commencing with Section  
19 500) and Division 3 (commencing with Section 5000) of the  
20 Business and Professions Code.

21 (q) The failure to pay any fees, order for costs and expenses  
22 under Section 94935, assessments, or penalties owed to the  
23 ~~council~~ *bureau*, as provided in this chapter.

24 SEC. 3. Section 94831 of the Education Code is amended to  
25 read:

26 94831. No institution, or representative of that institution  
27 shall do any of the following:

28 (a) Operate in this state a postsecondary educational institution  
29 not exempted from this chapter, unless the institution is currently  
30 approved to operate pursuant to this chapter. The ~~council~~ *bureau*  
31 may institute an action, pursuant to Section 94955, to prevent any  
32 individual or entity from operating an institution in this state that  
33 has not been approved to operate pursuant to this chapter and to  
34 obtain any relief authorized by that section.

35 (b) Offer in this state, as or through an agent, enrollment or  
36 instruction in, or the granting of educational credentials from, an  
37 institution not exempted from this chapter, whether that  
38 institution is within or outside this state, unless that agent is a  
39 natural person and has a currently valid agent's permit issued  
40 pursuant to this chapter, or accept contracts or enrollment

1 applications from an agent who does not have a current permit as  
2 required by this chapter. The ~~council~~ *bureau*, however, may  
3 adopt regulations to permit the rendering of legitimate public  
4 information services without a permit.

5 (c) Instruct or educate, or offer to instruct or educate,  
6 including soliciting for those purposes, enroll or offer to enroll,  
7 contract or offer to contract with any person for that purpose, or  
8 award any educational credential, or contract with any institution  
9 or party to perform any act, in this state, whether that person,  
10 agent, group, or entity is located within or ~~without~~ *outside* this  
11 state, unless that person, agent, group, or entity observes and is in  
12 compliance with the minimum standards set forth in this article  
13 and Article 7 (commencing with Section 94850), if it is  
14 applicable, ~~the criteria established by the council pursuant to~~  
15 ~~subdivision (b) of Section 94773, and the regulations adopted by~~  
16 ~~the council pursuant to subdivision (c) of Section 94773.~~

17 (d) Use, or allow the use of, any reproduction or facsimile of  
18 the Great Seal of the State of California on any diploma.

19 (e) Promise or guarantee employment.

20 (f) Advertise concerning job availability, degree of skill and  
21 length of time required to learn a trade or skill unless the  
22 information is accurate and in no way misleading.

23 (g) Advertise, or indicate in any promotional material, that  
24 correspondence instruction, or correspondence courses of study  
25 are offered without including in all advertising or promotional  
26 material the fact that the instruction or programs of study are  
27 offered by correspondence or home study.

28 (h) Advertise, or indicate in any promotional material, that  
29 resident instruction, or programs of study are offered without  
30 including in all advertising or promotional material the location  
31 where the training is given or the location of the resident  
32 instruction.

33 (i) Solicit students for enrollment by causing any  
34 advertisement to be published in “help wanted” columns in any  
35 magazine, newspaper, or publication or use “blind” advertising  
36 that fails to identify the school or institution.

37 (j) Advertise, or indicate in any promotional material, that the  
38 institution is accredited, unless the institution has been  
39 recognized or approved as meeting the standards established by  
40 an accrediting agency recognized by the United States

1 Department of Education or the Committee of Bar Examiners for  
2 the State of California.

3 (k) Fail to comply with federal requirements relating to the  
4 disclosure of information to students regarding vocational and  
5 career training programs, as described in Section 94816.

6 (l) (1)(A) *Confer, or attempt to confer, a fraudulent or*  
7 *substandard degree. As used in this paragraph, “fraudulent or*  
8 *substandard degree” means:*

9 (A) *A degree, diploma, or certificate conferred by a private*  
10 *postsecondary or vocational educational institution that, at the*  
11 *time the degree, diploma, or certificate is conferred, is operating*  
12 *in violation of this chapter.*

13 (B) *A degree, diploma, or certificate conferred by a private*  
14 *postsecondary or vocational educational institution that, at the*  
15 *time the degree, diploma, or certificate was conferred, was not*  
16 *eligible to receive authority to operate under this chapter, was*  
17 *operating in another state, and with respect to which either of the*  
18 *following was true:*

19 (i) *The degree, diploma, or certificate was conferred in*  
20 *violation of a statute regulating the conferral of degrees,*  
21 *diplomas, or certificates in that state or in the state in which the*  
22 *recipient of the degree, diploma, or certificate was residing.*

23 (ii) *The institution was operating without accreditation by a*  
24 *recognized accrediting agency.*

25 (C) *A degree, diploma, or certificate conferred by a private*  
26 *postsecondary or vocational educational institution, to which*  
27 *neither subparagraph (A) nor subparagraph (B) is applicable,*  
28 *and which, at the time the degree, diploma, or certificate was*  
29 *conferred, was not eligible to receive authority to operate under*  
30 *this chapter, and was operating outside the United States. This*  
31 *subparagraph applies only to a degree, diploma, or certificate*  
32 *that the bureau determines is not equivalent to a degree,*  
33 *diploma, or certificate the conferral of which would meet the*  
34 *requirements of this chapter.*

35 (2)(A) *Represent, in violation of this chapter, that a credit*  
36 *earned or granted by a private postsecondary or vocational*  
37 *educational institution may be applied toward a degree offered*  
38 *by another institution.*

39 (B) *Grant, or offer to grant, a credit for which a representation*  
40 *is made as described in subparagraph (A).*

1 (C) Solicit a person to seek a degree, diploma, or certificate, or  
2 to seek credit, that the person making the solicitation knows is  
3 offered in violation of this chapter.

4 SEC. 4. No reimbursement is required by this act pursuant to  
5 Section 6 of Article XIII B of the California Constitution because  
6 the only costs that may be incurred by a local agency or school  
7 district will be incurred because this act creates a new crime or  
8 infraction, eliminates a crime or infraction, or changes the  
9 penalty for a crime or infraction, within the meaning of Section  
10 17556 of the Government Code, or changes the definition of a  
11 crime within the meaning of Section 6 of Article XIII B of the  
12 California Constitution.