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LRB104 10374 AAS 36815 a

1 AMENDMENT TO SENATE BILL 2202

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2202, AS AMENDED,  
3 by replacing everything after the enacting clause with the  
4 following:

5 "Section 1. Short title. This Act may be cited as the  
6 Academic Freedom of Expression Act.

7 Section 3. Findings and legislative intent.

8 (a) The General Assembly finds that:

9 (1) Institutions of higher education are essential  
10 forums for the open exchange of ideas that foster the free  
11 search for truth, robust debate, and innovation, which  
12 benefits this State. Academic freedom is indispensable to  
13 this mission and therefore warrants statutory protection.

14 (2) Academic freedom serves not only individual  
15 interests but also the broader public interest by  
16 safeguarding the independence and integrity of teaching,

1 learning, and scholarship, which are vital to the economic  
2 and cultural well-being of the State.

3 (3) The exercise of academic freedom may be threatened  
4 by external pressures, including actions by public  
5 officials or governmental bodies that seek to influence or  
6 restrict teaching, research, or expression. Such actions  
7 undermine the mission of higher education and are contrary  
8 to the public interest.

9 (b) The General Assembly encourages the governing board of  
10 each post-secondary educational institution, as defined in the  
11 Private College Act, to adopt or amend institutional policies  
12 that incorporate, at a minimum, the academic freedoms, rights,  
13 and obligations for public institutions of higher education  
14 set forth in Section 8 of the Public Higher Education Act. The  
15 General Assembly further encourages each private  
16 post-secondary educational institution to make the  
17 institution's policies on academic freedom, if applicable,  
18 publicly available on the institution's website.

19 Section 5. The Public Higher Education Act is amended by  
20 adding Section 8 as follows:

21 (110 ILCS 167/8 new)

22 Sec. 8. Academic freedom.

23 (a) As used in this Section:

24 "Harassment" means conduct directed at a particular

1 individual or group that is so severe, pervasive, and  
2 objectively offensive that it effectively denies a person  
3 equal access to a public institution of higher education's  
4 educational programs or activities, consistent with applicable  
5 federal and State law.

6 "Hate crime" has the meaning given to that term in Section  
7 12-7.1 of the Criminal Code of 2012.

8 "Intimidation" means a course of conduct directed at a  
9 particular individual or group that would cause a reasonable  
10 person to fear for their physical safety or the physical  
11 safety of others and that is not protected by the First  
12 Amendment to the Constitution of the United States, consistent  
13 with applicable federal and State law.

14 "Threat" means a statement or course of conduct made with  
15 knowledge or reckless disregard that a reasonable person would  
16 interpret as a serious expression of intent to commit an act of  
17 unlawful violence against a particular individual or group,  
18 consistent with applicable federal and State law.

19 (b) Every faculty member of a public institution of higher  
20 education has the right to all of the following, without fear  
21 of direct or indirect retaliation by the institution or  
22 discipline up to and including termination:

23 (1) Freedom in teaching, including the right to select  
24 pedagogical methods, course materials, and forms of  
25 assessment and to present and freely discuss the subject  
26 matter of course material, as long as such methods,

1 materials, forms of assessment, and discussions are  
2 relevant to the course content and conducted consistent  
3 with lawful institutional policies and standards of the  
4 discipline.

5 (2) Freedom in research, including the right to  
6 pursue, produce, publish, and disseminate  
7 scholarship-related research, subject only to professional  
8 ethics standards, lawful institutional policies and  
9 responsibilities, contractual obligations, and applicable  
10 laws and regulatory requirements governing research  
11 activities.

12 (3) Freedom of expression, where the faculty member is  
13 acting in an individual capacity and does not purport to  
14 represent the views of the institution unless the faculty  
15 member is authorized to do so, on matters of public  
16 concern, including the right to comment on institutional,  
17 local, State, or federal policies, practices, governance,  
18 or administration. This freedom shall be exercised in a  
19 manner consistent with applicable laws.

20 (4) Freedom to attend a political rally or public  
21 demonstration, as long as the faculty member is not absent  
22 from class or other official responsibilities, and to  
23 write or publicly comment on political issues or related  
24 topics, as long as the faculty member is acting in an  
25 individual capacity outside the scope of their assigned  
26 institutional duties and without the use of institutional

1 resources, consistent with applicable law and lawful  
2 institutional policies.

