ACT No. 727

HOUSE BILL NO. 185

BY REPRESENTATIVE CHARLES OWEN

1	AN ACT
2	To amend and reenact R.S. 17:3399.31, 3399.32(E), and 3399.35(3) and (5) and to enact
3	R.S. 17:3399.32(F) and (G) and 3399.38, relative to expressive activities at public
4	postsecondary education institutions; to authorize institutions to require permits for
5	expressive activities and to charge fees associated with such permits; to provide for
6	policies and definitions; and to provide for related matters.
7	Be it enacted by the Legislature of Louisiana:
8	Section 1. R.S. 17:3399.31, 3399.32(E), and 3399.35(3) and (5) are hereby amended
9	and reenacted and R.S. 17:3399.32(F) and (G) and 3399.38 are hereby enacted to read as
10	follows:
11	§3399.31. Definitions
12	For the purposes of this Part, the following words, terms, and phrases shall
13	have the following meanings, unless the context clearly requires otherwise:
14	(1) "Expressive activities" include but are not limited to any lawful verbal
15	or written means by which individuals or groups communicate ideas to one another,
16	as provided by the First Amendment of the Constitution of the United States of
17	America and by the Constitution of Louisiana, including all forms of peaceful
18	assembly, protest, speech, distribution of literature, carrying signs, and circulating
19	petitions. This expressly excludes commercial activities where individuals or groups
20	are being compensated or attempting to advertise, market, or accrue financial gain
21	to any individual, corporation, business, or organization.
22	(2) "Material and substantial disruption" means when a person, with the
23	intent and knowledge of doing so, significantly hinders expressive activity, prevents

HB NO. 185 ENROLLED

1	the communication of the message, or prevents the transaction of the business of a
2	lawful meeting, gathering, or procession by either of the following:
3	(a) Engaging in fighting, violence, or similar unlawful behavior.
4	(b) Physically blocking or using threats of violence to prevent any person
5	from attending, listening to, viewing, or otherwise participating in an expressive
6	activity.
7	(2) (3) "Outdoor areas" are outside areas generally accessible to the majority
8	of students, administrators, faculty, and staff, such as grassy areas, walkways, or
9	other similar common areas, and do not include areas where access is restricted.
10	(4) "Student" means any person who is enrolled on a full-time or part-time
11	basis in a public postsecondary education institution.
12	(5) "Student-on-student discriminatory harassment" means unwelcome
13	conduct that targets its victim on the basis of a class protected under federal, state,
14	or local law and that is so severe, pervasive, and objectively offensive and so
15	undermines and detracts from the victim's educational experience that the victim is
16	effectively denied equal access to an institution's resources and opportunities.
17	(3) (6) "Student organization" means an officially recognized group at a
18	public postsecondary education institution, or a group seeking official recognition,
19	comprised of admitted enrolled students.
20	§3399.32. Expressive activities; public postsecondary education institutions;
21	protected
22	* * *
23	E.(1) A public postsecondary education institution may require a permit from
24	any individual or group as a condition of being granted exclusive control of a
25	location for expressive activity at a reserved time. Any such permitting process shall
26	not be overly burdensome, and applications for permits shall be evaluated solely
27	based on published content-neutral and viewpoint-neutral criteria. If a public
28	postsecondary education institution denies a permit, it shall provide a reason for
29	doing so in writing within two business days to the applicant and allow the applicant
30	to appeal the denial.

HB NO. 185 **ENROLLED**

29

1	(2)(a) A public postsecondary education institution may charge a security fee
2	to a student or student organization as part of an application for such a permit;
3	however, no public postsecondary education institution shall charge security fees
4	based on the content of the expression of the student or student organization, the
5	content of the expression of an invited guest, or the anticipated reaction to any such
6	content.
7	(b) The determination of whether or not the security fee is required and the
8	amount of the fee shall be based solely on published content-neutral and
9	viewpoint-neutral criteria, including but not limited to the time of the event, the
10	location of the event, the anticipated size of the invited audience, and whether or not
11	alcohol will be served.
12	(c) Any institution charging security fees pursuant to this Paragraph shall
13	publish the criteria it uses for assessing the fees.
14	F. Each public postsecondary education institution shall prohibit
15	student-on-student discriminatory harassment. An institution may not sanction or
16	discipline a student's expression as student-on-student discriminatory harassment
17	unless the expression meets the definition provided by this Part.
18	$\underline{G.(1)}$ Nothing in this Part shall be interpreted as preventing institutions from
19	prohibiting, limiting, or restricting expression that is unprotected by the First
20	Amendment of the Constitution of the United States of America does not protect, or
21	Article I, Section 7 of the Constitution of Louisiana, such as true threats and or
22	expressions directed to provoke and likely to produce imminent lawless actions, or
23	from prohibiting harassment.
24	(2) Nothing in this Part shall be interpreted as preventing institutions from
25	responding, through nonpunitive actions, to student expression that does not meet the
26	definition of student-on-student discriminatory harassment.
27	(3) Nothing in this Part shall be interpreted as preventing institutions from
28	maintaining policies prohibiting stalking or other criminal activity.

HB NO. 185 ENROLLED

§3399.35. Management boards; policy on free expression

Each public postsecondary education management board, in collaboration with the Board of Regents, shall develop and adopt policies on free expression that contain at least the following:

* * *

(3) A provision that students and faculty have the freedom to discuss any topic that presents itself, as provided under the First Amendment of the Constitution of the United States of America and Article I, Section 7 of the Constitution of Louisiana and other applicable laws permit and within the limits on time, place, and manner of expression that are consistent with this Part and that are necessary to achieve in furtherance of a significant institutional interest; such restrictions shall be published and provide ample alternative means of expression.

* * *

(5) A provision that any person lawfully present on a campus may protest or demonstrate there. Protests and demonstrations that infringe upon the constitutional rights of others to engage in or listen to expressive activity by creating a substantial and material disruption to the functioning of the institution or to someone's expressive activity in any location reserved for that expressive activity shall not be permitted. No conduct shall be deemed a material and substantial disruption that is protected under the First Amendment to the United States Constitution or Article I, Section 7 of the Constitution of Louisiana. Such protected conduct includes but is not limited to lawful protests and counter-protests in the outdoor areas of campus generally accessible to the members of the public except during times when these areas have been reserved in advance for other events or minor, brief, or fleeting nonviolent disruptions of events that are isolated and short in duration.

* * *

1	§3399.38. Conflict with other laws
2	The provisions of this Part shall supersede and control to the extent of any
3	conflict with any other provision of law and shall govern a public postsecondary
1	education institution's obligation to address all forms of discriminatory harassment
5	perpetrated by one student on another, including sexual harassment.
	SPEAKER OF THE HOUSE OF REPRESENTATIVES
	PRESIDENT OF THE SENATE
	GOVERNOR OF THE STATE OF LOUISIANA

ENROLLED

HB NO. 185

APPROVED: