SB328

207960-1

By Senators Hatcher, Figures, Coleman-Madison, Singleton and Smitherman

RFD: Education Policy

First Read: 11-MAR-21
SYNOPSIS: 

Existing law regulates the activities of student athletes as they relate to athlete agents and legal representation, but does not address compensation received by student athletes. This bill would prohibit Alabama postsecondary educational institutions and every athletic association, conference, or other group or organization with authority over intercollegiate sports from preventing any student athlete participating in intercollegiate sports from earning compensation as a result of the use of the student athlete's name, image, or likeness or seeking or obtaining legal or professional representation relating to the student athlete's participation in intercollegiate sports.

The bill would also prohibit an athletic association, conference, or other group or organization with authority over intercollegiate sports from preventing a postsecondary educational institution from participating in intercollegiate
sports as a result of the compensation of a student athlete for the use of the student athlete's name, image, or likeness, or from directly providing a prospective intercollegiate student athlete with compensation in relation to the student athlete's name, image, or likeness. The bill would prohibit the revocation of a student's scholarship as a result of earning compensation or obtaining legal representation as authorized under the bill. The bill would prohibit a student athlete from entering into any contract providing compensation to the athlete for use of the athlete's name, image, or likeness if a provision of the contract is in conflict with a provision of the athlete's team contract, and would also prohibit a team contract from preventing a student athlete from using his or her name, image, or likeness for a commercial purpose when the athlete is not engaged in official team activities.

The bill would require that each postsecondary educational institution fund an annuity for each student athlete who declares that he or she will not receive compensation for use of his or her name, image, or likeness and will not seek or retain professional or legal representation relating to the student athlete's participation in intercollegiate sports, and would allow each
student athlete to amend or renew his or her declaration under certain conditions. The bill would also require each postsecondary educational institution to conduct a financial literacy and life skills workshop for each student athlete at the beginning of each student athlete's first and third years.

The bill would create the Historically Black Colleges and Universities Working Group to make recommendations about the receipt of compensation by a student athlete at an historically black college or university for the use of his or her name, image, and likeness.

The working group would convene no later than July 1, 2021, and would issue a report no later than January 1, 2022; the remainder of the bill would become operative on January 1, 2023.

A BILL TO BE ENTITLED
AN ACT

Relating to student athletes; to prohibit Alabama postsecondary educational institutions and every athletic association, conference, or other group or organization with authority over intercollegiate athletics in this state from preventing any student athlete participating in
intercollegiate athletics from earning compensation as a result of the use of the student athlete's name, image, or likeness or from obtaining professional or legal representation relating to the student athlete's participation in intercollegiate athletics; to require each postsecondary educational institution, under certain conditions, to create an annuity fund for each student athlete who declares that he or she will not receive compensation for use of his or her name, image, or likeness and will not seek or retain professional or legal representation relating to the use of his or her name, image, or likeness; to require each postsecondary educational institution to conduct a financial literacy and life skills workshop for student athletes; and to convene a working group relating to receipt of compensation by student athletes at historically black colleges and universities.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. For purposes of this act, the following terms shall have the following meanings:

(1) COMPENSATION. Anything of value, monetary or otherwise, granted to a party by a second party in exchange for performance of a contract. For purposes of this subdivision, a contract includes, but is not limited to, a contract for a personal appearance, product endorsement, product placement, intellectual property rights, or a promotional mix, performed in person or via traditional media,
electronic media, or social media. For purposes of this act, compensation does not include any of the following:

a. A scholarship awarded to a student athlete by a postsecondary educational institution.

b. A stipend given to a student athlete by a postsecondary educational institution which is calculated based on the cost of living and cost of attendance of the institution.

c. An annuity created under Section 3.

(2) INTERCOLLEGIATE SPORT. An athletic program at a postsecondary educational institution.

(3) NAME, IMAGE, OR LIKENESS. Any or all of those elements which, together, are known as the right of publicity.

