

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

HIGHER EDUCATION
Senator Oelrich, Chair
Senator Siplin, Vice Chair

MEETING DATE: Monday, April 4, 2011
TIME: 3:15 —5:15 p.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 260 Ring (Compare H 875) | Nonpublic Postsecondary Educational Institutions; Requires that a licensed independent postsecondary educational institution notify the Commission for Independent Education of changes in its accreditation status. Provides penalties for failure to provide the notice. Requires that institutions become accredited within a specified period after licensure. Requires a licensed institution that is not accredited to include certain information on the institution's website. Requires that the commission revoke the license or authorization of an institution that does not meet requirements concerning accreditation, etc. | HE 04/04/2011 BC |
| 2 | SB 430 Altman (Similar CS/H 171) | Veterans' Affairs; Expands the definition of "veteran" for purposes of construction of the Florida Statutes. Provides educational opportunity at state expense for dependent children of military personnel who die or suffer certain disability in specified military operations. | MS 03/10/2011 Favorable HE 04/04/2011 BC |
| 3 | SB 720 Gaetz (Identical H 377) | Cancer Research and Control; Changes the carryforward period of certain funds of the Biomedical Research Trust Fund. Modifies the terms and membership and establishes a staggered membership for appointed members of the Biomedical Research Advisory Council. Authorizes the council to recommend a portion of the allocation for the James and Esther King Biomedical Research Program for specified purposes and to develop a grant application and review mechanism, etc. | HR 03/22/2011 Favorable HE 04/04/2011 BC |

COMMITTEE MEETING EXPANDED AGENDA

Higher Education

Monday, April 4, 2011, 3:15 —5:15 p.m.

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|--|---|--|
| 4 | CS/SB 952 Commerce and Tourism / Richter (Similar CS/H 599) | Uniform Prudent Management of Institutional Funds; Provides requirements for the management of funds held by an institution exclusively for charitable purposes. Provides standards of conduct in managing and investing institutional funds. Provides requirements for appropriation for expenditure or accumulation of an endowment fund by an institution. Authorizes an institution to delegate to an external agent the management and investment of an institutional fund, etc. | CM 03/22/2011 Fav/CS HE 04/04/2011 GO BC |
| 5 | CS/SB 1546 Education Pre-K - 12 / Thrasher (Compare H 7195, H 7197, S 1620) | Charter Schools; Revises provisions relating to the sponsoring entities of charter schools. Authorizes state universities and colleges to approve charter school applications and develop charter schools under certain circumstances. Provides for the designation of charter schools as high-performing if certain requirements are met. Creates the College-Preparatory Boarding Academy Pilot Program for dependent or at-risk students. Requires that the OPPAGA conduct a study comparing the funding of charter schools to the funding of public schools, etc. | ED 03/23/2011 Temporarily Postponed ED 03/30/2011 Fav/CS HE 04/04/2011 BC |
| 6 | SM 1654 Wise (Similar CS/HM 1445) | Educational Programs Beyond the Secondary Level; Notifies the Federal Government of colleges and universities in this state which are authorized to operate educational programs beyond the secondary level. | HE 04/04/2011 |
| 7 | SB 1732 Lynn (Compare H 4153, H 4175, H 4177, H 7151, CS/S 632) | Postsecondary Education; Requires the Board of Governors of the State University System, in coordination with the Higher Education Coordinating Council, to develop a plan for establishing certain comprehensive undergraduate universities. Requires the Board of Governors to submit a plan to transfer a Florida College System institution to the State University System. Repeals provisions relating to the Florida Business and Education Collaborative. Repeals provisions relating to an exemption from provisions governing the approval process for baccalaureate degrees, etc. | HE 04/04/2011 BC |

COMMITTEE MEETING EXPANDED AGENDA

Higher Education

Monday, April 4, 2011, 3:15 —5:15 p.m.



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LEGISLATIVE ACTION

| Senate | . | House |
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The Committee on Higher Education (Siplin) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Present subsections (1) through (16) of section 1005.02, Florida Statutes, are redesignated as subsections (2) through (17), respectively, and a new subsection (1) is added to that section, to read:

1005.02 Definitions.—As used in this chapter, the term:

(1) "Academic degree" means a degree titled as an associate, bachelor's, master's, or doctoral degree. The term does not include an occupational associate degree.



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13 Section 2. Section 1005.04, Florida Statutes, is amended to
14 read:

15 1005.04 Fair consumer practices.—

16 (1) Every institution that is under the jurisdiction of the
17 commission or is exempt from the jurisdiction or purview of the
18 commission pursuant to s. 1005.06(1)(c) or (f) and that either
19 directly or indirectly solicits for enrollment any student
20 shall:

21 (a) Disclose to each prospective student a statement of the
22 purpose of such institution, its educational programs and
23 curricula, a description of its physical facilities, its status
24 regarding licensure and accreditation, its fee schedule and
25 policies regarding retaining student fees if a student
26 withdraws, and a statement regarding the transferability of
27 credits to and from other institutions. The institution shall
28 make the required disclosures in writing at least 1 week prior
29 to enrollment or collection of any tuition from the prospective
30 student. The required disclosures may be made in the
31 institution's current catalog;

32 (b) Use a reliable method to assess, before accepting a
33 student into a program, the student's ability to complete
34 successfully the course of study for which he or she has
35 applied;

36 (c) Inform each student accurately about financial
37 assistance and obligations for repayment of loans; describe any
38 employment placement services provided and the limitations
39 thereof; and refrain from promising or implying guaranteed
40 placement, market availability, or salary amounts;

41 (d) Provide to prospective and enrolled students accurate



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42 information regarding the relationship of its programs to state
43 licensure requirements for practicing related occupations and
44 professions in Florida;

45 (e) Ensure that all advertisements are accurate and not
46 misleading;

47 (f) Publish and follow an equitable prorated refund policy
48 for all students, and follow both the federal refund guidelines
49 for students receiving federal financial assistance and the
50 minimum refund guidelines set by commission rule;

51 (g) Follow the requirements of state and federal laws that
52 require annual reporting with respect to crime statistics and
53 physical plant safety and make those reports available to the
54 public; and

55 (h) Publish and follow procedures for handling student
56 complaints, disciplinary actions, and appeals.

57 (2) ~~In addition,~~ Institutions that are required to be
58 licensed by the commission shall disclose to prospective
59 students that additional information regarding the institution
60 may be obtained by contacting the Commission for Independent
61 Education, Department of Education, Tallahassee.

62 (3) A licensed institution offering academic degrees,
63 degrees, or diplomas may not advertise or represent that it is
64 accredited or include the words "accredited" or "accreditation"
65 in its catalogs, brochures, website, advertisements,
66 publications, or other promotional materials that are provided
67 to, or accessible by, prospective students unless the
68 accrediting agency referenced is an accrediting agency
69 recognized by the United States Department of Education.

70 (4) A licensed institution that offers academic degrees and



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71 is not accredited by an accrediting agency recognized by the
72 United States Department of Education shall provide a written
73 disclosure to prospective students, before enrollment, in
74 substantially the following form. The form of the written
75 disclosure shall be submitted to the commission for approval
76 before initial, provisional, or annual licensure and shall be
77 made in large bold type, all capital letters, and maintained
78 separate from other required disclosures. Prospective students
79 shall be required to sign a copy of the form, acknowledging
80 receipt of the written disclosure. The disclosure shall state:

81
82 (NAME OF INSTITUTION) IS NOT ACCREDITED BY AN
83 ACCREDITING AGENCY RECOGNIZED BY THE UNITED STATES
84 DEPARTMENT OF EDUCATION. AS A PROSPECTIVE STUDENT, YOU
85 ARE ENTITLED TO RECEIVE A CATALOG AND PROGRAM
86 DESCRIPTIONS FOR EACH PROGRAM OFFERED BY THIS
87 INSTITUTION. IT IS YOUR OBLIGATION TO CAREFULLY REVIEW
88 THE INSTITUTIONAL CATALOG AND ALL OTHER MATERIALS
89 REGARDING A PROGRAM BEING OFFERED, INCLUDING THE
90 OCCUPATIONAL OBJECTIVES OF THE PROGRAM, PRIOR TO
91 ENROLLING IN THE INSTITUTION.

92 Section 3. Paragraph (b) of subsection (1) and subsection
93 (2) of section 1005.31, Florida Statutes, are amended, and
94 subsection (16) is added to that section, to read:

95 1005.31 Licensure of institutions.—

96 (1)

97 (b) After licensure, each licensee shall notify is solely
98 responsible for notifying the commission in writing of:

99 1. Any change in the licensee's accreditation status.



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100 2. The licensee's current mailing address and the location
101 of the institution. ~~A licensee's failure to notify the~~
102 ~~commission of a change of address constitutes a violation of~~
103 ~~this paragraph, and the licensee may be disciplined by the~~
104 ~~commission.~~ Notwithstanding any other ~~provision of law,~~ service
105 by regular mail to a licensee's last known address of record
106 with the commission is ~~constitutes~~ adequate and sufficient
107 notice to the licensee for any official communication to the
108 licensee by the commission.

109 (2) The commission shall develop minimum standards by which
110 to evaluate institutions for licensure. These standards must
111 address ~~include at least~~ the institution's name, financial
112 stability, purpose, administrative organization, admissions and
113 recruitment, educational programs and curricula, retention,
114 completion, career placement, faculty, learning resources,
115 student personnel services, physical plant and facilities,
116 publications, and disclosure statements about the status of the
117 institution with respect to professional certification,
118 accreditation, and licensure. The commission may adopt rules to
119 ensure that institutions licensed under this section meet these
120 standards in ways that are appropriate to achieve the stated
121 intent of this chapter, including provisions for nontraditional
122 or distance education programs and delivery. An institution
123 offering postsecondary education through correspondence or
124 distance learning courses to students in the state must be
125 licensed by the commission whether or not the institution is
126 physically located in the state, unless the institution is not
127 under the commission's jurisdiction or purview pursuant to s.
128 1005.06.



129 (16) The commission shall maintain on its website a current
130 list of the institutions that are licensed under this section
131 and hold accreditation. The list must specify the accrediting
132 entity and whether the entity is recognized by the United States
133 Department of Education as a reliable authority as to the
134 quality of postsecondary education within the meaning of the
135 Higher Education Act of 1965, as amended. The commission shall
136 also maintain on its website a list of the institutions located
137 in the state which maintain or advertise themselves as being
138 accredited by an agency that is not recognized by the United
139 States Department of Education.

