

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

HIGHER EDUCATION
Senator Oelrich, Chair
Senator Siplin, Vice Chair

MEETING DATE: Tuesday, March 22, 2011
TIME: 8:00 —10:00 a.m.
PLACE: 301 Senate Office Building

MEMBERS: Senator Oelrich, Chair; Senator Siplin, Vice Chair; Senators Lynn, Negron, and Sachs

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 626 Thrasher (Similar H 395, Compare S 1972)	Shands Teaching Hospital and Clinics, Inc.; Clarifies provisions relating to references to the corporation known as Shands Teaching Hospital and Clinics, Inc. Clarifies provisions regarding the purpose of the corporation. Authorizes the corporation to create corporate subsidiaries and affiliates. Provides that Shands Teaching Hospital and Clinics, Inc., Shands Jacksonville Medical Center, Inc., Shands Jacksonville Healthcare, Inc., and any not-for-profit subsidiary of such entities are instrumentalities of the state for purposes of sovereign immunity.	HR 03/14/2011 Favorable HE 03/22/2011 BC
2	SB 1616 Flores (Identical H 1451)	Dan Marino Foundation Florida Vocational College; Establishes the Dan Marino Foundation Florida Vocational College in Broward County as a public residential postsecondary school for certain students who have developmental disabilities. Provides funding for the school through the Department of Education. Requires that the Auditor General conduct annual audits of the school's accounts and records. Creates a board of trustees. Requires that all employees and applicants for employment with the board undergo personnel screening and security background investigations, etc.	HE 03/22/2011 CM BC

A proposed committee substitute for the following bill (SB 632) is expected to be considered:

COMMITTEE MEETING EXPANDED AGENDA

Higher Education

Tuesday, March 22, 2011, 8:00 —10:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	SB 632 Oelrich (Compare H 4175, H 4177, S 1732)	Postsecondary Education; Prohibits the deduction of a service charge from the proceeds of certain local option fuel taxes. Requires a percentage of certain said tax revenues to be deposited in the University Concurrency Trust Fund and provides uses therefor. Revises provisions relating to payment and funding of developments in accordance with university campus development agreements. Provides for the adoption of regulations rather than rules by the Board of Governors, universities, and university boards of trustees, etc.	HE 03/14/2011 Temporarily Postponed HE 03/22/2011 BC

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Higher Education Committee

BILL: SB 626

INTRODUCER: Senators Thrasher, Lynn, and Dean

SUBJECT: Shands Teaching Hospital and Clinics, Inc.

DATE: March 18, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Stovall	HR	Favorable
2.	Brown	Matthews	HE	Pre-meeting
3.			BC	
4.				
5.				
6.				

I. Summary:

The bill clarifies statutory provisions relating to the corporations known as Shands Teaching Hospital and Clinics, Inc. (Shands UF), Shands Jacksonville Medical Center, Inc. (Shands Jax), and Shands Jacksonville Healthcare, Inc. (Shands Health), and provisions regarding the purpose of the corporations. The bill authorizes the corporations to create subsidiaries and affiliates, and provide liability insurance to them.

The University of Florida President is granted removal authority of members of the Shands UF Board of Directors.

The bill provides the UF's Board of Trustees the right to control Shands UF and Shands Jax.

Application of sovereign immunity is extended to Shands UF, Shands Jax, Shands Health, and any not-for-profit subsidiaries.

This bill substantially amends section 1004.41 of the Florida Statutes.

II. Present Situation:

The Relationship Between Shands and the University of Florida (UF)

Shands Teaching Hospital opened in 1958 in Gainesville for the purpose of serving the needs of the UF's School of Medicine. Over the next 21 years, the hospital operated as a part of the UF. In the late 1970s, however, a legislative task force concluded that a not-for-profit corporation should be formed to provide the hospital with local governance while retaining the role as a UF

teaching hospital. Shands Teaching Hospital and Clinics, Inc. (Shands UF) was created for that purpose in 1980 pursuant to state law enacted in 1979.¹

Shands UF and Shands Jacksonville Medical Center, Inc. (Shands Jax) are the established UF teaching hospitals and are affiliated with the University's colleges in the J. Hillis Miller Health Science Center (UF HSC). Shands Jacksonville HealthCare, Inc. (Shands Health) was created as the not-for-profit parent of Shands Jax.

Sovereign Immunity

The term "sovereign immunity" originally referred to the English common law concept that the government may not be sued because "the King can do no wrong." Sovereign immunity bars lawsuits against the state or its political subdivisions for the torts of officers, employees, or agents of such governments unless the immunity is expressly waived.

Article X, s. 13, of the Florida Constitution recognizes sovereign immunity and gives the Legislature the right to waive immunity. Section 768.28, F.S., contains the limited waiver of sovereign immunity applicable to the state. Accordingly, officers, employees, and agents of the state are generally exempt from tort liability for damages unless certain high-level intent can be shown. However, these provisions are considered to represent a limited waiver as they allow for some recovery, currently capped at \$100,000 per person or \$200,000 per incident.² Limits may be exceeded through the claims process, initiated through the filing of a legislative claims bill. Still, the review and award of a claim is entirely at the prerogative of the Legislature.

State agencies and subdivisions, for purposes of sovereign immunity, are defined to include:

The executive departments, the Legislature, the judicial branch, and the independent establishments of the state, including state university boards of trustees, counties and municipalities; and corporations primarily acting as instrumentalities or agencies of the state, counties, or municipalities....³

The State Risk Management Trust Fund

The Department of Financial Services (DFS) administers a program of risk management for the state in conjunction with a state self-insurance fund, designated as the State Risk Management Trust Fund (the Fund), which provides insurance for various types of proceedings against the state.⁴ The Fund covers, unless specifically excluded by the DFS, all departments of the state of Florida and their employees, agents, and volunteers, under conditions and parameters set in statute.⁵ The Bureau of Claims Administration within the DFS Division of Risk Management investigates and makes appropriate dispositions on all general liability, automobile liability, federal civil rights, employment, and court-awarded attorney fee claims for damages filed against the state of Florida due to the alleged negligent acts of state employees.

