



State of Wisconsin  
2015 - 2016 LEGISLATURE

LRB-2951/2  
ARG:emw

## 2015 SENATE BILL 511

January 6, 2016 – Introduced by Senator HARSDORF, cosponsored by Representative BALLWEG. Referred to Committee on Universities and Technical Colleges.

1     **AN ACT to create** 15.07 (5m) (d), 15.675, 20.235 (3), 38.50 (1) (e) 9. and 10.,  
2             subchapter V (title) of chapter 39 [precedes 39.85], 39.85, 39.86, 39.87 and  
3             227.01 (13) (yo) and (yp) of the statutes; **relating to:** creating a Distance  
4             Learning Authorization Board and making an appropriation.

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### *Analysis by the Legislative Reference Bureau*

This bill creates a Distance Learning Authorization Board (DLA Board) attached to the Higher Educational Aids Board. The DLA Board consists of the following members: 1) the president of the University of Wisconsin System or his or her designee; 2) the president of the Technical College System Board or his or her designee; 3) the president of the Wisconsin Association of Independent Colleges and Universities or his or her designee; 4) the executive secretary of the Educational Approval Board (EAB); and 5) one person representing Wisconsin tribal colleges.

Under the bill, the DLA Board may, on behalf of this state, enter into the State Authorization Reciprocity Agreement or any amendment to or superseding version of it, or any other interstate reciprocity agreement related to state authorization and oversight of postsecondary institutions that offer distance education to out-of-state students (collectively “agreement”). However, before the DLA Board enters into an agreement, the DLA Board must provide the agreement to the Joint Committee on Finance under a passive review process.

Under the bill, if the DLA Board enters into an agreement, the DLA Board must 1) authorize eligible institutions for the offering of distance education programs; 2) maintain a list of these institutions; 3) maintain and administer a complaint

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resolution process for complaints related to the distance education programs of these authorized institutions; 4) monitor these authorized institutions with respect to consumer protection of students enrolled in distance education programs; and 5) administer and enforce the provisions of the agreement with respect to authorized institutions. The bill defines a “distance education program” as the offering of courses for credit, to students outside Wisconsin, that will lead to a degree or certificate from the institution. The bill defines an “eligible institution” as a postsecondary institution that 1) is accredited by a regional or national accrediting agency recognized by the federal Department of Education; 2) maintains its principal campus in Wisconsin and identifies Wisconsin as the state where this campus holds its institutional accreditation; 3) is authorized to offer in Wisconsin degrees at the associate level or higher; and 4) offers distance education programs and grants degrees or certificates in connection with these programs. If the DLA Board enters into an agreement, it may establish procedures consistent with the provisions of the agreement. The bill does not require an eligible institution to obtain authorization from the DLA Board for its distance education programs but, if the institution elects not to obtain the DLA Board’s authorization, the institution does not receive any benefit under the agreement. If the DLA Board enters into an agreement, the DLA Board, not the EAB, has jurisdiction over the distance education programs of a postsecondary institution authorized by the DLA Board. In addition, if the DLA Board enters into an agreement, the EAB does not have jurisdiction over an out-of-state postsecondary institution that is located in a state which has joined an agreement and that has obtained authorization from that state to offer distance education programs to students in other states.

The bill also requires the DLA Board to create and maintain a list of the names of all postsecondary institutions that, under specified federal regulations, are legally authorized in this state and are exempt from additional state authorization requirements as provided under these federal regulations (exempt institutions). The DLA Board must make this list of exempt institutions available to the public and, at least annually, the list must be published in the Wisconsin Administrative Register.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 15.07 (5m) (d) of the statutes is created to read:  
2           15.07 **(5m)** (d) *Distance learning authorization board.* The members of the  
3 distance learning authorization board shall not be reimbursed for expenses under  
4 sub. (5).

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1           **SECTION 2.** 15.675 of the statutes is created to read:

2           **15.675 Same; attached board. (1)** DISTANCE LEARNING AUTHORIZATION BOARD.

3           There is created a distance learning authorization board, for higher education, that  
4           is attached to the higher educational aids board under s. 15.03 and that consists of  
5           all of the following members:

6           (a) The president of the University of Wisconsin System or his or her designee.

7           (b) The president of the technical college system board or his or her designee.

8           (c) The president of the Wisconsin Association of Independent Colleges and  
9           Universities or his or her designee.

10          (d) The executive secretary of the educational approval board.

11          (e) One person representing tribal colleges in this state, appointed for a 4-year  
12          term.

13          **SECTION 3.** 20.235 (3) of the statutes is created to read:

14          20.235 (3) DISTANCE LEARNING AUTHORIZATION BOARD. (g) *General operations.*

15          All moneys received from fees collected under s. 39.86 (5) for the operations and  
16          administration of the distance learning authorization board.

17          **SECTION 4.** 38.50 (1) (e) 9. and 10. of the statutes are created to read:

18          38.50 (1) (e) 9. The distance education program of an eligible institution that  
19          has been authorized by the distance learning authorization board under s. 39.86 (3)

20          (a) 1.