140 Section 4. Subsection (10) of section 744.1083, Florida
141 Statutes, is amended to read:

142 744.1083 Professional guardian registration.—

143 (10) A state college or university or an independent
144 college or university that is located and chartered in Florida,
145 that is accredited by the Commission on Colleges of the Southern
146 Association of Colleges and Schools or the Accrediting Council
147 for Independent Colleges and Schools, and that confers degrees
148 as defined in s. 1005.02 ~~1005.02(7)~~ may, but is not required to,
149 register as a professional guardian under this section. If a
150 state college or university or independent college or university
151 elects to register as a professional guardian under this
152 subsection, the requirements of subsections (3) and (4) do not
153 apply and the registration must include only the name, address,
154 and employer identification number of the registrant.

155 Section 5. This act shall take effect July 1, 2011.

156
157 ===== T I T L E A M E N D M E N T =====



158 And the title is amended as follows:

159 Delete everything before the enacting clause
160 and insert:

161 A bill to be entitled

162 An act relating to nonpublic postsecondary educational
163 institutions; amending s. 1005.02, F.S.; defining the
164 term "academic degree"; amending s. 1005.04, F.S.;
165 requiring disclosure of institution accreditation
166 status to prospective students; providing restrictions
167 relating to advertising by licensed institutions;
168 requiring that institutions that do not have certain
169 accreditation provide written disclosure; providing a
170 form for such disclosure; amending s. 1005.31, F.S.;
171 requiring that a licensed independent postsecondary
172 educational institution notify the Commission for
173 Independent Education of changes in its accreditation
174 status; revising criteria concerning the standards by
175 which the commission evaluates institutions for
176 licensure; requiring the licensure of certain
177 institutions offering postsecondary education through
178 correspondence or distance learning courses; requiring
179 that the commission maintain lists on its website
180 concerning the accreditation of institutions licensed
181 by the commission; amending s. 744.1083, F.S.;
182 conforming a cross-reference; providing an effective
183 date.

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 260

INTRODUCER: Senator Ring

SUBJECT: Nonpublic Postsecondary Education Institutions

DATE: April 1, 2011

REVISED: _____

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

I. Summary:

The bill defines academic degree to mean a degree titled as an associate, bachelor’s, master’s, or doctoral degree. The bill:

- Requires each licensed institution to report (in writing) any changes in accreditation status to the Commission for Independent Education (CIE);
- Provides for disciplinary action for the failure of a licensed institution to notify the CIE of any changes in accreditation status;
- Requires all institutions that offer academic degrees to secure accreditation within five years of obtaining licensure from the CIE and requires institutions, that offer academic degrees and that are licensed on July 1, 2011, to secure accreditation by July 2, 2016;
- Requires licensed institutions seeking accreditation to report their progress in the accreditation process to the Department of Education (DOE) and the Attorney General (AG) on a monthly basis;
- Requires the CIE to maintain a current list of licensed institutions that hold accreditation on the CIE website; and
- Authorizes the CIE to revoke the license of an institution, offering academic degrees, that fails to become accredited or fails to remain accredited.

This bill amends ss. 744.1083, 1005.02, 1005.31, and 1005.38, Florida Statutes.

II. Present Situation:

The Commission for Independent Education (CIE)

Every private college or postsecondary school operating in Florida must be licensed by the CIE unless it is exempt from licensure under s. 1005.06, F.S.¹ Accreditation is not a requirement of licensure, and thus, CIE cannot revoke the license of an institution, offering academic degrees, which fails to become accredited or fails to remain accredited. However, licensed institutions are required to inform the CIE of changes to accreditation status. According to the DOE, approximately 22 percent of the degree-granting institutions (fewer than 40) that are currently licensed by the CIE are not accredited.

The CIE maintains information on its website about the accreditation of each institution; the information, however, is not presented as a “list.”

Section 1005.02(7), F.S., defines “degree” for purposes of licensure by the CIE to mean any educational credential that is generally taken to signify satisfactory completion of the requirements of an undergraduate, graduate, academic, educational, or professional program of study or any honorary credential conferred for meritorious recognition. At the undergraduate level, an institution may not award a degree for a program unless it includes a general education component as established by rule and at least 60 semester hours or 90 quarter hours of study or the equivalent.” There is currently no statutory definition for “academic degree.”

III. Effect of Proposed Changes:

For the purposes of licensure of private postsecondary institutions under ch. 1005, F.S., the bill defines academic degree as a degree titled as an associate, bachelor’s, master’s or doctoral degree. All institutions licensed by CIE that offer academic degrees would have to become accredited by 2016.

The bill requires licensed institutions to inform the CIE of any changes to accreditation status.

All currently licensed degree-granting institutions that are not accredited would be required to become accredited by July 2, 2016. Any newly licensed degree-granting institutions would be required to become licensed within five years of receiving licensure, and during the period when the institution was licensed but not accredited it would have to provide notice of that status on its website. The CIE would be required to monitor the institution’s progress during the accreditation process. The institution would have to notify the Attorney General of its progress in the accreditation process.

The DOE and the Attorney General would have to maintain links on their agency websites to the CIE’s list of accredited institutions. A methodology for maintaining a list of accredited institutions would need to be developed for the CIE website.

¹ Institutions that are exempt from licensure include those operated by the state or federal government; nursing, dentistry, real estate schools and any others requiring licensing under other chapters of the Florida Statutes; nonprofit independent colleges accredited by the Southern Association of Colleges and Schools; religious institutions, schools regulated by the Federal Aviation Administration; and institutions that were exempt from licensure prior to 2001.

The CIE would be authorized to revoke the license of an institution, offering academic degrees, that fails to become accredited or fails to remain accredited and would be required to develop new rules to implement the process for revoking an institution's license in that circumstance.

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:

Private postsecondary academic degree granting institutions that are not accredited would incur the cost of accreditation or suffer the revocation of their license to operate in the state.

C. Government Sector Impact:

The DOE indicates that the CIE would be required to monitor the institution's progress during the accreditation process which would result in an increased workload.

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.

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 430

INTRODUCER: Senator Altman

SUBJECT: Veterans' Affairs

DATE: April 1, 2011

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------------|-----------------|-----------|--------------------|
| 1. | <u>Fleming</u> | <u>Carter</u> | <u>MS</u> | Favorable |
| 2. | <u>Carrouth</u> | <u>Matthews</u> | <u>HE</u> | Pre-meeting |
| 3. | _____ | _____ | <u>BC</u> | _____ |
| 4. | _____ | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ | _____ |
| 6. | _____ | _____ | _____ | _____ |

I. Summary:

This bill amends the statutory definition of a “veteran” in s. 1.01(14), F.S. As a result, veterans who served during Operation New Dawn, but were not deployed into an area of operation, are eligible for wartime service benefits.

This bill also extends post-secondary scholarship program eligibility to the children of veterans who die or become disabled while serving in Operation New Dawn.

This bill has an effective date of July 1, 2011.

This bill substantially amends sections 1.01 and 295.0185 of the Florida Statutes.

II. Present Situation:

Wartime Veteran Benefits

Section 1.01(14), F.S., defines the term “veteran” for purposes of determining veterans’ benefits eligibility. A person who has served in the active military and who has been honorably discharged or released from active duty under honorable conditions is eligible for veterans’ benefits. A veteran may receive enhanced benefits for wartime service if the veteran received a campaign badge¹ for service in a campaign or expedition authorized² under the following:

¹ A list of U.S. military campaign badges is found at: http://www.tioh.hqda.pentagon.mil/Awards/service_campaign.aspx.

² The provision regarding campaign badges was added in 2003. Prior to then, statutes allowed those who served during the defined wartime periods to be eligible for wartime benefits.

- Spanish-American War—April 21, 1898-July 4, 1902, including the Philippine Insurrection and the Boxer Rebellion.
- Mexican Border Period—May 9, 1916-April 5, 1917, for veterans who served in Mexico, on the borders thereof, or in the adjacent waters.
- World War I—April 6, 1917-November 11, 1918 with extensions for service in Russia (April 1, 1920), veterans who served during November 11, 1918-July 2, 1921, and for veterans who served at least one day between April 5, 1917-November 12, 1918 (July 1, 1921).
- World War II—December 7, 1941-December 31, 1946.
- Korean Conflict—June 27, 1950-January 31, 1955.
- Vietnam Era—February 28, 1961-May 7, 1975.
- Persian Gulf War—August 2, 1990-January 2, 1992.
- Operation Enduring Freedom—October 7, 2001-ending on the date set by presidential proclamation or by law.
- Operation Iraqi Freedom—March 19, 2003-ending on the date set by presidential proclamation or by law.

On August 31, 2010, President Obama announced the end of Operation Iraqi Freedom and the commencement of the new mission, Operation New Dawn.³ As part of Operation New Dawn, U.S. forces have three primary missions: advising, assisting, and training the Iraqi Security Forces; conducting partnered counterterrorism operation; and providing support to provincial reconstruction teams and civilian partners as they help build Iraq's civil capacity.⁴

However, a new campaign medal does not accompany the commencement of Operation New Dawn. "U.S. troops will not get a new campaign medal if they take part in Operation New Dawn. The current Iraq Campaign Medal⁵ campaign phase, Iraqi Sovereignty, which took effect January 1, 2009, describes both the initial phase of Operation New Dawn and the final phase of Operation Iraqi Freedom."⁶ Thus, servicemembers who serve in direct support of Operation New Dawn may be eligible for an Iraq Campaign Medal. These veterans would qualify for veterans' benefits.⁷ However, those veterans who served active duty Operation New Dawn, but were not deployed into the campaign, are not eligible.

Florida wartime benefits for eligible veterans include: veterans' hiring and retention preference,⁸ career training admission preference (Vietnam Era),⁹ State Veteran Nursing Home admittance priority preference,¹⁰ certain local business tax exemptions,¹¹ certain Florida Retirement System

³ <http://www.whitehouse.gov/the-press-office/2010/08/31/remarks-president-address-nation-end-combat-operations-iraq>.

⁴ http://www.af.mil/news/story_print.asp?id=123220049.

⁵ Department of the Army. Iraq Campaign Medal Page. Office of the Administrative Assistant to the Secretary of the Army, Institute of Heraldry. Available at: http://www.tioh.hqda.pentagon.mil/Awards/iraq_campaign.aspx.