(4) POSTSECONDARY EDUCATIONAL INSTITUTION. A public university or college in this state, an Alabama Community College System institution, or an institution for higher education as defined in Section 16-18A-2, Code of Alabama 1975.

(5) STUDENT ATHLETE. As defined in Section 8-26B-2, Code of Alabama 1975.

Section 2. (a) A postsecondary educational institution or any athletic program of a postsecondary educational institution may not do any of the following:

(1) Uphold any rule, requirement, standard, or other limitation that prevents a student athlete participating in intercollegiate sports at that institution from earning compensation for use of the use of the student's name, image,
or likeness, or limits the compensation earned by that
student.

(2) Provide a student athlete with compensation in
relation to the student athlete's name, image, or likeness.

(3) Prevent a student athlete from seeking or
obtaining legal or professional representation in relation to
contracts or legal matters, including, but not limited to,
representation provided by athlete agents or legal
representation provided by attorneys.

(4) Revoke a scholarship of a student athlete as a
result of the student athlete earning compensation or
obtaining legal or professional representation pursuant to
this act, or otherwise alter a student athlete's scholarship
eligibility as a result of the student athlete earning
compensation or seeking or obtaining representation pursuant
to this act.

(5) Uphold a team contract that prevents a student
athlete from using the athlete's name, image, or likeness for
a commercial purpose when the athlete is not engaged in
official team activities or limits the compensation earned by
a student athlete. This subdivision shall apply only to
contracts entered into, modified, or renewed on or after
January 1, 2023.

(b) An athletic association, conference, or other
group or organization with authority over intercollegiate
sports in this state, including, but not limited to, the
National Collegiate Athletic Association, may not do any of the following:

(1) Prevent a student athlete participating in intercollegiate sports from earning compensation as a result of the use of the student's name, image, or likeness, or otherwise limit the compensation earned by the student athlete.

(2) Prevent or otherwise limit a postsecondary educational institution from participating in intercollegiate sports as a result of the compensation of a student athlete for the use of the student's name, image, or likeness.

(3) Provide a student athlete with compensation in relation to the student athlete's name, image, or likeness.

(4) Prevent or limit a student athlete from obtaining legal or professional representation in relation to contracts or legal matters, including, but not limited to, representation provided by athlete agents or legal representation provided by attorneys.

(c)(1)a. A student athlete who obtains legal or professional representation relating to participation in intercollegiate sports or compensation for use of the student athlete's name, image, or likeness shall promptly disclose that representation to an official of the institution designated by the institution.

b. If a student athlete obtains legal or professional representation as described in paragraph a. prior to participating in intercollegiate sports at a postsecondary
(2) A student athlete may not enter into a contract providing compensation to the student athlete for use of the student athlete's name, image, or likeness if a provision of the contract is in conflict with a provision of the student athlete's team contract.

(3) a. At the time of formation of a contract providing compensation to a student athlete participating in intercollegiate sports at a postsecondary educational institution for the use of his or her name, image or likeness, the student athlete shall immediately disclose the contract to an official of the institution designated by the institution.

b. If a student athlete enters into a contract providing compensation to the student athlete for use of his or her name, image, or likeness prior to participating in intercollegiate sports at a postsecondary educational institution, the student athlete shall disclose the contract to an official of the institution designated by the institution prior to participating in intercollegiate sports at the institution.

c. An institution asserting a conflict described in subdivision (2) shall promptly disclose to the student athlete and the student athlete's legal representation the relevant contractual provisions that are asserted to be in conflict.
Section 3. (a) Prior to participating in intercollegiate sports at a postsecondary educational institution, and prior to the start of each academic year, each student athlete shall declare to the institution whether the student athlete will receive compensation for use of his or her name, image, or likeness or seek or retain professional representation by athlete agents or legal representation relating to compensation for use of the athlete's name, image, or likeness while participating in intercollegiate sports at the institution.

(b)(1) Each postsecondary educational institution shall allow each student athlete to renew or amend his or her declaration made under this section up to 30 days following a declaration.