3 Nothing in this Section shall be construed to create an  
4 inconsistent or unequal application of lawful institutional  
5 policies governing expressive activity among faculty, staff,  
6 or other employees of the public institution of higher  
7 education, except as necessary to account for differences in  
8 assigned institutional responsibilities.

9 (c) Every student of a public institution of higher  
10 education has the right to all of the following, without fear  
11 of direct or indirect retaliation by the institution or  
12 discipline:

13 (1) Freedom to freely discuss the subject matter of  
14 teaching material in the classroom, as long as such  
15 discussion is relevant to the course content, conducted  
16 consistent with lawful institutional policies, and in  
17 conformity with the class management expectations  
18 established for the applicable class.

19 (2) Freedom in research, including the right to  
20 pursue, produce, publish, and disseminate  
21 scholarship-related research, subject only to applicable  
22 ethics standards, lawful institutional policies,  
23 contractual obligations, and laws and regulatory  
24 requirements governing research activities.

25 (3) Freedom of expression on matters of public  
26 concern, including the right to comment on institutional,

1 local, State, or federal policies, practices, governance,  
2 or administration. This freedom shall be exercised in a  
3 manner consistent with lawful institutional policies and  
4 applicable laws.

5 (4) Freedom to attend a political rally or public  
6 demonstration and to write or publicly comment on  
7 political issues or related topics.

8 (d) This Section may not be construed to:

9 (1) prevent this State or a public institution of  
10 higher education from enacting generally applicable  
11 academic standards, degree requirements, or governance  
12 structures developed through established  
13 shared-governance processes;

14 (2) limit compliance with federal or State civil  
15 rights, health and safety, or fiduciary laws;

16 (3) supersede any valid collective bargaining  
17 agreement provisions that afford equal or greater  
18 protection;

19 (4) limit the authority of an institution of higher  
20 education to regulate the speech or expressive conduct of  
21 faculty, staff, or students to the extent permitted under  
22 federal or State law, including through reasonable  
23 content-neutral and viewpoint-neutral time, place, and  
24 manner restrictions and the regulation of speech in  
25 nonpublic forums;

26 (5) restrict an institution's ability to clarify that

1 speech or expression by faculty, staff, or students is  
2 undertaken in an individual capacity and does not  
3 represent the views of the institution unless the faculty,  
4 staff, or students were expressly authorized by the  
5 institution; or

6 (6) prohibit an institution from adopting and  
7 enforcing policies addressing unlawful harassment,  
8 discrimination, threats, intimidation, hate crimes, or  
9 conduct that materially and substantially disrupts the  
10 functioning of the institution or that interferes with the  
11 rights of others to participate in or benefit from  
12 institutional programs or activities, consistent with  
13 federal and State law.

14 (e) No State officer or employee, member of a State  
15 governing or coordinating board, or institutional  
16 administrator may penalize any faculty member of a public  
17 institution of higher education concerning the specific  
18 content of, viewpoints presented in, or method of the faculty  
19 member's teaching or scholarship, except as necessary to  
20 ensure that a faculty member's teaching or scholarship is  
21 reasonably germane to the faculty member's field or fields of  
22 study or assigned instructional responsibilities and that  
23 non-germane speech does not comprise a substantial portion of  
24 classroom instruction or to comply with applicable law.

25 (f) The governing board of each public institution of  
26 higher education shall, by July 1, 2027, adopt or amend

1 institutional policies to incorporate, at a minimum, the  
2 rights and obligations set forth in this amendatory Act of the  
3 104th General Assembly, in consultation with recognized  
4 faculty governing bodies and, if applicable, collective  
5 bargaining representatives.

6 Each public institution of higher education shall make the  
7 institution's policies on academic freedom publicly available  
8 on the institution's website by July 1, 2027 and within 60 days  
9 after any subsequent revisions to the policy.

10 Each public institution of higher education shall submit  
11 the institution's policies on academic freedom to the Illinois  
12 Community College Board or the Board of Higher Education,  
13 whichever is applicable, by July 1, 2027 and within 60 days  
14 after any subsequent revisions to the policy. The Illinois  
15 Community College Board and the Board of Higher Education  
16 shall make the policies received from each institution under  
17 this subsection (f) publicly available on their respective  
18 websites by January 1, 2028 and within 60 days after any  
19 subsequent revisions to the policy. The Illinois Community  
20 College Board and the Board of Higher Education shall each  
21 submit to the General Assembly a report compiling the policies  
22 received from each institution under this subsection (f) by  
23 January 1, 2028.