⁶ Statement by Defense Department spokeswoman Eileen Lainez. October 22, 2010. Article available at: <http://www.military.com/news/article/no-campaign-medal-for-operation-new-dawn.html>.

⁷ Under s. 1.01(14), F.S., receipt of the medal qualifies these individuals for veterans' benefits.

⁸ s. 295.07, F.S.

⁹ s. 295.125, F.S.

¹⁰ s. 296.08, F.S.

¹¹ s. 205.171, F.S.

(FRS) benefits,¹² and certain homestead tax exemptions for those meeting other eligibility criteria.¹³

Educational Benefits

Since 1941, Florida has provided educational opportunity for the dependent children of deceased or totally and permanently disabled veterans of the U.S. Armed Forces. In 2006, these benefits were extended to include spouses of deceased or totally and permanently disabled veterans of the U.S. Armed Forces. Section 295.01, F.S., establishes the eligibility requirements for the Scholarships for Children and Spouses of Deceased or Disabled Veterans (CSDDV) program for dependent children and spouses of certain military veterans. Under this section, dependent children and an unremarried spouse of a veteran who died from service-connected injuries, disease, or disability while on active-duty, or was determined to have a 100 percent permanent and total-service connected disability, are eligible for the scholarship. The section provides certain criteria, including Florida residency criteria, which a child or spouse must meet in order to be eligible for the scholarship. Scholarship recipients are also subject to the requirements of ss. 295.03, 295.04, 295.05, and 1009.40, F.S.

Sections 295.016-295.0195, F.S., specify military actions or conflicts that constitute eligible periods of military service for purposes of the scholarship program established in s. 295.01, F.S. Section 295.0195 provides scholarships for the children of deceased or disabled military personnel who died or became disabled in Operation Enduring Freedom (2001) and Operation Iraqi Freedom (2003). In order for such a child to be eligible for the scholarship, the servicemember must have been a Florida resident at the time of the disability or death. Presently, chapter 295, F.S., does not extend such state-sponsored educational benefits to the children of military personnel who have died or became 100-percent disabled in Operation New Dawn, which began on September 1, 2010.

The following chart displays the appropriations, expenditures, and the number of participating students in the CSDDV scholarship program from fiscal year 2007-08 to 2009-10. The Legislature appropriated \$2,442,776 for the CSDDV scholarship program for fiscal year 2010-2011.¹⁴

SCHOLARSHIPS FOR CHILDREN AND SPOUSES OF DECEASED OR DISABLED VETERANS AND SERVICEMEMBERS

| Year | Total Spouses Disbursed | Total Children Disbursed | Total Disbursed | Average Award | Expended Funds | Appropriations |
|---------|-------------------------|--------------------------|-----------------|---------------|----------------|----------------|
| 2007-08 | 16 | 459 | 475 | \$2,392 | \$1,136,148 | \$1,101,410 |
| 2008-09 | 52 | 643 | 695 | \$2,536 | \$1,762,248 | \$1,997,365 |
| 2009-10 | 56 | 685 | 741 | \$2,588 | \$1,917,830 | \$1,997,365 |

Florida Department of Education, *Annual Report to the Commissioner*, 2010.

¹² ss. 121.021(20)(b) and 121.111, F.S.

¹³ s. 196.24, F.S.

¹⁴ Florida Department of Education, *2009-10 Annual Report to the Commissioner*; available at: <http://www.floridastudentfinancialaid.org/SSFAD/pdf/annualreportcurrent.pdf>.

III. Effect of Proposed Changes:

This bill adds Operation New Dawn to the list of qualifying military campaigns or expeditions qualifying veterans for veterans' benefits who have served honorably but have not received a campaign medal. The qualifying period for Operation New Dawn begins September 1, 2010, and ends when provided by law or presidential proclamation.

The bill extends educational opportunities at state expense for the dependent children of military personnel who serve in Operation New Dawn or the Global War on Terrorism and who die or suffer a service-connected 100-percent total and permanent disability.

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:

This bill would enable an unknown number of additional children of deceased or disabled veterans to qualify for post-secondary educational benefits.

C. Government Sector Impact:

The state will be responsible for paying for the educational benefits provided in this bill to children of military personnel who die or suffer a service-connected 100-percent total and permanent disability in Operation New Dawn. Presently, the number of eligible scholarship recipients is indeterminate.

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.



229750

LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment

Delete lines 568 - 571
and insert:

(a) The Cancer Control Collaborative Program is established within the Department of Health and resides within the Comprehensive Cancer Control Program. The program is responsible for overseeing and providing

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 720

INTRODUCER: Senator Gaetz

SUBJECT: Cancer Research and Control

DATE: April 1, 2011

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-------------|----------------|-----------|--------------------|
| 1. | O'Callaghan | Stovall | HR | Favorable |
| 2. | Harkey | Matthews | HE | Pre-Meeting |
| 3. | _____ | _____ | BC | _____ |
| 4. | _____ | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ | _____ |
| 6. | _____ | _____ | _____ | _____ |

I. Summary:

This bill extends the time that any balance of any appropriation from the Biomedical Research Trust Fund, which is not disbursed but which is obligated pursuant to a contract or committed to be expended, may be carried forward. This bill also:

- Establishes a 4-year staggered term of membership for the Biomedical Research Advisory Council and adds one member to the council;
- Provides the Biomedical Research Advisory Council may make recommendations to the State Surgeon General for the allocation of funds appropriated to the James and Esther King Biomedical Research Program (King Program) and the William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program (Bankhead-Coley Program) for training grants, research fellowships, clinical trial project grants, recruitment of certain researchers, start-up grants for certain research teams, and equipment expenditures related to certain research;
- Authorizes the Biomedical Research Advisory Council to develop a grant application and review mechanism which shall ensure fair and rigorous analysis of the merit of any proposals considered for funding under the King Program or Bankhead-Coley Program;
- Authorizes the Department of Health (DOH) to accept gifts, under certain circumstances, and deposit them into the Biomedical Research Trust Fund to be used for grant or fellowship awards in the King Program or Bankhead-Coley Program;
- Specifies that, in part, the purpose of the Bankhead-Coley Program is to expand cancer research and treatment capacity in Florida;
- Expands the list of types of grants for which preference may be given by the Bankhead-Coley Program by including grant proposals for recruiting researchers and research teams to Florida, equipment for cancer research, and fostering the transfer of knowledge gained from research into community practice;

- Requires the Biomedical Research Advisory Council, instead of the DOH, to submit by February 1 of each year a report to the Governor and Legislature indicating the progress towards the Bankhead-Coley Program's mission and to make recommendations;
- Creates the Florida Comprehensive Cancer Control Act;
- Establishes the Florida Cancer Control and Resource Advisory Council to replace the Cancer Control and Research Advisory Council, which is repealed; and
- Establishes the Florida Cancer Control Collaborative Program to support future cancer control initiatives.

This bill amends sections 20.435, 215.5602, 381.922, 458.324, and 459.0125, Florida Statutes.

This bill creates section 381.923, Florida Statutes.

This bill repeals section 1004.435, Florida Statutes.

II. Present Situation:

The James and Esther King Biomedical Research Program

The purpose of the King Program¹ is to provide an annual and perpetual source of funding to support research initiatives that address the health care problems of Floridians in the areas of tobacco-related cancer, cardiovascular disease, stroke, and pulmonary disease.² The long-term goals of the program are to:

- Improve the health of Floridians by researching better prevention, diagnoses, treatments, and cures for cancer, cardiovascular disease, stroke, and pulmonary disease;
- Expand the foundation of biomedical knowledge relating to the prevention, diagnosis, treatment, and cure of diseases related to tobacco use;
- Improve the quality of the state's academic health centers by bringing the advances of biomedical research into the training of physicians and other health care providers;
- Increase the state's per capita funding for research by undertaking new initiatives in public health and biomedical research that will attract additional funding from outside of Florida; and
- Stimulate economic activity in the state in areas related to biomedical research, such as the research and production of pharmaceuticals, biotechnology, and medical devices.

The King Program offers competitive grants to researchers throughout Florida. Grant applications from any university or established research institute³ in Florida will be considered

¹ The Florida Legislature created the Florida Biomedical Research Program in 1999 within the DOH (ch. 99-167, L.O.F.). The Florida Biomedical Research Program was renamed the James and Esther King Biomedical Research Program during Special Session B of the 2003 Legislature (ch. 2003-414, L.O.F.).

² Section 215.5602, F.S.

³ An "established research institute" is any Florida non-profit or foreign non-profit corporation covered under ch. 617, F.S., with a physical location in Florida, whose stated purpose and power is scientific, biomedical or biotechnological research or development and is legally registered with the Florida Department of State, Division of Corporations. This includes the federal government and non-profit medical and surgical hospitals, including veterans' administration hospitals. See James & Esther King Biomedical Research Program, *Call for Grant Applications: Biomedical, Biotechnological, and Social Scientific Research and Development, Fiscal Year 2009-2010*, page 7, available at: http://forms.floridabiomed.com/jek_call/King%20Call%2009-10.pdf (Last visited on April 1, 2011).

for biomedical research funding. All qualified investigators in the state, regardless of institutional affiliation, have equal access and opportunity to compete for the research funding.⁴

The State Surgeon General, after consultation with the Biomedical Research Advisory Council, is authorized to award grants and fellowships on the basis of scientific merit⁵ within the following three categories:

- Investigator-initiated research grants, which are designed to initiate research that can be subsequently funded from a national agency;
- Institutional research grants, which are intended to foster the development of new and promising research investigators to undertake more independent research that would be competitive for national research funding, as well as to attract talented researchers to Florida institutions; and
- Predoctoral and postdoctoral research fellowships.⁶

The King Program was to expire on January 1, 2011, pursuant to s. 215.5602, F.S. However, the Legislature continued the program in 2010 by enacting HB 5311.⁷

The William G. “Bill” Bankhead, Jr., and David Coley Cancer Research Program

The 2006 Legislature created the Bankhead-Coley Program within the DOH.⁸ The purpose of the program is to advance progress toward cures for cancer through grants awarded for cancer research.