¹ See ch. 79-248, L.O.F.

² s. 768.28(5), F.S.; ch. 2010-26, L.O.F., effective October 1, 2011, increases the caps to \$200,000 per person and \$300,000 per incident, to apply to claims arising on or after that effective date.

³ s. 768.28(2), F.S.

⁴ See s. 284.30, F.S.

⁵ See s. 284.31, F.S.

Florida Case Law

Shands Teaching Hospital and Clinics, Inc. v. Lee⁶

The First District Court of Appeal specifically denied recognition of Shands UF as a corporation primarily acting as an instrumentality of the state. The court based its conclusion on a legislative provision which directed Shands UF, in concert with the Board of Regents, to study and develop a plan to become more self-sufficient and fiscally independent. This, the court determined, indicated legislative intent to imbue Shands UF with local autonomy and flexibility, outside of the auspice of direct state control and state treatment.

Prison Rehabilitative Industries v. Betterson⁷

The First District Court of Appeal concluded that since statutory authority provided for extensive government control over the day-to-day operations of the Prison Rehabilitative Industries and Diversified Enterprises (PRIDE), PRIDE was properly a corporation primarily acting as an instrumentality of the state, and therefore subject to the benefits of sovereign immunity.

Stoll v. Noel⁸

The Florida Supreme Court upheld the classification of physicians hired as part-time consultants at a health care facility run by the state Department of Health and Rehabilitative Services as agents of the state due to the degree of control retained or exerted by the state concerning final authority over care and treatment and thus entitlement to statutory immunity.

Pagan v. Sarasota County Public Hospital Board⁹

The Second District Court of Appeal asserted that structure dictates control in finding that a hospital board's structural control of a physicians' group made the group a corporation primarily acting as an instrumentality or agency of the state. In so doing, the court deemed noteworthy that the board created the nonprofit group through government funding, elected its entire board, and retained the power to dissolve it.¹⁰

Governance and Control of Shands Entities

The relationship between the University of Florida and the Shands entities has evolved since Shands Teaching Hospital and Clinics, Inc., was created in 1980 and since the First District Court of Appeal issued its 1985 ruling in *Shands Teaching Hospital and Clinics, Inc. v. Lee*. The University has established a significant degree of practical governance and operational control over Shands entities, as indicated by the following:

- The Shands UF, Shands Jax, and Shands Health governing boards are under the common control of the president of the University of Florida or the president's designee, the senior vice president for health affairs (VPHA).
- The VPHA, the University Board of Trustees, and university officers, faculty, and employees have the authority to maintain a controlling majority of each Shands entity's board of directors and have continually exercised this authority.
- The University president or the VPHA:

⁶ 478 So.2d 77, 79 (Fla. 1st DCA 1985)

⁷ 648 So.2d 778, 780 (Fla. 1st DCA 1995)

⁸ 694 So.2d 701, 703 (Fla. 1997)

⁹ 884 So.2d 257 (Fla. 2nd DCA 2004)

¹⁰ *Id.* at 259.

- Serves as board chairman and has board appointment and removal authority;
 - Serves as president of Shands UF;
 - Actively oversees administration by the chief executive officer of each Shands entity; and
 - Has officer appointment and removal authority except for the chief executive officers. (The chief executive officers are appointed or removed by the board of each entity, under the common control of the president of the University or the president's designee.)
- Any changes to the charter of Shands UF must be approved by the university board of trustees, and any changes to the Shands Jax charter or bylaws must be approved by the University-controlled board of Shands Health.
 - Shands UF operates a university teaching hospital on property leased by the university.

The University of Florida J. Hillis Miller Health Center Self-Insurance Program

The Florida Board of Governors¹¹ has created the University of Florida J. Hillis Miller Health Center Self-Insurance Program (UF SIP) to provide comprehensive general and professional liability protection for the University of Florida's Board of Trustees in support of the colleges of the UF HSC at the Gainesville and Jacksonville campuses and their employees, agents, and students.¹²

The UF SIP also provides professional liability protection to Shands UF and Shands Jax, their not-for-profit health care affiliates, and their employees and agents. Professional liability protection is provided to Shands hospitals and to their professional health care employees in the amount of \$2 million per claim, with no annual aggregate.

III. Effect of Proposed Changes:

The UF College of Health Professions is renamed the College of Public Health and Health Professions. This appears to be a ministerial change as public health is already offered as a degree program.

Provisions relating to Shands Jacksonville (Shands Jax), Shands Health, and the Jacksonville campus of the University of Florida (UF) are statutorily separated from provisions relating to the Gainesville campus of the UF and Shands Teaching Hospital and Clinics (currently referred to in statute as a private, not-for-profit corporation).

Regarding Shands UF:

- Its mission is expanded from the operation of Shands UF and ancillary facilities to supporting the university board of trustees' (UBOT) mission of community service and patient care, education and training and clinical research.
- Board of Directors removal authority is added to the existing appointment authority granted to the university president or the president's designee.

¹¹ See s. 7(d), Article IX, State Constitution.

¹² See s. 1004.24, F.S.

- The use of hospital facilities and personnel for community service and patient care is added to other allowable uses, as detailed in UBOT agreements.
- Comprehensive general liability insurance currently authorized for Shands affiliates by the UBOT is permitted for subsidiaries.
- Shands UF, with approval of the UBOT, is authorized to create for-profit and not-for-profit corporate subsidiaries and affiliates.
- The UBOT is afforded control of Shands UF, and Shands UF and any not-for-profit subsidiaries of Shands UF are granted sovereign immunity.

Regarding Shands Jacksonville (Shands Jax) and Shands Health:

- They exist as private not-for-profit corporations organized to support the UBOT mission of community service and patient care, education and training, and clinical research.
- Shands Jax is a teaching hospital affiliated with the UBOT, located on the UF Jacksonville campus.
- Shands Jax and Shands Health, with approval of the UBOT, are authorized to create for-profit and not-for-profit corporate subsidiaries and affiliates.
- The UBOT is afforded control of Shands Jax and Shands Health. Shands Jax, Shands Health, and any not-for-profit subsidiary of Shands Jax is granted sovereign immunity.