24 (g) Alleged violations of this Section shall first be  
25 addressed through an institution's established grievance or  
26 administrative review procedures or applicable collective

1 bargaining agreements. A faculty member or student of an  
2 institution at the time that the institution has made or  
3 enforced any rule in violation of this Section may commence a  
4 civil action to obtain appropriate injunctive and declaratory  
5 relief as determined by a court if the faculty member or  
6 student has first exhausted applicable institutional grievance  
7 or administrative review procedures or remedies available  
8 under any applicable collective bargaining agreement. Upon  
9 motion, the court shall award reasonable attorney's fees and  
10 costs, including expert witness fees and other litigation  
11 expenses, to a prevailing plaintiff in a civil action brought  
12 under this Section. Nothing in this Section shall be construed  
13 to create a private right of action for damages against an  
14 institution.

15 Section 15. The Public Community College Act is amended by  
16 changing Section 2-15 as follows:

17 (110 ILCS 805/2-15) (from Ch. 122, par. 102-15)

18 Sec. 2-15. Recognition. The State Board shall grant  
19 recognition to community colleges which maintain equipment,  
20 courses of study, standards of scholarship and other  
21 requirements set by the State Board. Application for  
22 recognition shall be made to the State Board. The State Board  
23 shall set the criteria by which the community colleges shall  
24 be judged and through the executive officer of the State Board

1 shall arrange for an official evaluation of the community  
2 colleges and shall grant recognition of such community  
3 colleges as may meet the required standards.

4 Recognition shall include a review of a community  
5 college's compliance with Section 8 of the Public Higher  
6 Education Act. Recognition shall also include a review of  
7 compliance with Section 3-65 of this Act and other applicable  
8 State and federal laws regarding employment contracts and  
9 compensation. Annually, the State Board shall convene an  
10 advisory committee to review the findings and make  
11 recommendations for changes or additions to the laws or the  
12 review procedures.

13 If a community college district fails to meet the  
14 recognition standards set by the State Board, and if the  
15 district, in accordance with: (a) generally accepted  
16 Government Auditing Standards issued by the Comptroller  
17 General of the United States, (b) auditing standards  
18 established by the American Institute of Certified Public  
19 Accountants, or (c) other applicable State and federal  
20 standards, is found by the district's auditor or the State  
21 Board working in cooperation with the district's auditor to  
22 have material deficiencies in the design or operation of  
23 financial control structures that could adversely affect the  
24 district's financial integrity and stability, or is found to  
25 have misused State or federal funds and jeopardized its  
26 participation in State or federal programs, the State Board

1 may, notwithstanding any laws to the contrary, implement one  
2 or more of the following emergency powers:

3 (1) To direct the district to develop and implement a  
4 plan that addresses the budgetary, programmatic, and other  
5 relevant factors contributing to the need to implement  
6 emergency measures. The State Board shall assist in the  
7 development and shall have final approval of the plan.

8 (2) To direct the district to contract for educational  
9 services in accordance with Section 3-40. The State Board  
10 shall assist in the development and shall have final  
11 approval of any such contractual agreements.

12 (3) To approve and require revisions of the district's  
13 budget.

14 (4) To appoint a Financial Administrator to exercise  
15 oversight and control over the district's budget. The  
16 Financial Administrator shall serve at the pleasure of the  
17 State Board and may be an individual, partnership,  
18 corporation, including an accounting firm, or other entity  
19 determined by the State Board to be qualified to serve,  
20 and shall be entitled to compensation. Such compensation  
21 shall be provided through specific appropriations made to  
22 the State Board for that express purpose.

23 (5) To develop and implement a plan providing for the  
24 dissolution or reorganization of the district if in the  
25 judgment of the State Board the circumstances so require.  
26 All local funds under the control of the State Board as a

1 result of the dissolution or reorganization of the  
2 district shall be expended by the State Board for purposes  
3 of providing educational services in the territory from  
4 which those local funds were acquired.

5 (Source: P.A. 103-940, eff. 8-9-24.)".