21          10. If the distance learning authorization board enters into an agreement  
22          under s. 39.86 (2) (a), a postsecondary institution to which all of the following apply:

23                  a. The institution does not have its principal campus in this state.

24                  b. The jurisdiction in which the institution has its principal campus has joined  
25          an agreement, as defined in s. 39.86 (1) (a), of which this state is a member or for

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1 which there is reciprocity with the agreement entered into by the distance learning  
2 authorization board under s. 39.86 (2) (a).

3 c. The institution has obtained authorization, from the jurisdiction in which the  
4 institution has its principal campus, to offer distance education programs to  
5 students located beyond the borders of the state where the institution is located.

6 **SECTION 5.** Subchapter V (title) of chapter 39 [precedes 39.85] of the statutes  
7 is created to read:

8 **CHAPTER 39**

9 **SUBCHAPTER V**

10 **DISTANCE LEARNING AUTHORIZATION BOARD**

11 **SECTION 6.** 39.85 of the statutes is created to read:

12 **39.85 Definitions.** In this subchapter:

13 (1) "Board" means the distance learning authorization board.

14 (2) "Other jurisdiction" or "another jurisdiction" means any state of the United  
15 States other than Wisconsin, any foreign country, the District of Columbia, the  
16 commonwealth of Puerto Rico, or any territory or possession of the United States.

17 **SECTION 7.** 39.86 of the statutes is created to read:

18 **39.86 Distance education reciprocity agreement.** (1) DEFINITIONS. In  
19 this section:

20 (a) "Agreement" means any of the following:

21 1. The agreement developed by the National Council for State Authorization  
22 Reciprocity Agreements that, as of the effective date of this subdivision .... [LRB  
23 inserts date], is known as the "State Authorization Reciprocity Agreement" and that,  
24 for the region that includes this state, is administered under the midwestern higher  
25 education compact entered into by this state under s. 39.80.

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1           2. Any amendment or superseding version of the agreement described in subd.

2           1.

3           3. Any other interstate reciprocity agreement related to state authorization  
4 and oversight of postsecondary institutions that offer distance education to students  
5 located beyond the borders of the state where the institution is located.

6           (b) "Distance education program" means the offering of courses for credit to  
7 students in another jurisdiction that will lead to a degree or certificate from the  
8 institution offering the course.

9           (c) "Eligible institution" means a postsecondary institution to which all of the  
10 following apply:

11           1. The institution holds institutional accreditation by name, as a single entity,  
12 from an accrediting agency or association that is recognized by the federal secretary  
13 of education as meeting the criteria established under 20 USC 1099b and that has  
14 formal recognition to accredit distance education programs.

15           2. The institution maintains its principal campus in this state, and this state  
16 is the state where the institution's principal campus holds its institutional  
17 accreditation as described in subd. 1.

18           3. The institution has authority, which is not derived under this section, to offer  
19 in this state degrees at the associate level or higher.

20           4. The institution offers any distance education program and grants degrees  
21 or certificates in connection with the program.

22           **(2) AUTHORIZATION TO ENTER INTO AN AGREEMENT.** (a) Subject to par. (b), the  
23 board, on behalf of this state, may enter into an agreement.

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1 (b) 1. Before entering into an agreement, the board shall provide written notice  
2 to the joint committee on finance of the board's intention to enter into an agreement,  
3 which notice shall include a copy of the agreement.

4 2. If, within 14 working days after the date of the notice under subd. 1., the  
5 cochairpersons of the joint committee on finance do not notify the board that the  
6 committee has scheduled a meeting to review the board's proposal to enter into the  
7 agreement, the board may enter into the agreement. If, within 14 working days after  
8 the date of the notice, the cochairpersons of the committee notify the board that the  
9 committee has scheduled a meeting to review the board's proposal to enter into the  
10 agreement, the board may not enter into the agreement unless the committee  
11 approves.

12 (c) If the board enters into an agreement under par. (a), the board shall comply  
13 with the provisions of the agreement.

14 (d) If the board enters into an agreement under par. (a), the board shall provide  
15 notice to the legislative reference bureau and the legislative reference bureau shall  
16 publish a notice of the state's joinder in the agreement in the Wisconsin  
17 administrative register under s. 35.93 (2).

18 (e) If the board enters into an agreement under par. (a), the board shall be this  
19 state's lead contact agency, or portal agency, for purposes of the agreement, including  
20 administration, enforcement, and compliance under the agreement.

21 **(3) POWERS AND DUTIES OF THE BOARD.** (a) Subject to sub. (7), if the board enters  
22 into an agreement under sub. (2) (a), the board shall do all of the following:

23 1. Review and authorize eligible institutions for the offering of distance  
24 education programs, consistent with the provisions of the agreement.

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1           2. Create and maintain a list of eligible institutions authorized by the board  
2 under subd. 1.

3           3. Maintain and administer a complaint resolution process, consistent with the  
4 provisions of the agreement, for complaints related to the distance education  
5 programs of eligible institutions authorized by the board, including complaints  
6 originating outside of this state. The complaint resolution process shall require  
7 complaints to be first addressed at the institutional level.

8           4. Monitor the eligible institutions authorized by the board with respect to  
9 consumer protection of students enrolled in these institutions' distance education  
10 programs.