This bill alternately grants these entities sovereign immunity, while, at the same time, endowing the UBOT with increased authority over Shands and its associated entities. However, the UBOT is a state agency, part of the executive branch of state government.¹³ Therefore, it could be argued that Shands UF, Shands JAX, and Shands Health are eligible for sovereign immunity through their relationship with the UBOT.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

By designating certain not-for-profit corporations and subsidiaries as instrumentalities of the state, the bill could render those entities subject to the provisions of Article I, Section 24, of the Florida Constitution relating to access to public records and meetings. It is unclear whether those corporations and subsidiaries would qualify for the exemptions provided under s. 395.3036, F.S. In 1987, a newspaper alleged that Shands Teaching Hospital and Clinics, Inc., was in violation of the sunshine law and the public records law.¹⁴ The court opined that because Shands Teaching Hospital and Clinics, Inc.,

¹³ s. 1001.705(1)(d), F.S.

¹⁴ *Campus Communications, Inc., v. Shands Teaching Hospital and Clinics, Inc.*, 512 So.2d 999 (Fla. 1st DCA 1987).

is not a unit of government or private entity acting on behalf of a public agency, it was not subject to the public records law.¹⁵

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

By deeming Shands UF, Shands Jacksonville, Shands Health, and any not-for-profit subsidiaries of Shands UF or Shands Jacksonville as instrumentalities of the state for the purposes of sovereign immunity, the bill could reduce claim payouts by the UF SIP.

The extension of sovereign immunity to Shands UF, Shands Jax, Shands Health, and any not-for-profit subsidiaries would give these entities a competitive advantage in the marketplace by reducing the cost of insurance. There is precedence for extending sovereign immunity in these situations. The 2010 Legislature explicitly recognized the sovereign immunity of any not-for-profit subsidiaries of the H. Lee Moffitt Cancer Center and Research Institute.¹⁶

C. Government Sector Impact:

The DFS advises that there is no fiscal impact to the State Risk Management Trust Fund because the Fund does not provide liability coverage to the University of Florida or any Shands entity.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

¹⁵ *Id.*

¹⁶ ch. 2010-85, L.O.F.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Higher Education Committee

BILL: SB 1616

INTRODUCER: Senator Flores

SUBJECT: Dan Marino Foundation Florida Vocational College

DATE: March 19, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harkey	Matthews	HE	Pre-meeting
2.			CM	
3.			BC	
4.				
5.				
6.				

I. Summary:

This bill would create the Dan Marino Foundation Florida Vocational College as a public residential postsecondary school located in Broward County. The college is established as a component of the K-20 public education system. The organization of the school would be similar to that of the Florida School for the Deaf and the Blind in that it would be responsible for serving students with certain disabilities, be overseen by a board of trustees, be subject to annual audits by the Auditor General, have its own campus police, and require all employees to undergo a level 2 background screening.

This bill amends ss. 1000.04 and 1001.20, Florida Statutes. The bill creates one unnumbered section of law.

II. Present Situation:

Exceptional Education

Federal law requires states to make a free appropriate public education available to all children with disabilities residing in the state between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school. As the state educational agency, the Department of Education (DOE) must exercise general supervision over all educational programs for children with disabilities in the state, including all programs administered by other state or local agencies, and ensure that the programs meet the educational standards of the state educational agency.

Postsecondary Education for Students with Developmental Disabilities

The 2010 Legislature directed the legislative Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct a review of postsecondary educational opportunities for individuals with developmental disabilities.¹ Section 393.063, F.S., defines developmental disability to mean “a disorder or syndrome that is attributable to retardation, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.” The legislation required the review to address opportunities for postsecondary education and vocational training; transitioning from school to the workforce; and best practices for providing such postsecondary education and training services, including any notable public-private partnerships. According to the report, students with developmental disabilities represent approximately 13 percent of all exceptional student education (ESE) students, or 44,113 of the 341,632 ESE students in 2009-2010.² Of the 7,920 students with developmental disabilities who exited school districts in 2007-2008, 905 enrolled in adult education programs and 734 enrolled in postsecondary vocational, college, or university programs. The remaining 6,281 students did not continue on to adult education or postsecondary programs in the year after they left high school.³

The OPPAGA review found that while all school districts provide basic transition services to help (ESE) students with developmental disabilities move into the workforce and live independently after they leave high school, at least 13 school districts have developed programs that provide elements of postsecondary education for students with developmental disabilities through partnerships with public and private universities and school district technical centers.⁴ The programs are funded by ESE funds, and students can participate until they receive a standard high school diploma or reach age 22.

Two postsecondary institutions, Indian River State College in Vero Beach and Brewster Technical Center in Tampa, offer Postsecondary Adult Vocational certificates of completion in specific workforce areas for students with developmental disabilities. The University of North Florida in Jacksonville provides an on-campus transition program where students with developmental disabilities audit classes with nondisabled students and live in student housing.⁵

The federal Higher Education Opportunity Act reauthorization⁶ creates incentives for states to provide transition to postsecondary education programs for students with intellectual disabilities—those with mental retardation or a cognitive impairment characterized by significant limitation in intellectual and cognitive functioning who are or were provided a free and appropriate public education under the Individuals with Disabilities Education Act. Student with intellectual disabilities are a subset of the population of students with developmental disabilities. Three Florida institutions—the University of South Florida, St. Petersburg (USFSP); University

¹ ch. 2010-155, F.S. Readable at: <http://laws.flrules.org/2010/155>.

² *Students with Developmental Disabilities Have Limited Postsecondary Options; A New Institution Would Expand Choices but Require Additional State Funding*, Office of Program Policy Analysis and Government Accountability, Report No. 11-08, February 2011, p.2. Readable at: <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=11-08>.

³ *Id.*, p.2.

⁴ *Id.*, p.3.

⁵ *Id.*, p.5.