Applications for funding cancer research from any university or established research institute in the state will be considered under the Bankhead-Coley Program. All qualified investigators in the state, regardless of institutional affiliation, have equal access and opportunity to compete for the research funding.⁹ The State Surgeon General, after consultation with the Biomedical Research

⁴ Grant award recipients for FY 2010-11 include the following institutions or investigators associated with these institutions: Bay Pines VA Healthcare System, Florida International University (FIU), Florida State University, M.D. Anderson Cancer Center, Mayo Clinic, Miami VA Healthcare System, H. Lee Moffitt Cancer Center & Research Institute (Moffitt Cancer Center), Sanford-Burnham Institute, Scripps Research Institute, Torrey Pines Institute, University of Central Florida, University of Florida, University of Miami, and University of South Florida. See James & Esther King Biomedical Research Program, *Florida Biomedical Research Programs Grants Awarded by Institution*, readable at: <http://forms.floridabiomed.com/Forms/GrantsAwardedByInstitution.pdf> (Last visited on April 1, 2011).

⁵ See the “Grant Application Review and Processing” section of Senate Interim Report 2010-219, page 7, for more information about assessing scientific merit. The report is available at:

http://archive.flsenate.gov/data/Publications/2010/Senate/reports/interim_reports/pdf/2010-219hr.pdfhttp://archive.flsenate.gov/data/Publications/2010/Senate/reports/interim_reports/pdf/2010-219hr.pdf%20(Last visited on April 1, 2011).

⁶ Section 215.5602(5)(b), F.S.

⁷ Chapter 2010-161, L.O.F.

⁸ Section 381.922, F.S., (ch. 2006-182, L.O.F.).

⁹ Grant award recipients for FY 2010-11 include the following institutions or investigators associated with these institutions: Florida A&M University, Florida State University, M.D. Anderson Cancer Center, Mayo Clinic, Moffitt Cancer Center, Sanford-Burnham Institute, Scripps Research Institute, University of Central Florida, University of Florida, University of Miami, and the University of South Florida. See James & Esther King Biomedical Research Program, *Florida Biomedical Research Programs Grants Awarded by Institution*, available at: <http://forms.floridabiomed.com/Forms/GrantsAwardedByInstitution.pdf> (Last visited on April 1, 2011).

Advisory Council, is authorized to award grants and fellowships on the basis of scientific merit¹⁰ within the following three categories:

- Investigator-initiated research grants;
- Institutional research grants; and
- Collaborative research grants, including those that advance the finding of cures through basic or applied research.

As with the King Program, the Bankhead-Coley Program was to expire on January 1, 2011, pursuant to s. 215.5602, F.S. However, the Legislature also continued this program in 2010 when it enacted HB 5311.¹¹

Program Funding

Initially, the King Program was funded with income from \$150 million of principal in the Lawton Chiles Endowment Fund.¹² In 2004, the Legislature appropriated additional funding, through a distribution from alcoholic beverage surcharge taxes. In 2006, the Legislature substituted a \$6 million dollar annual appropriation commitment from the General Revenue Fund to fund the Biomedical Research Trust Fund within the DOH for the purposes of the King Program.¹³ However, in the January 2009 Special Session A, for fiscal year 2008-2009 and each fiscal year thereafter, the annual appropriation from the General Revenue Fund to the Biomedical Research Trust Fund for purposes of the King Program was reduced to \$4.5 million.¹⁴ During the regular session in 2009, the Legislature eliminated the general revenue appropriation and provided that 2.5 percent of the revenue generated from the additional cigarette surcharge enacted in 2009, not to exceed \$25 million, was to be transferred into the Biomedical Research Trust Fund for the King Program for the 2009-2010 fiscal year.¹⁵

In 2010, when the Legislature reenacted the King Program, it continued funding for the King Program with an annual appropriation of \$20 million.¹⁶ Of the funds appropriated for the King Program, up to \$250,000 per year is designated to operate the Florida Center for Universal Research to Eradicate Disease.¹⁷

The Bankhead-Coley Program was established with a commitment for an appropriation of \$9 million per year from the General Revenue Fund.¹⁸ However, in the January 2009 Special Session A, for fiscal year 2008-2009 and each fiscal year thereafter, the annual appropriation from the General Revenue Fund to the Biomedical Research Trust Fund for purposes of the

¹⁰ *Supra* fn. 5.

¹¹ Chapter 2010-161, L.O.F.

¹² Section 215.5601, F.S. The Lawton Chiles Endowment Fund's principal originated from a portion of the state settlement received from its lawsuit with tobacco companies.

¹³ Chapter 2006-182, L.O.F.

¹⁴ Chapter 2009-5, L.O.F.

¹⁵ Chapter 2009-58, L.O.F.

¹⁶ *Supra* fn. 11.

¹⁷ The purpose of the Florida Center for Universal Research to Eradicate Disease is to coordinate, improve, expand, and monitor all biomedical research programs within Florida; facilitate funding opportunities; and foster improved technology transfer or research findings into clinical trials and widespread public use. *See* s. 381.855, F.S.

¹⁸ Section 381.922(5), F.S.

Bankhead-Coley Program was reduced to \$6.75 million.¹⁹ During the regular session in 2009, the Legislature eliminated the general revenue appropriation and provided that 2.5 percent of the revenue generated from the additional cigarette surcharge enacted in 2009, not to exceed \$25 million, was to be transferred into the Biomedical Research Trust Fund for the Bankhead-Coley Program.²⁰

Chapter 2009-58, Laws of Florida, provided that five percent of the revenue deposited into the Health Care Trust Fund pursuant to s. 210.011(9), F.S., related to the cigarette surcharge and s. 210.276(7), F.S., related to the surcharge on tobacco products, are to be reserved for research of tobacco-related or cancer-related illnesses. The sum of the revenue reserved, however, may not exceed \$50 million in any fiscal year. The Legislature did not specify an amount to be appropriated annually, after the 2009-2010 fiscal year, for the King Program or the Bankhead-Coley Program from these reserves. However, in 2010, when the Legislature reenacted the Bankhead-Coley Program along with the King Program, it continued funding for the Bankhead-Coley Program with an annual appropriation of \$20 million.²¹

Any cash balance in the Biomedical Research Trust Fund at the end of a fiscal year remains in the trust fund to be available for carrying out the purposes of the trust fund. In addition, any balance of an appropriation from the Biomedical Research Trust Fund which has not been disbursed, but which is obligated, may be used for up to 3 years from the effective date of the original appropriation.

Biomedical Research Advisory Council²² and Peer Review Panel²³

The purpose of the Biomedical Research Advisory Council is to advise the State Surgeon General as to the direction and scope of the King Program. The Biomedical Research Advisory Council is also required to consult with the State Surgeon General concerning grant awards for cancer research through the Bankhead-Coley Program.²⁴ Currently there are 11 members on the council, authorized to serve two consecutive 3-year terms.

In order to ensure that proposals for research funding within the King Program and the Bankhead-Coley Program are appropriate and evaluated fairly on the basis of scientific merit, a peer review panel of independent, scientifically qualified individuals is appointed to review the scientific content of each proposal to establish a “scientific”²⁵ priority score.²⁶ To eliminate conflicts of interest, peer reviewers come from outside the state of Florida. Reviewers are experts in their fields from universities, government agencies, and private industry who are matched according to application topic and area of expertise. The priority scores must be considered by

¹⁹ Chapter 2009-5, L.O.F.

²⁰ Chapter 2009-58, L.O.F.

²¹ *Supra* fn. 11.

²² Section 215.5602(3), F.S.

²³ Section 215.5602(6) and (7), and s. 381.922(3)(b), F.S.

²⁴ Section 381.922(3)(a), F.S. However, s. 215.5602(11), F.S., contains an inconsistency with respect to the responsibility of the Advisory Council concerning awarding grants for cancer research.

²⁵ The King Program requires a *scientific* priority score in s. 215.5602(6), F.S. The Bankhead-Coley Program requires a priority score in s. 381.922(3)(b), F.S.

²⁶ A Bridge Grant application is ranked solely by the priority score or percentile assigned to its qualifying federal proposal in an eligible federal review process.

the Biomedical Research Advisory Council in determining which proposals will be recommended for funding to the State Surgeon General.

Meetings of the Biomedical Research Advisory Council and the peer review panel are subject to ch. 119, F.S., relating to public records; s. 286.011, F.S., relating to public meetings; and s. 24, Article I of the State Constitution relating to access to public meetings and records.

Program Administration and Grant Management

The Office of Public Health Research within the DOH manages both the King Program and the Bankhead-Coley Program with support from the Biomedical Research Advisory Council and Lytmos Group, LLC (Lytmos), pursuant to contract.²⁷

The law authorizes, but does not require, the DOH, after consultation with the Biomedical Research Advisory Council, to adopt rules as necessary to implement these programs.²⁸ The DOH has not adopted rules to implement these programs. Instead, the DOH publishes, on its website, the procedures for implementing these two programs.²⁹

The *GrantEase*TM online system is used by grantees to access grant information and submit progress reports, invoices, financial reports, and change requests during the life of the grant. At least once during the grant period, the grantee is subjected to on-site monitoring for both scientific and administrative purposes.

Cancer Control and Research Act

The Cancer Control and Research Act (the Act) is created in s. 1004.435, F.S. The Florida Cancer Control and Research Advisory Council (C-CRAB) is established within the Act to advise the Board of Governors, the State Surgeon General, and the Legislature with respect to cancer control and research in Florida. The C-CRAB consists of 34 members. Annually the C-CRAB approves the Florida Cancer Plan, which is a program for cancer control and research that must be consistent with the State Health Plan and integrated and coordinated with existing programs in this state. Additional responsibilities of the C-CRAB include:

- Recommending to the State Surgeon General a plan for the care and treatment of persons suffering from cancer and standard requirements for cancer units in hospitals and clinics in Florida;
- Recommending grant and contract awards for the planning, establishment, or implementation of programs in cancer control or prevention, cancer education and training, and cancer research;
- Pursuant to Legislative appropriations, providing written summaries that are easily understood by the average adult patient, informing actual and high-risk breast cancer patients, prostate cancer patients, and men who are considering prostate cancer screening of the medically viable treatment alternatives available to them and explaining the relative advantages, disadvantages, and risks associated therewith;

²⁷ James & Esther King Biomedical Research Program, *Annual Report 2010*, available at: <http://forms.floridabiomed.com/AnnualReports/Annual10.pdf> (Last visited on April 1, 2011).

²⁸ Section 215.5602(9), F.S.

²⁹ See <http://www.doh.state.fl.us/ExecStaff/biomed/ophrsitemap.html>, (Last visited on April 1, 2011).