11           5. Compile and provide data related to students enrolled in board-authorized  
12 distance education programs to the extent required by the agreement. The board's  
13 responsibility under this subdivision is subject to any provision of state or federal law  
14 protecting the privacy of student data.

15           6. Administer and enforce the provisions of the agreement, including through  
16 investigation and appropriate action, with respect to those eligible institutions  
17 authorized by the board. The board may take action, consistent with the provisions  
18 of the agreement, against a non-complying eligible institution, including  
19 suspending or revoking, or denying renewal of, the eligible institution's  
20 authorization under subd. 1.

21           7. Work cooperatively with any other jurisdiction that has entered into the  
22 agreement and, as applicable, other agencies of this state with responsibilities that  
23 include consumer protection or oversight of postsecondary institutions.

24           8. Beginning with the first January 30 to occur not less than 6 months after the  
25 board enters into the agreement, and no later than January 30 of each year

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1 thereafter, and also upon specific request of the governor, submit a report to the  
2 governor and to the chief clerk of each house of the legislature for distribution to the  
3 legislature under s. 13.172 (2) that summarizes the board's actions taken during the  
4 immediately preceding calendar year relating to the provisions of the agreement.

5 (b) If the board enters into an agreement under sub. (2) (a), the board may  
6 impose, upon eligible institutions authorized by the board, any requirement dictated  
7 by or consistent with the provisions of the agreement, including requiring the  
8 institution to do any of the following:

9 1. Provide a complaint form for student complaints related to the institution's  
10 distance education programs.

11 2. Compile and provide data to the board relating to the institution's distance  
12 education programs and students enrolled in these programs, subject to any  
13 provision of state or federal law protecting the privacy of student data.

14 (c) If the board enters into an agreement under sub. (2) (a), the board may  
15 establish procedures consistent with the provisions of the agreement.

16 (4) STAFFING. The board may require each agency or organization represented  
17 on the board to provide staffing resources for the board.

18 (5) FEES. The board may establish reasonable fees to be imposed in connection  
19 with any function or service provided by the board under this section, including fees  
20 for authorizing eligible institutions for the offering of distance education programs.  
21 All fees collected by the board shall be credited to the appropriation account under  
22 s. 20.235 (3) (g).

23 (6) JURISDICTIONAL DIVISION. (a) The regulatory authority of the board is limited  
24 to the authority specified in this section and summarized in par. (b).



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1 (b) If the board enters into an agreement under sub. (2) (a), all of the following  
2 apply:

3 1. The board has jurisdiction over postsecondary institutions only with respect  
4 to distance education programs of eligible institutions.

5 2. This section does not grant the board responsibility or control over the  
6 operations of a postsecondary institution headquartered in this state, including with  
7 respect to curriculum, admission requirements, graduation standards, finances,  
8 student information covered by federal or state privacy laws, or governance, beyond  
9 the provisions of the agreement.

10 **(7) VOLUNTARY PARTICIPATION BY POSTSECONDARY INSTITUTIONS.** If the board  
11 enters into an agreement under sub. (2) (a), an eligible institution is not required to  
12 obtain authorization from the board for its distance education program but, if the  
13 institution elects not to obtain the board's authorization, the institution may not  
14 receive any benefit under the agreement and is subject to applicable federal and state  
15 laws of any other jurisdiction where the student is located.

16 **SECTION 8.** 39.87 of the statutes is created to read:

17 **39.87 Listing of exempt institutions. (1) DEFINITIONS.** In this section,  
18 "program integrity rules" means the final regulations of the federal department of  
19 education set forth in 75 Fed. Reg. 66832 to 66975 (October 29, 2010), as amended.

20 **(2) LIST OF EXEMPT INSTITUTIONS.** (a) The board shall create and maintain a list  
21 of the names of all postsecondary institutions that, under the program integrity  
22 rules, are legally authorized in this state and constitute institutions of higher  
23 education under 20 USC 1001 (a) (2) and that are exempt from additional state  
24 authorization requirements as provided under the program integrity rules. The  
25 board shall make this list available to the public.

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1 (b) At least annually, the board shall provide the list of names of exempt  
2 institutions under par. (a) to the legislative reference bureau and the legislative  
3 reference bureau shall publish the list in the Wisconsin administrative register  
4 under s. 35.93 (2).

5 **(3) REPORTS.** No later than January 30, 2017, and by January 30 of each year  
6 thereafter, and also upon specific request of the governor, the board shall submit a  
7 report to the governor and to the chief clerk of each house of the legislature for  
8 distribution to the legislature under s. 13.172 (2) that summarizes the board's  
9 actions taken during the immediately preceding calendar year relating to the list of  
10 exempt institutions under sub. (2) (a) and compliance with related requirements and  
11 regulations of the federal department of education.

12 **SECTION 9.** 227.01 (13) (yo) and (yp) of the statutes are created to read:

13 227.01 **(13)** (yo) Establishes procedures under s. 39.86 (3) (c) or fees under s.  
14 39.86 (5).

15 (yp) Lists exempt institutions under s. 39.87 (2).

16 **(END)**