⁶ P.L.110-315

of North Florida (UNF); and Lynn University have received a grant, funded for \$421,000 a year for 5 years, to form a consortium⁷ to oversee the following grant activities:

- Expansion of the quality and depth of the current transition programs on the campuses of USFSP, UNF, and Lynn University;
- Support for other existing transition programs for students with intellectual disabilities at institutions of higher education across the State of Florida; and
- Expansion of the transition programs in these institutions across Florida.

Funding for Exceptional Student Education

Exceptional Student Education (ESE) programs and services are provided by federal, state, and local funds. Under the Individuals with Disabilities Education Improvement Act (IDEA), federal special education funds are distributed through state grant programs and discretionary grant programs. Part B of the law, the main program, authorizes grants to state and local education agencies to offset part of the costs of the education needs of children with disabilities, ages 3 through 21.

Proposal for a New Postsecondary Institution for Students with Developmental Disabilities

The 2010 Legislature required OPPAGA to include in its review the feasibility and cost of establishing a residential vocational institution to provide postsecondary education and vocational training for individuals with developmental disabilities.⁸ The review found that an advantage of creating such an institution would be that it could provide postsecondary education for students with developmental disabilities beyond the age of 22, which is the current limit for programs receiving ESE funding. Students could attend even if they had not received a standard high school diploma, which is required by state colleges and universities. A potential disadvantage is that the students would be in a separate community of their disabled peers and they would not have the interaction with non-disabled students that they would have on a traditional college campus. The OPPAGA review points out that certain federal student aid programs available for students with intellectual disabilities require that the students be in a program where they participate on at least a half-time basis with individuals without disabilities.⁹

The Dan Marino Foundation

Dan Marino is an acclaimed football quarterback who played for the Miami Dolphins from 1983 to 1999. He was inducted into the Pro Football Hall of Fame in 2005.¹⁰ Dan Marino and his wife, Claire, established the Dan Marino Foundation¹¹ in Broward County in 1992 to assist children with special needs. The Foundation's stated mission is to "'open doors' towards independence for children with special needs, teenagers transitioning from foster care and young adults with disabilities."¹² The foundation supports treatment programs, provides outreach services,

⁷ The Florida Consortium on Postsecondary Education Transition Programs and Intellectual Disabilities

⁸ *Students with Developmental Disabilities Have Limited Postsecondary Options; A New Institution Would Expand Choices but Require Additional State Funding*, Office of Program Policy Analysis and Government Accountability, Report No. 11-08, February 2011, p.2. Readable at: <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=11-08>.

⁹ *Id.*

¹⁰ http://www.profootballhof.com/hof/member.aspx?PLAYER_ID=238

¹¹ <http://www.danmarinofoundation.org/>

¹² *Id.*

advances scientific research, and fosters independence through employment and daily living transition programs.¹³

III. Effect of Proposed Changes:

This bill would create the Dan Marino Foundation Florida Vocational College as a public residential postsecondary school located in Broward County. The college is established as a component of the K-20 public education system.

Population to be Served

The school would serve high school graduates, ages 18 – 26, who have developmental disabilities and who meet the enrollment criteria established by the college's board of trustees. The school would provide educational programs and support services including services on an out-reach basis. The college would be required to adopt a 5-year master plan to specify the mission and objectives of the college and procedures for measuring the college's progress toward meeting its objectives. The bill does not state what type of degree, certificate, or other credential the institution would award, and the terms school and college are both used to refer to the Dan Marino Foundation Florida Vocational College. While the population is defined, the type of institution and the level of education it would provide are not clear in the bill.

Board of Trustees

The college's 7-member board of trustees would be appointed by the Governor and confirmed by the Senate. Board members must have resided in Florida for at least 10 years prior to the appointment. It is not clear why the bill requires 10 years of Florida residency to serve on the board, as that may reduce the number of qualified applicants. Two of the board members would be persons with developmental disabilities. They would serve 4-year terms and would be reimbursed for travel expenses under s. 112.061, F.S.

College Funds

Funds would be deposited in the State Treasury, except for those funds received as a gift, donation or bequest; collected by students; or held in accounts for individual students. The board could invest moneys and securities in The Common Fund, an Investment Management Fund¹⁴ for nonprofit educational institutions. The board would submit a Legislative budget request to the DOE for operations and fixed capital outlay. The Auditor General would be required to conduct annual audits of the accounts and records of the college.

College Property

The board must ensure that the college coordinates with local governing bodies for facilities construction. Property received as a gift or bequest would vest with the board of trustees, and the board could sell such property. The title to the property and assets of the college would vest in the State Board of Education. The college's request for fixed capital outlay funds would be reviewed by the DOE for consistency with the college's campus master plan, educational plant survey, and facilities master plan, and projections of facility space needs could exceed the norm

¹³ *Id.*

¹⁴ <http://www.commonfund.org/pages/default.aspx>

criteria established in state requirements. This provision would allow the college to address the potential physical accommodations of its student population.

Personnel

The board would be responsible for the hiring and firing of employees including the college president. The school's employees would be state employees whose classification and pay would be set by the board, subject to approval by the State Board of Education. Employees of the college would have to undergo a level 2 background screening under the provisions of ch. 435, F.S. The college could grant exemptions from disqualification as provided in s. 435.07, F.S. The bill provides criminal penalties for failure to disclose a material fact or from using the information obtained from the background screening for other purposes.

Campus Police

The board could hire campus police officers who would have to meet the minimum standards of the Department of Law Enforcement's Criminal Justice Standards and Training Commission. Campus police would have arrest powers for a violation of law that occurred on school property, and the arrest could be made on campus or off campus. The college must report crime statistics annually to the board of trustees and the Commissioner of Education.

Rules

The board is authorized to adopt rules and to send them to the State Board of Education for approval or disapproval. This type of rule arrangement can cause delays in rule adoption.

Relationship of the College to the Dan Marino Foundation

The name of the Dan Marino Foundation is included in the name of the college, and while the educational programs at the college would appear to build on the work of the foundation, the relationship of the non-profit corporation—the foundation—to the public college is not clear.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

To the extent that adults with developmental disabilities became employed, they would enjoy the benefits of an income and would contribute to the economy.