- Implementing an educational program for the prevention of cancer and its early detection and treatment;
- Advising the Board of Governors and the State Surgeon General on methods of enforcing and implementing laws concerning cancer control, research, and education; and
- Recommending to the Board of Governors or the State Surgeon General rulemaking needed to enable the C-CRAB to perform its duties.

III. Effect of Proposed Changes:

Section 1 amends s. 20.435, F.S., to extend the time, from 3 years to 5 years, that any balance of any appropriation from the Biomedical Research Trust Fund, which is not disbursed but which is obligated pursuant to a contract or committed to be expended, may be carried forward.

Section 2 amends s. 215.5602, F.S., to provide for the funding of biomedical research under the King Program, including grants and fellowships awarded by the State Surgeon General for institutional training. The Biomedical Research Advisory Council may recommend an allocation of up to one-third of the program funds for the recruitment of cancer, heart, or lung disease researchers and research teams to institutions in Florida; for operational start-up grants for newly recruited cancer, heart, or lung disease research teams; and for equipment expenditures related to the expansion of cancer, heart or lung disease research and treatment capacity in Florida. The council may develop a grant application and review mechanism for the allocation of such funds, but such mechanism must ensure a fair and rigorous analysis of the merit of any proposals. A member of the Biomedical Research Advisory Council or a peer review panel is prohibited from discussing or making a decision on a research proposal if the member is a part of the governing body of, an employee of, or is contracted with the firm, entity, or agency under review.

This section also expands the Biomedical Research Advisory Council from 11 to 12 members, and requires one member to be the chief executive officer of BioFlorida, or a designee. A member of the council, who is currently required be the chief executive officer of the Florida/Puerto Rico Affiliate of the American Heart Association, is replaced by the chief executive officer of the Greater Southeast Affiliate of the American Heart Association.³⁰ The appointment of such members is extended from 3-year terms to 4-year staggered terms. However, the first two appointments by the Governor and the first appointment by the President of the Senate and the Speaker of the House of Representatives on or after July 1, 2011, must be for a term of 2 years each.

This section provides that the DOH may accept gifts made willfully and without conditions and may deposit the gifts into the Biomedical Research Trust Fund to be used for grant or fellowship awards under the King Program. The DOH may also accept gifts to which conditions are attached, if it is lawful for the DOH to accept the gift with conditions and the gift is consistent with the provisions of the King Program.

³⁰ The following states and territories are part of the Greater Southeast Affiliate: Alabama, Florida, Georgia, Louisiana, Mississippi, Puerto Rico, Tennessee, and U.S. Virgin Islands. American Heart Association, *Greater Southeast Affiliate Funding Opportunities*, available at: <http://www.americanheart.org/presenter.jhtml?identifier=2471> (Last visited on April 1, 2011).

Section 3 amends s. 381.922, F.S., to specify that the purpose of the Bankhead-Coley Program, in part, is to expand cancer research and treatment capacity in Florida. The program is required to provide grants for cancer clinical trials projects, for recruiting cancer researchers and research teams; for operational start-up grants for newly recruited cancer researchers and research teams; or for equipment expenditures related to the expansion of cancer research and treatment capacity in Florida. An applicant for such grants is given preference if the grant proposal would support the transfer of knowledge gained from research into the practice of community practitioners.

Grants or fellowships may be given for institutional training, predoctoral and postdoctoral research, and clinical trial projects, especially if those clinical trial projects identify prospective clinical trials treatment options for cancer patients in Florida or foster greater rates of participation in clinical trials. At least one clinical trial project per year that has been proposed and that merits an award must be awarded a grant.

The Biomedical Research Advisory Council may recommend an allocation of up to one-third of the program funds for the recruitment of cancer, heart, or lung disease researchers and research teams to institutions in Florida; for operational start-up grants for newly recruited cancer, heart, or lung disease research teams; and for equipment expenditures related to the expansion of cancer, heart or lung disease research and treatment capacity in Florida. The council may develop a grant application and review mechanism for the allocation of such funds, but such mechanism must ensure a fair and rigorous analysis of the merit of any proposals. A member of the Biomedical Research Advisory Council or a peer review panel is prohibited from discussing or making a decision on a research proposal if the member is a part of the governing body of, an employee of, or is contracted with the firm, entity, or agency under review.

This section requires the Biomedical Research Advisory Council to submit, by February 1 of each year, a report to the Governor and the Legislature which indicates progress towards the Bankhead-Coley Program's mission and makes recommendations that furthers the program's purpose.

This section provides that the DOH may accept gifts made willfully and without conditions and may deposit the gifts into the Biomedical Research Trust Fund to be used for grant or fellowship awards under the Bankhead-Coley Program. The DOH may also accept gifts to which conditions are attached, if it is lawful for the DOH to accept the gift with conditions and the gift is consistent with the provisions of the King Program.

Section 4 creates s. 381.923, F.S., to create the "Florida Comprehensive Cancer Control Act" (Cancer Control Act). This section provides legislative intent for the Cancer Control Act, including the importance of research related to cancer and the importance of community outreach to educate Floridians about, and prevent, cancer. The terms "cancer," "council," "department," "plan," "program," and "qualified nonprofit association" are defined for purposes of the Cancer Control Act.

This section creates the Florida Cancer Control and Resource Advisory Council (council) within the H. Lee Moffitt Cancer Center and Research Institute, Inc. Each member of the council must be a resident of Florida. The composition of the 42-member council includes:

- Three members representing the general public, appointed by the Governor;
- A member of the Senate, appointed by the President of the Senate;
- A member of the House of Representatives, appointed by the Speaker of the House of Representatives;
- A representative appointed by:
 - H. Lee Moffitt Cancer Center and Research Institute, Inc.;
 - University of Florida Shands Cancer Center;
 - University of Miami Sylvester Comprehensive Cancer Center;
 - Mayo Clinic, Florida;
 - M.D. Anderson Cancer Center, Florida;
 - American Cancer Society, Florida Division;
 - American Lung Association of the Southeast;
 - American Association for Retired Persons;
 - Department of Health;
 - Department of Education;
 - Florida Tumor Registrars Association;
 - Florida Cancer Data System;
 - Florida Society of Oncology Social Workers;
 - Florida Oncology Nurses Society;
 - Florida Society of Clinical Oncology;
 - Florida Association of Pediatric Tumor Programs, Inc.;
 - Florida Medical Association;
 - Florida Hospital Association;
 - Florida Nursing Association;
 - Florida Dental Association;
 - Florida Osteopathic Association;
 - University of Florida College of Medicine;
 - Florida Academy of Family Physicians;
 - University of Miami College of Medicine;
 - University of South Florida College of Medicine;
 - Florida State University College of Medicine;
 - University of Central Florida College of Medicine;
 - Nova Southeastern College of Osteopathic Medicine;
 - Florida International University College of Medicine;
 - Lake Erie School of Osteopathic Medicine;
 - Biomedical Research Advisory Council;
 - Center for Universal Research to Eradicate Disease; and
 - Each of the regional Cancer Control Collaboratives. (Currently there are five regional Cancer Control Collaboratives.)

This section designates membership of an executive committee to coordinate the activities and plan the direction of the full council.

The council must meet at least semiannually and may prescribe, amend, and repeal bylaws governing the council. Members of the council are prohibited from participating in any discussion or decision to recommend an award or contract to any qualified nonprofit association

or to any agency of this state or its political subdivision with which the member is also a member of the governing body, an employee, or has entered into a contractual arrangement.

The council is required to:

- Advise the Governor, Legislature, State Surgeon General, or other policymakers with respect to cancer control and resources in Florida;
- Approve a plan for cancer control to be known as the “Florida Cancer Plan” and review it at least every 2 years;
- Recommend to the Governor, Legislature, State Surgeon General, or other policymakers an evidence-based plan for the prevention and early detection of cancer. The State Surgeon General and other state policymakers are required to consider this plan in developing department priorities and funding priorities and standards under ch. 385, F.S., relating to chronic disease;
- Provide expertise and input in the content and development of the Florida Cancer Plan. Recommendations must include coordination and integration of other state plans concerned with cancer control;
- Advise the State Surgeon General on methods of enforcing and implementing laws that are concerned with cancer control; and
- Report any findings and recommendations to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the State Surgeon General by December 1 of each year.

The council is authorized to form committees to address the following areas for action:

- Cancer plan evaluation, including tumor registry, data retrieval systems, and epidemiology of cancer in Florida;
- Cancer prevention;
- Cancer detection;
- Cancer treatments;
- Support services for cancer patients and caregivers;
- Cancer education for laypersons and professionals; and
- Other cancer-control-related topics.

The council must develop or purchase written summaries of the medical treatment alternatives for breast cancer and prostate cancer patients and for men who are considering prostate cancer screening, if the Legislature specifically appropriates funds for this purpose. Such summaries would have to be printed and provided to allopathic and osteopathic physicians and surgeons in Florida. Also, if such funds are appropriated for this purpose, the council must develop and implement educational programs to inform citizen groups, associations, and voluntary organizations about early detection and treatment of breast cancer and prostate cancer.

The council may recommend to the State Surgeon General rulemaking enabling it to perform its duties and properly administer the Cancer Control Act.

The H. Lee Moffitt Cancer Center and Research Institute must house the council and provide a full-time executive director and additional administrative support for the council.

The DOH is authorized to adopt rules necessary to administer the Cancer Control Act.

The Florida Cancer Plan is established within the DOH. The DOH is required to consult with the council in developing the plan, prioritizing goals, and allocating resources.

The bill establishes the Cancer Control Collaborative Program (collaborative program) within the Bankhead-Coley Program of the DOH. The collaborative program is responsible for overseeing and providing infrastructure for the state cancer collaborative network by implementing the Florida Cancer Plan's initiatives and facilitating the local development of solutions to cancer control needs. The DOH must appoint a collaborative program director to be responsible for supervising the collaborative program and providing support to the regional cancer control collaboratives. This support must include, at a minimum, centralized organization, communications, information technology, shared resources, and cancer control expertise. The collaborative program must submit a report to the council by October 15 of each year. The collaborative program is also required to serve as the infrastructure for expansion or adaption as federal programs or other opportunities arise for future cancer control initiatives. The infrastructure for the local cancer control collaboratives is required, to the extent possible, to be designed to leverage federal funding opportunities.

Each regional cancer control collaborative must bring together local stakeholders, develop bylaws, identify priority cancer control needs of its region, and develop solutions to solve problems. The solutions must be consistent with the Florida Cancer Plan. Each regional cancer control collaborative must meet at least semiannually and send representation to council meetings.