(2) Declarations made under this section shall be made to the postsecondary educational institution in a manner designated by the institution.

(c) Each postsecondary educational institution shall fund an annuity for each student athlete who declares that he or she shall not receive compensation for use of his or her name, image, or likeness and that he or she will not seek or retain professional representation by athlete agents or legal representation relating to compensation for name, image, or likeness.

(1) No later than 45 days following the beginning of each academic year, each postsecondary institution shall deposit up to ten thousand dollars ($10,000) into the annuity
fund of each student athlete who has declared under this section that he or she will not receive compensation or seek or retain representation.

(2)a. If a student athlete, while participating in intercollegiate sports at the postsecondary educational institution, makes a declaration that he or she will receive compensation for use of his or her name, image, or likeness or seek or retain professional or legal representation relating to compensation for use of the athlete's name, image, or likeness, the entirety of the annuity fund created by the institution for that student athlete shall revert to the institution following the 30-day period required under subsection (b).

b. If a student athlete, while participating in intercollegiate sports at the institution, receives compensation for use of his or her name, image, or likeness or seeks or retains professional or legal representation relating to compensation for use of his or her name, image, or likeness, the entirety of the annuity fund created by the institution for that student athlete shall immediately revert to the institution.

(3) Upon graduation of a student athlete from a postsecondary educational institution, the institution shall transfer control of the entirety of the student athlete’s annuity fund to the student athlete.

Section 4. (a) Each postsecondary educational institution shall conduct a financial literacy and life skills
workshop for a minimum of five hours at the beginning of each
student athlete's first and third academic years. The
workshop, at a minimum, shall include information concerning
financial aid and debt management, as well as recommended
model budgets for student athletes based on that academic
year's estimated cost of attendance and the various
scholarship status of student athletes at the institution. The
workshop shall also include information on time management
skills necessary for success as a student athlete and
available academic resources.

(b) The workshop shall not include any marketing,
advancing, referral, or solicitation by providers of
financial products or services.

Section 5. (a) There is created a Historically Black
Colleges and Universities name, image, and likeness working
group, to study this act and to issue recommendations as they
pertain to compensation of student athletes participating in
intercollegiate sports at those institutions.

(b) The working group shall consist of the following
members:

(1) One member of the House of Representatives
appointed by the Speaker of the House.

(2) One member of the House of Representatives
appointed by the Minority Leader.

(3) One member of the Senate appointed by the
President Pro Tempore of the Senate.
(4) One member of the Senate appointed by the Minority Leader of the Senate.

(5) One student athlete and one other representative from each of the following institutions, designated by the board of trustees of each institution:

a. Alabama State University.
b. Alabama A&M University.
c. Tuskegee University.
d. Stillman College.
e. Oakwood University.
f. Gadsden State Community College.
g. Lawson State Community College Birmingham.
h. Bishop State Community College.
i. Shelton State Community College.
j. J. F. Drake State Community College and Technical College.
k. Talladega College.
l. Concordia College Alabama.
m. Miles College.

(c) The appointing authorities shall coordinate their appointments so that diversity of gender, race, and geographical areas is reflective of the makeup of this state.

(d)(1) The working group shall hold its first meeting no later than July 1, 2021.

(2) The working group shall elect a chair and vice chair during its first meeting, by majority vote of members present at the meeting.
(e) The working group shall review this act and any relevant existing athletic association rules and bylaws relating to compensation of a student athlete for use of his or her name, image, or likeness.

(f) On or before January 1, 2022, the working group shall report its findings and policy recommendations to the chairs of the House State Government Committee and the Senate State Government Committee. The chair of each committee shall distribute a copy of the report to each member of the committee no later than five business days following his or her receipt of the report.

Section 6. It is the intent of the Legislature that constitutionally created boards of trustees of postsecondary institutions comply with the requirement of this act.

Section 7. Section 5 of this act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law; the remainder of this act shall become effective January 1, 2023, following its passage and approval by the Governor, or its otherwise becoming law.