C. Government Sector Impact:

The OPPAGA study estimated that if the state paid the full cost of construction for a residential college serving 600 students, such as the one proposed in this bill, the cost would be \$36 million. Recurring operational funds for the school were estimated to be between \$1.2 million and \$40 million.¹⁵ The costs would be less if students paid tuition, though tuition is not authorized in the bill. Serving a smaller student population or leasing space from an existing facility could also reduce the cost.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹⁵ *Students with Developmental Disabilities Have Limited Postsecondary Options; A New Institution Would Expand Choices but Require Additional State Funding*, Office of Program Policy Analysis and Government Accountability, Report No. 11-08, February 2011, pp. 7-8. Readable at: <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=11-08>.



197720

LEGISLATIVE ACTION

Senate

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House

The Committee on Higher Education (Oelrich) recommended the following:

Senate Amendment

Delete lines 48 - 86
and insert:
and who are no longer eligible for exceptional student education funding due to age or who have graduated from high school the opportunity to obtain a postsecondary education on a college campus setting. The school shall be a component of the delivery of public education within Florida's K-20 education system and shall be funded through the Department of Education. The school shall provide educational programs and support services appropriate to meet the educational and related evaluation and



13 counseling needs of students who have developmental disabilities
14 and who meet the enrollment criteria. Unless otherwise provided
15 by law, the school shall comply with all laws and rules
16 applicable to state agencies. Educational services may be
17 provided on an outreach basis for students who have
18 developmental disabilities and who are 18 to 26 years of age and
19 to district school boards upon request.

20 (2) MISSION.—The mission of the Dan Marino Foundation
21 Florida Vocational College is to provide an appropriate public
22 education for eligible Florida students who have developmental
23 disabilities. As a school that provides programs for attaining
24 vocational, life, social, and independent living skills, the
25 school shall strive to provide students with an opportunity to
26 develop skills fostering their independence in a caring, safe,
27 and unique learning environment, to prepare them to be an
28 integral part of the community, and to allow them to become
29 significantly less dependent on government funding. The school
30 shall provide outreach services that include collaboration with
31 employers, district school boards, and community organizations
32 and shall encourage input from students, staff, parents, and the
33 community. As a diverse organization, the school shall foster
34 respect and understanding for each individual.

35 (3) AUDITS.—The Auditor General shall conduct annual audits
36 of the accounts and records of the Dan Marino Foundation Florida
37 Vocational College. The Department of Education's inspector
38 general may conduct investigations at the school in accordance
39 with s. 1001.20(4)(e), Florida Statutes.

40 (4) BOARD OF TRUSTEES.—

41 (a) A Board of Trustees for the Dan Marino Foundation



197720

42 Florida Vocational College is created and shall consist of seven
43 members who are appointed by the Governor and subject to
44 confirmation by the Senate. Of these seven members, one shall be
45 the chair of the Dan Marino Foundation Florida Vocational
46 College, one shall be the chief executive officer of the Dan
47 Marino Foundation Florida Vocational College, and two shall be
48

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Higher Education Committee

BILL: PCS/SB 632

INTRODUCER: Higher Education Committee and Senator Oelrich

SUBJECT: Postsecondary Education

DATE: March 18, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harkey	Matthews	HE	Pre-meeting
2.			BC	
3.				
4.				
5.				
6.				

I. Summary:

This proposed committee substitute would revise requirements for the disposal of personal property lost or abandoned on university or Florida College System institution campuses. Institutions would not have to sell the property at public auction after public notice and would not have to use the proceeds for student scholarships and loans. Instead, the property would be disposed of in accordance with the policies of the institution.

Under this bill, state universities would not have to enter into campus development agreements with local governmental entities when their current agreements expire. The campus master plan would be required to identify the level-of-service standard established by the local government and the entity that would provide the service to the campus. Universities could begin constructing a campus development without having to pay the impact costs. The bill would repeal the University Concurrency Trust Fund.

The bill would authorize the Board of Governors (BOG) to adopt a regulation instead of a rule to govern the naming of state university buildings; university-acquired patents, copyrights or trademarks; delinquent accounts; purchasing; research centers for child development; personnel records; and university lease agreements for facilities.

The bill repeals a prohibition on a university from requiring a student who earns 9 or more credit hours through an acceleration mechanism to enroll in a summer term, thus permitting a state university to require summer term attendance by students.

This bill amends ss. 267.062, 705.18, 1004.23, 1007.27, 1010.03, 1010.04, 1010.07, 1011.48, 1012.91, 1013.171, 1010.30, and 1013.33, Florida Statutes. The bill repeals s. 1013.63, Florida Statutes

II. Present Situation:

Growth Management and Concurrency Requirements

A key component of the Local Government Comprehensive Planning and Land Development Regulation Act¹ is its “concurrency” provision that requires infrastructure facilities and services to be available concurrent with the impacts of development. The state land planning agency that administers these provisions is the Department of Community Affairs.

Coordinating of University Planning with Local Governing Bodies

Growth management requirements for state universities are established in s. 1030.13, F.S. Each state university must adopt a campus master plan that identifies the university’s general land uses and addresses plans for the provision of roads, parking, public transportation, solid waste, drainage, sewer, potable water, and recreation and open space during the coming 10 to 20 years. A university must maintain a copy of the master plan on the university’s web site. The statute requires public notice that the master plan has been adopted and establishes a procedure by which an affected local government or person could challenge provisions in the plan under ch. 120, F.S. The law requires a university to adopt a campus development agreement with each affected local government within 270 days after the adoption of the campus master plan. The campus development agreement must determine the impact of campus development on public facilities and services, such as roads, sewer, water, etc., and must determine the university’s fair share of the cost of the improvements to the facilities and services. The statute prohibits the building of the campus development before the university’s share of the costs has been appropriated by the Legislature. If the local government and university board of trustees cannot reach agreement, the matter must be decided by the state land planning agency.