Section 5 amends s. 458.324, F.S., to correct cross-references to conform to changes made by the bill.

Section 6 amends s. 459.0125, F.S., to correct cross-references to conform to changes made by the bill.

Section 7 repeals s. 1004.435, F.S., the Cancer Control and Research Act.

Section 8 provides an effective date of July 1, 2011.

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:

Private institutions would be able to apply for funding for the new research purposes authorized in the bill.

C. Government Sector Impact:

According to s. 381.922(5), F.S., the Bankhead-Coley Program may only use up to 10 percent of its appropriated funds for administrative purposes. Because this bill establishes the Cancer Control Collaborative Program within the DOH and the program resides within the Bankhead-Coley Program, and no additional appropriation was made for this new program, it is indeterminate whether there will be administrative money available to administer the new program.

The Moffitt Cancer Center may incur costs because it is required to provide a full-time director and additional administrative support as reasonably necessary to the Florida Cancer Control and Resource Advisory Council.

State universities would be able to apply for funding for the new research purposes authorized in the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The DOH reports that in order to obligate and disburse funds in accordance with the conditions of a gift, the DOH will have to seek specific spending authority from the Legislative Budget Commission.³¹

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

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

None.

³¹ Department of Health, *Bill Analysis, Economic Statement, and Fiscal Note for SB 720*, dated February 17, 2011. A copy of this analysis is on file with the Senate Health Regulation Committee.

B. Amendments:

None.

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



521130

LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment

Delete lines 207 - 256
and insert:

(6) RELEASE OR MODIFICATION OF RESTRICTIONS ON MANAGEMENT, INVESTMENT, OR PURPOSE.-

(a) If the donor consents in a record, an institution may release or modify, in whole or in part, a restriction contained in a gift instrument on the management, investment, or purpose of an institutional fund. A release or modification may not allow a fund to be used for a purpose other than a charitable purpose of the institution.



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13 (b) If consent of the donor in a record cannot be obtained
14 by reason of the donor's death, disability, unavailability, or
15 impossibility of identification, a governing board may modify a
16 restriction contained in a gift instrument regarding the
17 management, investment, or use of an institutional fund if the
18 fund has a total value of \$100,000 or less and the restriction
19 has become impracticable or wasteful, impairs the management,
20 investment, or use of the fund or if, because of circumstances
21 not anticipated by the donor, a modification of a restriction
22 will further the purposes of the fund.

23 (c) If an institution determines that a restriction
24 contained in a gift instrument on the management, investment, or
25 purpose of an institutional fund is unlawful, impracticable,
26 impossible to achieve, or wasteful, the institution, after
27 providing written notice to the Attorney General, may release or
28 modify the restriction, in whole or part, if:

29 1. The institutional fund subject to the restriction has a
30 total value of at least \$100,000 and not more than \$250,000;

31 2. More than 20 years have elapsed since the fund was
32 established; and

33 3. The institution uses the property in a manner consistent
34 with the charitable purposes expressed in the gift instrument.

35 (d) The circuit court for the circuit in which an
36 institution is located, upon application of that institution,
37 may modify a restriction contained in a gift instrument
38 regarding the management or investment of an institutional fund
39 if the restriction has become impracticable or wasteful, if it
40 impairs the management or investment of the fund, or if, because
41 of circumstances not anticipated by the donor, a modification of



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42 a restriction will further the purposes of the fund. The
43 institution shall notify the Attorney General of the
44 application. To the extent practicable, any modification must be
45 made in accordance with the donor's probable intention.

46 (e) If a particular charitable purpose or a restriction
47 contained in a gift instrument on the use of an institutional
48 fund becomes unlawful, impracticable, impossible to achieve, or
49 wasteful, the circuit court for the circuit in which an
50 institution is located, upon application of that institution,
51 may modify the purpose of the fund or the restriction on the use
52 of the fund in a manner consistent with the charitable purposes
53 expressed in the gift instrument. The institution shall notify
54 the Attorney General of the application.

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: CS/SB 952

INTRODUCER: Committee on Commerce and Tourism and Senators Richter and Gaetz

SUBJECT: Uniform Prudent Management of Institutional Funds

DATE: March 31, 2011 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------|----------------|-----------|--------------------|
| 1. | McCarthy | Cooper | CM | Fav/CS |
| 2. | Harkey | Matthews | HE | Pre-Meeting |
| 3. | | | GO | |
| 4. | | | BC | |
| 5. | | | | |
| 6. | | | | |

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

This bill adopts the 2006 Uniform Prudent Management of Institutional Funds Act (act), and repeals the current Uniform Management of Institutional Funds Act contained in s. 1010.10, F.S., for educational endowments.

The new act applies to all charitable endowment funds with the exception of funds administered by the State Board of Administration. Charitable purpose is defined under the new act as “the relief of poverty, the advancement of education or religion, the promotion of health, the promotion of a governmental purpose, or any other purpose the achievement of which is beneficial to the community.”

Similar to current law regarding educational endowments, the primary benefit of this act is to allow charitable institutions holding endowment funds the flexibility to make distributions from the endowment fund when the fund has fallen below the original amount placed into it, so long as the fund is prudently managed and the appropriation is not explicitly prohibited.

Currently, there is no clear statewide guidance for the operation of charitable endowments. This act would apply similar guidance currently provided to educational endowments to endowment funds held for a charitable purpose.

The Uniform Prudent Management of Institutional Funds Act (UPMIFA) has been adopted in 47 states.¹

The bill creates s. 617.2014 of the Florida Statutes.

The bill repeals s. 1010.10, Florida Statutes.

II. Present Situation:

Currently s. 1010.10, F.S., the *Florida Uniform Management of Institutional Funds Act* provides guidance to educational institutions regarding the prudent management of endowment funds under their control. The law regulates the expenditure of endowment funds, establishes standards of conduct of those in charge of the endowment funds, provides guidance for the investment authority, allows for the delegation of investment management functions, sets standards for investment costs, and establishes the criteria for the release of restrictions on use or investment of endowment funds.² The current act relates to an incorporated or unincorporated organization organized and operated exclusively for the advancement of educational purposes, or a governmental entity to the extent that it holds funds exclusively for educational purposes.³ The current act does not apply to charitable organizations other than those holding funds for an educational purpose.

An endowment fund subject to the current act means an institutional fund, or any part thereof, not wholly expendable by the institution on a current basis under the terms of the applicable gift instrument.⁴

A governing board means the body responsible for the management of an institution or of an institutional fund. With some limitation, a governing board currently may expend the principle of an endowment fund if they determine such action to be prudent for the uses and purposes for which the endowment fund is established, consistent with the goal of conserving the purchasing power of the endowment fund. In making its determination, the governing board must use reasonable care, skill, and caution in considering the following:

- The purposes of the institution;
- The intent of the donors of the endowment fund;
- The terms of the applicable instrument;
- The long-term and short-term needs of the institution in carrying out its purposes;
- The general economic conditions;
- The possible effect of inflation or deflation;

¹ See Prudent Management of Institutional Funds Act, readable at: [http://uniformlaws.org/LegislativeFactSheet.aspx?title=Prudent Management of Institutional Funds Act](http://uniformlaws.org/LegislativeFactSheet.aspx?title=Prudent%20Management%20of%20Institutional%20Funds%20Act).

² See s. 1010.10, F.S.

³ See s. 1010.10(2)(c), F.S.

⁴ See s. 1010.10(2)(a), F.S.

- The other resources of the institution; and
- Perpetuation of the endowment.

Such expenditures will be considered prudent if the amount expended is consistent with the goal of preserving the purchasing power of the endowment fund.⁵

III. Effect of Proposed Changes:

This bill creates s. 617.2104, F.S., to adopt the 2006 Uniform Prudent Management of Institutional Funds Act (UPMIF),⁶ as proposed by the National Conference of Commissioners on Uniform State Laws,⁷ and repeals the current Uniform Management of Institutional Funds Act contained in s. 1010.10, F.S., for educational endowments.

Consistent with current law and the model act, the bill:

- Applies standards of conduct in managing and investing institutional funds;
- Provides for the appropriation for expenditure or accumulation of endowment funds and rules of construction;
- Allows for the delegation of management and investment functions;
- Provides for the release or modification of restrictions on management, investment, or purpose; and
- Creates a standard for the reviewing for compliance.

Within each of the above standards, the bill provides specific guidance to institutions as to how they are to be applied.

The bill provides that the circuit court for the circuit in which an institution is located is the appropriate court to handle request for changes to restrictions. It also provides that a restriction on an institutional fund may be modified as to its management, investment and use.

The bill differs significantly from s. 1010.10, F.S., the Florida Uniform Management of Institutional Funds Act, in that it applies to all charitable endowment funds, not just educational funds. Charitable purpose is defined under the new act as

“the relief of poverty, the advancement of education or religion, the promotion of health, the promotion of a governmental purpose, or any other purpose the achievement of which is beneficial to the community.”

⁵ See s. 1010.10(3), F.S.

⁶ See <http://www.uniformlaws.org/Shared/Docs/UPMIFA/UPMIFA%20Program%20Related%20Assets%20Article.pdf> last visited March 19, 2011.

⁷ “The Uniform Law Commission (ULC, also known as the National Conference of Commissioners on Uniform State Laws), established in 1892, provides states with non-partisan, well-conceived and well-drafted legislation that brings clarity and stability to critical areas of state statutory law. ULC members must be lawyers, qualified to practice law. They are practicing lawyers, judges, legislators and legislative staff and law professors, who have been appointed by state governments as well as the District of Columbia, Puerto Rico and the U.S. Virgin Islands to research, draft and promote enactment of uniform state laws in areas of state law where uniformity is desirable and practical.” readable at: <http://uniformlaws.org/Narrative.aspx?title=About%20the%20ULC>.

Similar to current law regarding educational endowments, the primary benefit of this provision is to allow charitable institutions holding endowment funds the flexibility to make distributions from the endowment fund when the fund has fallen below the original amount placed into it, so long as the fund is prudently managed and the appropriation is not explicitly prohibited. The bill excludes funds administered by the State Board of Administration from the definition of “institutional fund”.