The University Concurrency Trust Fund

Section 1013.63, F.S., creates the University Concurrency Trust Fund which may be funded as provided in the General Appropriations Act. The statute requires funds in the trust fund to be used for university offsite improvements and to meet the requirements of concurrency standards required under pt. II of ch. 163, F.S. Funds last were appropriated to the trust fund in 2007, and at present there are no funds in the trust fund.

Rules and Regulations

Section 1001.706(2)(b), F.S., establishes the rulemaking and regulatory authority of the BOG. When the BOG is acting pursuant to authority derived from the Legislature, it must adopt rules pursuant to ch. 120, F.S., except that the BOG may adopt regulations for such matters if it is expressly authorized to do so by law. For matters relating to the BOG’s constitutional authority, the BOG may adopt regulations. Statutes granting rulemaking or regulatory authority to the BOG specify whether rules or regulations are to be adopted. The BOG has indentified eight statutes requiring rules for which the BOG would prefer the Legislature to authorize regulations in lieu of rules. The statutes concern the naming of university buildings; the acquiring of university

¹ See ch. 163, pt. II, F.S.

patents, copyrights, or trademarks; delinquent accounts; purchasing; contractor’s bonds; establishing educational research centers for child development; personnel records; and university lease agreements for facilities. The BOG has adopted regulations to govern these areas.

Summer Term at Universities

Section 1007.27(10), F.S., prohibits a public college or university from requiring a student who earns 9 or more credit hours through an acceleration mechanism, such as dual enrollment and advanced placement, to enroll in a summer term.

III. Effect of Proposed Changes:

This bill would revise requirements for the disposal of personal property lost or abandoned on university or Florida College System institution campuses. Institutions would not have to sell the property at public auction after public notice and would not have to use the proceeds for student scholarships and loans. Instead the institution would dispose of the property in accordance with its policies.

Under this bill, state universities would not have to enter into campus development agreements with local governmental entities when their current agreements expire. The level-of-service standard, established by the applicable local government, and the entity that will provide the service to the campus, which previously were required in campus development agreements, would instead be identified in the campus master plan. The bill would repeal the University Concurrency Trust Fund. Universities could begin constructing a campus development without having to pay the impact costs.

University	Date Campus Development Agreement (CDA) Expires
New College of Florida	The agreement has expired and New College is negotiating a new CDA.
Florida International University	5/16/2012
University of Central Florida	12/31/2015
University of North Florida	6/30/2015
University of South Florida	6/30/2015
University of South Florida, Sarasota	12/31/2015
University of South Florida Polytechnic	12/31/2015
University of West Florida	12/31/2015
Florida State University	6/10/2015
Florida A & M University	12/31/2015
Florida Atlantic University	12/31/2015
Florida Atlantic University, Jupiter	12/31/2020
Florida Gulf Coast University	12/31/2015
University of Florida	12/31/2015

The bill would authorize the Board of Governors (BOG) to adopt a regulation instead of a rule to govern:

- The naming of state university buildings;
- University-acquired patents, copyrights or trademarks;
- Delinquent accounts;
- Purchasing;
- Establishment of educational research centers for child development;
- Personnel records; and
- University lease agreements for facilities.

The bill would repeal s. 1007.27(10), F.S., which prohibits a public college or university from requiring a student who earns 9 or more credit hours through an acceleration mechanism to enroll in a summer term, thus permitting a state university to require summer term attendance by students. According to the Department of Education, 21,200 students, who earned a standard high school diploma in 2010, earned 9 or more credit hours through an accelerated mechanism, such as Advanced Placement, dual enrollment, International Baccalaureate, or Advanced International Certificate of Education. Requiring students to attend during the summer term could enable a postsecondary institution to use its facilities year-round. However, the provision could create new costs for students who receive state financial aid, including the Bright Futures Scholarships, because state scholarship programs are only funded for the fall and spring academic terms. The Bright Futures Scholarships may be used in the summer term if funds are available,² but the Legislature has not funded the scholarship for the summer term.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

² s. 1009.53(9), F.S.

B. Private Sector Impact:

Florida College System students and state university students who were required to enroll during the summer term could incur costs not covered by financial aid if their financial aid only covered fall and spring academic terms. A student who enrolled in the fall, spring, and summer terms would be more likely to finish his degree program sooner than a student who only enrolled in the fall and spring terms.

C. Government Sector Impact:

State universities could make better year-round use of their facilities if they required students to enroll in the summer term. Universities would receive additional revenue from students whose financial aid did not cover the summer term.

Universities could begin a campus development before paying the impact cost, and would not be required to pay them. It is possible that a governmental entity would pay the impact cost.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.



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Proposed Committee Substitute by the Committee on Higher
Education

A bill to be entitled

An act relating to postsecondary education; amending
s. 705.18, F.S.; revising provisions relating to the
disposal of personal property lost or abandoned on a
university or Florida College System institution
campus and the disposition of proceeds from the sale
of such property; requiring that the university or
Florida College System institution president, or his
or her designee, dispose of or make use of unclaimed
property in accordance with university or Florida
College System institution policies and procedures;
amending ss. 267.062, 1004.23, 1010.03, 1010.04,
1010.07, 1011.48, 1012.91, and 1013.171, F.S.;
revising provisions to replace references to "rules"
with "regulations"; repealing s. 1007.27(10), F.S.,
relating to an exemption for students who earn 9 or
more credits from one or more of the articulated
acceleration mechanisms from any requirement of a
public postsecondary educational institution which
mandates enrollment during a summer term; amending s.
1013.30, F.S.; requiring that a university campus
master plan identify the level-of-service standards
contained in the plan; deleting requirements for
campus development agreements between each university
board of trustees and the local government;
prohibiting renewal of a campus development agreement
upon its expiration; amending s. 1013.33, F.S.;



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28 conforming a cross-reference; repealing s. 1013.63,
29 F.S., relating to the University Concurrency Trust
30 Fund; providing an effective date.
31