The bill makes other significant changes to current law, in that it:

- Expands the types of assets which can be in a charitable organizations portfolio, to include any kind of property or type of investment consistent with the new law;
- Specifies that management and investment of institutional funds are to be accomplished with the care an ordinarily prudent person would exercise;
- Requires an institution to make a reasonable effort to verify relevant facts;
- Allows pooling of institutional funds for purposes of managing and investing;
- Makes reference to an overall investment strategy;
- Obliges a person with special relevant skills or expertise, to use those skills or that expertise in managing and investing institutional funds;
- Delineates factors to be considered prior to expenditure of funds;
- Sets an effective date for the application of this law to existing institutional funds; and
- Clarifies the application of federal Electronic Signatures in Global and National commerce Act.

The bill provides an effective date July 1, 2012.

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 charitable institutions holding endowment funds exercise the distribution flexibility authorized by this act, beneficiaries of the charity may continue to receive such distributions.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill does not include the proposed section of the UPMIF on the rebuttable presumption of imprudence set forth in the uniformed act. The omitted section deals with creating a presumption of imprudence for spending above a fixed percentage of the value of the fund. According to the notes from the drafters of the uniform act, some were in favor of this provision arguing that the presumption would curb the temptation that a charity might have to spend endowment assets too rapidly. Others opined that a fixed percentage in the statute might be perceived as a safe harbor that could lead institutions to spend more than prudent.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Commerce and Tourism on March 22, 2011:**

The bill creates s. 617.2014 F.S., cited as the “Uniform Prudent Management of Institutional Funds Act.”

- Expands the exceptions to definition of “institutional fund” to exclude funds administered by the State Board of Administration.
- Clarifies that the circuit court for the circuit in which an institution is located is the appropriate court to handle requests for changes to restrictions.
- Clarifies that the restriction on an institutional fund may be modified as to its “management, investment and use” rather than its “management, investment and purpose.”
- Removes the requirement that the Attorney General be provided an opportunity to respond to requests for modifications.
- Removes the requirement that the Attorney General approve requests to release or modify restrictions for funds with a value of \$100,000 to \$250,000.
- Changes the effective date from July 1, 2011, to July 1, 2012.
- Provides for a technical amendment to correct a reference to a Federal law.

B. Amendments:

None.

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



289352

LEGISLATIVE ACTION

| Senate | . | House |
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The Committee on Higher Education (Lynn) recommended the following:

Senate Amendment (with directory and title amendments)

Delete lines 172 - 260.

===== **D I R E C T O R Y C L A U S E A M E N D M E N T**=====

And the directory clause is amended as follows:

Delete line 169

and insert:

Section 3. Subsections (6) through (26) of section 1002.33,

===== **T I T L E A M E N D M E N T**=====

And the title is amended as follows:



289352

13 Delete lines 4 - 8
14 and insert:
15 references; amending s. 1002.33, F.S.;



204168

LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment (with title amendment)

Delete lines 1999 - 2214.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 17 - 47

and insert:

F.S.; conforming cross-references;

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: CS/SB 1546

INTRODUCER: Committee on Education Pre-K - 12 and Senator Thrasher

SUBJECT: Charter Schools

DATE: March 30, 2011 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|--------------|-----------------|-----------|--------------------|
| 1. | <u>Brown</u> | <u>Matthews</u> | <u>ED</u> | Fav/CS |
| 2. | <u>Brown</u> | <u>Matthews</u> | <u>HE</u> | Pre-meeting |
| 3. | _____ | _____ | <u>BC</u> | _____ |
| 4. | _____ | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ | _____ |
| 6. | _____ | _____ | _____ | _____ |

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

In addition to current authority granted to state universities to approve lab schools, this bill authorizes state universities and Florida college system institutions to approve other charter schools. These schools would enter into charter contracts with the local school district.

This bill clarifies that schools developed by state universities and Florida college system institutions are exempt from statutory contract provisions. This bill also increases grade levels available to community colleges to develop charter schools with school districts, from secondary schools, to kindergarten through grade 12 programs.

Clarification is provided that charter school training requirements apply to applicants who are approved, and that training must take place at least 30 days before the first day of school.

This bill adds compliance with the ch. 120, F.S., administrative process, to the appeals process in nonrenewal and termination appeals cases.

Attorney's fees and costs against the district are assessed when an appellant prevails in situations where:

- A sponsor immediately terminates a school and does not assume continuing operation pending appeal; or
- A high-performing applicant, applying under the authority of a high-performing charter school system is denied approval.

This bill establishes the designation of “high performing charter schools”, provides qualifications and outlines benefits. High performing charter school systems are also created.

Sanctions against a district are authorized pursuant to s. 1008.32(4), F.S., where the State Board of Education finds a pattern of unlawfully denying high-performing applications.

Greater flexibility for charter schools-in-the-workplace is provided.

The Charter School Review Panel is abolished.

This bill establishes the College Preparatory Boarding Academy Pilot Program to serve at-risk students.

This bill creates authority for blended-learning charter schools in law.

OPPAGA is required to compare charter school with traditional school funding, specifically regarding capital improvement millage distribution and the administrative fee.

This bill substantially amends sections 163.3180, 1002.32, 1002.33, 1002.34, 1011.68, 1012.32, and 1013.62 of the Florida Statutes. The bill creates one undesignated section of law.

II. Present Situation:

Approved Sponsors of Charter Schools

Local school districts may approve and sponsor charter schools and universities may sponsor charter lab schools.¹ However, current law limits the number of charter lab schools eligible for state funding that may be authorized to one per university, except for certain charter lab schools authorized prior to June 1, 2003.² Additionally, community colleges may work with local school districts to develop charter schools but are limited to approval of secondary programs.³

Process for Appeal of Application Denials and Nonrenewal or Termination of a Charter

No later than 30 calendar days after receipt of a denial, the applicant may appeal the decision to the State Board of Education (Board), with notice to the sponsor. Upon receipt of notice of the appeal from the Board, the Commissioner of Education (COE) is required to convene a meeting of the Charter School Appeal Commission to make recommendations to the Board about the appeal. The Board must decide no more than 90 calendar days after the appeal is filed, and the

¹ s. 1002.33(5), F.S.

² s. 1002.32(2), F.S. The previously authorized charter schools are Florida State University Charter Lab K-12 School in Broward County, Florida Atlantic University (FAU) Charter Lab 9-12 High School in Palm Beach County, and FAU Charter Lab K-12 School in St. Lucie County.

³ s. 1002.33(5)(b)4., F.S.

sponsor is bound by the decision. The Board's decision is not subject to the ch. 120, F.S., administrative process, and represents, instead, final action, subject to judicial review in the appropriate district court of appeal.⁴

Besides issuing recommendations in applicant appeal cases, the Charter School Appeal Commission assists the COE and the Board in non-renewal and termination cases.⁵ In addition to other grounds, a sponsor may non-renew, or terminate a charter for failure to meet generally accepted standards of fiscal management.⁶ At least 90 days before renewing or terminating a charter, the sponsor must provide written notification and notice that the school may request an informal hearing, to be held by the sponsor within 30 days of request receipt. The applicant is authorized to then follow the appellate process established for denials of new applicants.

Charter School Training

The Department of Education (DOE) is required to offer or arrange for training and technical assistance to charter school applicants in business development, expenses and income. Charter school applicants are required to participate in training, either at the DOE or through a qualifying sponsor program.⁷

Term of Operation for Charter Schools

The initial term of a charter is 4 to 5 years. Charter schools operated by a municipality, charter lab schools, and charters operating under a private not-for-profit s. 501(c)(3) corporation are eligible for an initial term of up to 15 years.⁸

Charter School Review Panel

The DOE staffs and convenes a Charter School Review Panel to review charter school issues, practices and policies, for the purpose of making recommendations to the Legislature, the DOE, charter schools and school districts for improving operations and oversight.⁹

State Board of Education Oversight Authority

The State Board of Education (Board) has specific statutory oversight authority in the area of district school board performance. Upon determining that a district school board has failed to comply with law or rule, the Board has available the following sanctions:

- Report to the Legislature that the school district is unwilling or unable to comply with law or state board rule and recommend that the Legislature take action;
- Reduce the discretionary lottery appropriation until the school district is in compliance;
- Withhold the transfer of state funds, discretionary grant funds, or other funds specified as eligible for this purpose by the Legislature until in compliance;
- Declare the school district ineligible to receive competitive grants; and
- Require monthly or periodic reporting on progress related to noncompliance until corrected.¹⁰

⁴ s. 1002.33(6)(c), F.S.

⁵ s. 1002.33(6)(e), F.S.

⁶ s. 1002.33(8)(a)2., F.S.

⁷ s. 1002.33(6)(f)2., F.S.

⁸ s. 1002.33(7)(a)12., F.S.

⁹ s. 1002.33(22), F.S.

III. Effect of Proposed Changes:

Additional Authorizers of Charter Schools

This bill authorizes state universities and Florida college system institutions to approve charter schools. Schools approved in this manner must enter into a charter contract with the local school district. This bill distinguishes these schools from those for which the state universities and Florida college system institutions assume sponsorship, which are exempt from traditional charter school contract requirements, such as inclusion of a mission, students to be served, methods to achieve a representative racial and ethnic balance, incoming student achievement baseline and accountability information, and a financial management plan.

The bill does not explicitly repeal the cap in s. 1002.32(2), F.S., that was included for the purpose of clarifying state funding. Accordingly, a state university may be precluded from sponsoring multiple lab schools. Additionally, it is unclear who the sponsor of a charter school is in the situation when the university or state college approves the charter school, although it appears that it would be the local school district.

This bill expands authority granted to community colleges from current approval for secondary level charter schools to authorization of grades kindergarten through grade 12. While the original restriction in law may have been designed to prevent community college mission creep, the bill contemplates that community colleges and Florida college system schools could run effective K-12 charter schools.

Appeals Process for Non-renewals and Terminations of Charter Schools

The 90-day requirement for written notice of renewal or termination of a charter is deleted and sponsors would just be required to provide written notice at any time before the event. This bill replaces the current informal hearing process before the sponsor with an option by the charter school to select a hearing before an administrative law judge in accordance with chapter 120, F.S., to resolve disputed issues of fact. Appeals follow the same procedure as that for appeals in applicant denial cases, so that the case is appealed to the State Board of Education (Board), which then convenes the Charter School Appeals Commission for a recommendation to be made to the Board. The Board's final decision is not subject to review under ch. 120, F.S.