32 Be It Enacted by the Legislature of the State of Florida:
33

34 Section 1. Section 705.18, Florida Statutes, is amended to
35 read:

36 705.18 Disposal of personal property lost or abandoned on
37 university or Florida College System institution ~~community~~
38 ~~college~~ campuses; disposition of proceeds from sale.-

39 ~~(1)~~ Whenever any lost or abandoned personal property is
40 ~~shall be~~ found on a campus of an institution in the State
41 University System or a campus of a Florida College System
42 institution ~~state-supported community college~~, the president of
43 the institution or the president's designee shall take charge of
44 the property and make a record of the date such property was
45 found. If the property is not claimed by the owner, within 30
46 days after it ~~such property~~ is found, or a longer period of time
47 as may be deemed appropriate by the president ~~under the~~
48 ~~circumstances, the property is not claimed by the owner,~~ the
49 president or his or her designee shall dispose of or make use of
50 the property in accordance with established policies and
51 procedures that best meet the needs of the university or the
52 Florida College System institution and its students ~~shall order~~
53 ~~it sold at public outcry after giving notice of the time and~~
54 ~~place of sale in a publication of general circulation on the~~
55 ~~campus of such institution and written notice to the owner if~~
56 ~~known.~~ The rightful owner of the ~~such~~ property may reclaim the



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57 property the same at any time prior to the disposition, sale, or
58 use of the property in accordance with this section and the
59 established policies and procedures of the university or the
60 Florida College System institution.

61 ~~(2) All moneys realized from such institution's sale shall~~
62 ~~be placed in an appropriate fund and used solely for student~~
63 ~~scholarship and loan purposes.~~

64 Section 2. Subsection (3) of section 267.062, Florida
65 Statutes, is amended to read:

66 267.062 Naming of state buildings and other facilities.—

67 (3) Notwithstanding the provisions of subsection (1) or s.
68 1013.79(11), any state building, road, bridge, park,
69 recreational complex, or other similar facility of a state
70 university may be named for a living person by the university
71 board of trustees in accordance with regulations ~~rules~~ adopted
72 by the Board of Governors of the State University System.

73 Section 3. Subsection (6) of section 1004.23, Florida
74 Statutes, is amended to read:

75 1004.23 Universities; powers; patents, copyrights, and
76 trademarks.—Any other law to the contrary notwithstanding, each
77 state university is authorized, in its own name, to:

78 (6) Do all other acts necessary and proper for the
79 execution of powers and duties herein conferred upon the
80 university, including adopting regulations ~~rules~~, as necessary,
81 in order to administer this section. Any proceeds therefrom
82 shall be deposited and expended in accordance with s. 1004.22.
83 Any action taken by the university in securing or exploiting
84 such trademarks, copyrights, or patents shall, within 30 days,
85 be reported in writing by the president to the Department of



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86 State.

87 Section 4. Section 1010.03, Florida Statutes, is amended to
88 read:

89 1010.03 Delinquent accounts.—District school boards,
90 Florida College System institution ~~community college~~ boards of
91 trustees, and university boards of trustees:

92 (1) Shall exert every effort to collect all delinquent
93 accounts.

94 (2) May charge off or settle such accounts as may prove
95 uncollectible.

96 (3) May employ the services of a collection agency when
97 deemed advisable in collecting delinquent accounts.

98 (4) May adopt rules, except that university boards of
99 trustees may adopt regulations, as necessary, to implement the
100 provisions of this section, including setoff procedures, payroll
101 deductions, and restrictions on release of transcripts, awarding
102 of diplomas, and access to other resources and services of the
103 school district, Florida College System institution ~~community~~
104 ~~college~~, or university.

105 Section 5. Subsection (2) of section 1010.04, Florida
106 Statutes, is amended to read:

107 1010.04 Purchasing.—

108 (2) Each district school board and Florida College System
109 institution, ~~community college~~ board of trustees, ~~and each~~
110 ~~university board of trustees~~ shall adopt rules, and each
111 university board of trustees shall adopt regulations, to be
112 followed in making purchases.

113 Section 6. Paragraph (b) of subsection (2) of section
114 1010.07, Florida Statutes, is amended to read:



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115 1010.07 Bonds or insurance required.-

116 (2)

117 (b) Contractors paid from university funds shall give bond
118 for the faithful performance of their contracts in such amount
119 and for such purposes as prescribed by s. 255.05 or by
120 regulations ~~rules~~ of the Board of Governors relating to the type
121 of contract involved. It shall be the duty of the university
122 board of trustees to require from construction contractors a
123 bond adequate to protect the board and the board's funds
124 involved.

125 Section 7. Subsection (4) of section 1011.48, Florida
126 Statutes, is amended to read:

127 1011.48 Establishment of educational research centers for
128 child development.-

129 (4) The Board of Governors may adopt regulations ~~rules~~ for
130 the establishment, operation, and supervision of educational
131 research centers for child development. Such regulations ~~rules~~
132 shall include, but need not be limited to: a defined method of
133 establishment of and participation in the operation of centers
134 by the appropriate student government associations; guidelines
135 for the establishment of an intern program in each center; and
136 guidelines for the receipt and monitoring of funds from grants
137 and other sources of funds consistent with existing laws.

138 Section 8. Subsection (1) of section 1012.91, Florida
139 Statutes, is amended to read:

140 1012.91 Personnel Records.-

141 (1) Each university board of trustees shall adopt
142 regulations ~~rules~~ prescribing the content and custody of
143 limited-access records that the university may maintain on its



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144 employees. Such limited-access records are confidential and
145 exempt from the provisions of s. 119.07(1). Such records are
146 limited to the following:

147 (a) Records containing information reflecting academic
148 evaluations of employee performance shall be open to inspection
149 only by the employee and by officials of the university
150 responsible for supervision of the employee.

151 (b) Records maintained for the purposes of any
152 investigation of employee misconduct, including but not limited
153 to a complaint against an employee and all information obtained
154 pursuant to the investigation of such complaint, shall be
155 confidential until the investigation ceases to be active or
156 until the university provides written notice to the employee who
157 is the subject of the complaint that the university has either:

- 158 1. Concluded the investigation with a finding not to
159 proceed with disciplinary action;
160 2. Concluded the investigation with a finding to proceed
161 with disciplinary action; or
162 3. Issued a letter of discipline.

163
164 For the purpose of this paragraph, an investigation shall be
165 considered active as long as it is continuing with a reasonable,
166 good faith anticipation that a finding will be made in the
167 foreseeable future. An investigation shall be presumed to be
168 inactive if no finding is made within 90 days after the
169 complaint is filed.

170 (c) Records maintained for the purposes of any disciplinary
171 proceeding brought against an employee shall be confidential
172 until a final decision is made in the proceeding. The record of



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173 any disciplinary proceeding, including any evidence presented,
174 shall be open to inspection by the employee at all times.

175 (d) Records maintained for the purposes of any grievance
176 proceeding brought by an employee for enforcement of a
177 collective bargaining agreement or contract shall be
178 confidential and shall be open to inspection only by the
179 employee and by officials of the university conducting the
180 grievance proceeding until a final decision is made in the
181 proceeding.

182 Section 9. Subsection (4) of section 1013.171, Florida
183 Statutes, is amended to read:

184 1013.171 University lease agreements; land, facilities.—

185 (4) Agreements as provided in this section shall be entered
186 into with an offeror resulting from publicly announced
187 competitive bids or proposals, except that the university may
188 enter into an agreement with an entity enumerated in paragraph
189 (3) (a) for leasing land or with a direct-support organization as
190 provided in s. 1004.28, which shall enter into subsequent
191 agreements for financing and constructing the project after
192 receiving competitive bids or proposals. Any facility
193 constructed, lease-purchased, or purchased under such
194 agreements, whether erected on land under the jurisdiction of
195 the university or not, shall conform to the construction
196 standards and codes applicable to university facilities. Each
197 university board of trustees shall adopt such regulations ~~rules~~
198 as are necessary to carry out its duties and responsibilities
199 imposed by this section.

200 Section 10. Subsection (10) of section 1007.27, Florida
201 Statutes, is repealed.



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202 Section 11. Subsections (1), (3), and (10) of section
203 1013.30, Florida Statutes, are amended, and subsection (24) is
204 added to that section to read:

205 1013.30 University campus master plans and campus
206 development agreements.—

207 (1) This section contains provisions for campus planning
208 and concurrency management which ~~that~~ supersede the requirements
209 of part II of chapter 163, except when stated otherwise in this
210 section. These special growth management provisions are adopted
211 in recognition of the unique relationship between university
212 campuses and the local governments in which they are located.
213 While the campuses provide research and educational benefits of
214 statewide and national importance, and further provide
215 substantial educational, economic, and cultural benefits to
216 their host local governments, they may also have an adverse
217 impact on the public facilities and services and natural
218 resources of host governments. On balance, however, universities
219 should be considered as vital public facilities of the state and
220 local governments. The intent of this section is to address this
221 unique relationship by providing for the preparation of campus
222 master plans ~~and associated campus development agreements.~~

223 (3) Each university board of trustees shall prepare and
224 adopt a campus master plan for the university and maintain a
225 copy of the plan on the university's website. The master plan
226 must identify general land uses and address the need for and
227 plans for provision of roads, parking, public transportation,
228 solid waste, drainage, sewer, potable water, and recreation and
229 open space during the coming 10 to 20 years. The plans must
230 contain elements relating to future land use, intergovernmental



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231 coordination, capital improvements, recreation and open space,
232 general infrastructure, housing, and conservation. Each element
233 must address compatibility with the surrounding community. The
234 master plan must identify specific land uses, general location
235 of structures, densities and intensities of use, and contain
236 standards for onsite development, site design, environmental
237 management, and the preservation of historic and archaeological
238 resources. The transportation element must address reasonable
239 transportation demand management techniques to minimize offsite
240 impacts where possible. Data and analyses on which the elements
241 are based must include, at a minimum: the characteristics of
242 vacant lands; projected impacts of development on onsite and
243 offsite infrastructure, public services, and natural resources;
244 student enrollment projections; student housing needs; and the
245 need for academic and support facilities. For each of the
246 facilities and services listed in the campus master plan, the
247 level-of-service standard established by the applicable local
248 government and the entity that will provide the service to the
249 campus shall be identified. Master plans must be updated at
250 least every 5 years.

251 (10) Upon adoption of a campus master plan, the university
252 board of trustees shall draft a proposed campus development
253 agreement for each local government and send it to the local
254 government within 270 days after the adoption of the relevant
255 campus master plan. This subsection expires July 1, 2011.

256 (24) Any campus development agreement between a university
257 board of trustees and a local government which was entered into
258 before July 1, 2011, pursuant to subsections (10)-(23) may not
259 be renewed upon the expiration of that agreement.



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260 Section 12. Subsection (12) of section 1013.33, Florida
261 Statutes, is amended to read:

262 1013.33 Coordination of planning with local governing
263 bodies.-

264 (12) As early in the design phase as feasible and
265 consistent with an interlocal agreement entered pursuant to
266 subsections (2)-(8), but no later than 90 days before commencing
267 construction, the district school board shall in writing request
268 a determination of consistency with the local government's
269 comprehensive plan. The local governing body that regulates the
270 use of land shall determine, in writing within 45 days after
271 receiving the necessary information and a school board's request
272 for a determination, whether a proposed educational facility is
273 consistent with the local comprehensive plan and consistent with
274 local land development regulations. If the determination is
275 affirmative, school construction may commence and further local
276 government approvals are not required, except as provided in
277 this section. Failure of the local governing body to make a
278 determination in writing within 90 days after a district school
279 board's request for a determination of consistency shall be
280 considered an approval of the district school board's
281 application. Campus master plans and development agreements must
282 comply with the provisions of s. ss. 1013.30 and 1013.63.

283 Section 13. Section 1013.63, Florida Statutes, is repealed.

284 Section 14. This act shall take effect July 1, 2011.