Regarding appeals of immediate termination cases, this bill creates an option for the charter school to request a hearing through the sponsor, as agency, pursuant to s. 120.569, F.S., at which an administrative law judge would preside in instances where material facts are in dispute. The hearing is expedited and the final order must be issued within 45 days after the date of hearing is requested. The sponsor issues the final order. Appeals of that decision follow current law and the same process as for initial denial of charter school application cases and regular termination cases. This bill requires the sponsor to assume and continue operation of the school pending appeal unless student health, safety, or welfare would be threatened. However, if a sponsor does not continue operation and a charter school prevails on appeal, the sponsor is liable for attorney's fees and costs.

¹⁰ s. 1008.32(4), F.S.

High Performing Charter Schools and High Performing Charter School Systems

This bill establishes the designation of “high performing charter schools” provided that the following minimum standards exist and are maintained:

- For the last three years the school received an “A” or “B” school grade, received an unqualified opinion on each financial audit, and did not receive a financial audit that revealed a condition warranting a determination of financial emergency, except for charter schools-in-the-workplace, if the audit finds that money is available to cover the deficiency or it does not result in a deteriorating financial condition; and
- The school has operated for less than three years as part of a high performing charter school system. These schools are eligible for capital outlay funds in their first year without having to comply with statutory requirements operating and being governed by a board in-state at least three years, holding SACs accreditation, having financial stability, and other factors. Additionally, it appears that these schools would have immediate high-performing status.

Benefits available to high performing charter schools in compliance with class size include flexibility to annually increase student enrollment by up to 25 percent above the authorized cap (as determined by the governing board), add grade levels, and offer voluntary prekindergarten. These schools are also eligible for 15-year renewals. The initial term of other types of charters is fixed at five years.

Other benefits to high-performing schools are that they have to comply with training once and submit quarterly financial statements rather than the current monthly filing requirements for charter schools.

This bill establishes “high-performing charter school system” with the following attributes:

- Operates at least three high-performing charter schools in the state;
- Has received, among schools, a minimum average “B” grade during the last three years for all schools started by the system;
- Has not had a school with financial emergency status; and
- Has not had a school with an “F” grade for the last two years for any school that the system started, and has not had a school grade of “F” for 3 out of 5 years for a school that the system took over.

A system can be organized as a municipality or other public entity authorized to operate charter schools, a private, not-for-profit s. 501(c)(3) corporation, or a private for-profit corporation.

While under the designation of a high-performing charter school system, the system is authorized to create new charter schools in any district in the state which substantially replicates one or more of the provider’s existing high-performing schools. A local school district is limited in its ability to deny these applications only if good cause is shown that the operator failed to meet charter school statutory requirements, which include financial requirements. A sponsor is liable for attorney’s fees and costs if an applicant prevails upon appeal. District school boards may also

be subject to s. 1008.32(4), F.S., sanctions to be determined by the State Board of Education if the Board finds that a pattern exists of unlawful denials to a system to replicate schools.

Initial charters run for a term of 15 years, with the first three years constituting the status of high-performing. This status makes the school immediately eligible for capital outlay funding.

It may be challenging for local school boards, the Department of Education and the Auditor General to keep pace with the changing status of a school or system that becomes high-performing and loses that status, regarding the accompanying change in requirements. For example, it is unclear what would happen to projects partially started with capital outlay funding for a new school that loses high-performing status in its first three years of operation. This is also the case for schools that don't start as high-performing but accrue that status.

Blended-learning Charter Schools

This bill introduces the concept of a “blended-learning charter school” as a school that combines traditional classroom instruction with online offerings. The schools bypass the approved provider process in place for the school district virtual instruction program. Classroom courses are funded through the FEFP.

Other Charter Provisions

In requiring training participation at least 30 days before school starts, this bill clarifies that the training provisions only apply to applicants who are approved, and are not, therefore, a condition of approval.

This bill provides greater flexibility for qualifying enrollment for charter-schools-in-a-municipality or for charter schools-in-the-workplace.

This bill expands the current prohibition on requiring resignations from teachers desiring to teach in charter schools, to instructional personnel, school administrators and educational support employees.

Sponsors are prohibited from requiring charter school governing board members to reside in the district, and must allow management to represent the charter school on the governing board if approved pursuant to the school's governing documents.

The Charter School Review Panel is abolished.

College Preparatory Boarding Academy Program

This bill establishes the College Preparatory Boarding Academy Pilot Program, a private nonprofit, to serve at-risk students through a residential remedial curriculum for middle through high school students. Eligible students are students in the 5th or 6th grade, with family income at less than 200 percent of federal poverty guidelines, and who have two of the following:

- A record of suspensions, office referrals, or chronic truancy;
- Referrals for academic intervention or a failure to achieve a proficient score on state assessments;
- The student's parent is a single parent;

- The student does not live with the custodial parent;
- The student received a referral from a school, teacher, counselor, dependency court circuit judge, or community-based care organization;
- The student's family receives a housing voucher or is public housing assistance-eligible;
- A member of the student's immediate family has been incarcerated;
- The student has been adjudicated dependent; or
- The student meets additional criteria established by the State Board of Education and the program operator.

The State Board of Education selects the private operator in consideration of the following:

- The entity will receive a public charter school for grades 6 through 12 or partners with a sponsor who will operate the school;
- The entity has success in operating a similar school; and
- The entity has the ability to finance and secure private funds for campus development.

The process is provided for State Board of Education approval and contract terms and limitations, including an initial approved capacity of 80 students with a final cap of 400 students. This bill clarifies that Medicaid billing is authorized.

This bill clarifies that the academy is a public school that is part of the state's program of education, but is also eligible for private funding. State reporting requirements are provided.

Office of Program Policy Analysis and Government Accountability (OPPAGA)

OPPAGA is required to conduct a study that compares charter school, with traditional public school, funding, with special focus on capital improvement millage and the actual cost of services provided through the five percent administrative fee. This bill requires OPPAGA to assess the amount of funds available to charter schools if districts equitably distribute capital improvement millage to all schools, including charter schools. It is unclear what is meant by equitable distribution.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The provisions that expand authorization to state universities may be challenged under Article IX, section 4 of the state constitution, which provides for district school boards to operate, control and supervise all public schools in the district. The 2006 Florida Legislature established the Florida Schools of Excellence Commission (Commission) as a state-level, independent entity with the purpose of authorizing, or denying, charter school applications.¹¹ The First District Court of Appeal struck down the provision which created the Commission as facially unconstitutional.¹² In so doing, the court ruled it violative of the school district's constitutional domain over the operation, control and supervision of all schools within the district.¹³

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

None.

B. Private Sector Impact:

Charter schools and charter operators designated as high-performing may enjoy a competitive advantage over those that are not due to their performance. Schools that are newly opened under the auspices of a high-performing charter school system will benefit from immediate capital outlay funding, rather than others that are required to wait three years.

C. Government Sector Impact:

The creation of the College-Preparatory Boarding Academy Pilot Program may have a fiscal effect, as the academy would be part of the state's public funding program. The impact is indeterminate at this time. The academy would admit students beginning in August 2012, with an initial enrollment of 80 students. The academy would grow to a maximum capacity of 400 students. Proponents of the academy indicate that there would not be a fiscal impact in 2011-2012, an anticipated fiscal of approximately \$2 million in 2012-2013, and \$10 million recurring in future years.¹⁴ Academy proponents have identified federal funds such as Temporary Assistance for Needy Families (TANF), Social Services Block Grant (SSBG), and other social services funds to meet the fiscal needs.

VI. Technical Deficiencies:

None.

¹¹ ch. 2006-302, L.O.F.; s. 1002.335, F.S.

¹² *Duval County School Board v State Board of Education*, 998 So.2d 641 (1st DCA 2008).

¹³ *Id.* at 643.

¹⁴ Email correspondence from Don Winstead, on March 21, 2011, on file with the committee.

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.)

CS by the Committee on Pre-K – 12 on March 30, 2011:

This bill provides charter schools applicants with an opportunity to correct technical errors that the sponsor indicates will otherwise represent the basis for denial of the application, provided that the application is corrected in a week.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment

Delete lines 30 - 36
and insert:
Association of Colleges and Schools must meet state requirements regarding fair consumer practices under s. 1005.04, Florida Statutes, meet annual reporting requirements with respect to crime statistics and physical plant safety under ss. 1005.04(1)(g) and 1013.11, Florida Statutes, and adopt hazing policies and rules under s. 1006.63, Florida Statutes, and



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LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment

Delete line 61
and insert:
University, Webber International University, Keiser University,
and Everglades University, NOW, THEREFORE,



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LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment

Delete lines 67 - 68
and insert:
universities named in this memorial are authorized to

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: SM 1654

INTRODUCER: Senator Wise

SUBJECT: Educational Programs/Secondary Level

DATE: March 31, 2011

REVISED: _____

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

I. Summary:

This Senate Memorial would inform the U.S. Department of Education of certain institutions that are authorized to operate postsecondary education programs in Florida. This notice is required under newly adopted federal regulations governing postsecondary institutions' participation in federal financial aid programs.

This Senate Memorial does not amend, create, or repeal any provisions of the Florida Statutes.

II. Present Situation:

On October 29, 2010, the United States Department of Education (USDOE) adopted a new regulation¹ requiring institutions participating in federally supported financial aid to be authorized by the state to provide educational programs beyond the secondary level. While most postsecondary institutions in Florida meet the requirement because they are public institutions authorized in statute or they are private institutions licensed by the state, 31 private not-for-profit postsecondary institutions are exempt from licensure and would have to meet the requirement for state authorization by another means. The federal regulation provides for authorization of an institution "established by name as an educational institution by a State through a charter, statute, constitutional provision, or other action issued by an appropriate State agency or State entity."²

¹ 34 CFR s. 600.9, readable at: <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr;sid=48bd780171a188c6ec0cd0e22746a7ac;rgn=div2;view=text;node=20101029%3A1.25;idno=34;cc=ecfr;start=1;size=25>

² *Id.*

III. Effect of Proposed Changes:

Private postsecondary institutions are required to be licensed in Florida unless they are exempt from licensure under s. 1005.06, F.S. A non-profit independent college or university that is eligible to participate in the William L. Boyd, IV, Florida Resident Access Grant (FRAG) Program,³ is chartered in Florida and is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools is exempt from licensure under s. 1005.06(10)(c), F.S. The following institutions are exempt from licensure under that provision: Ave Maria University, Barry University, Beacon College, Bethune-Cookman University, Clearwater Christian College, Eckerd College, Edward Waters College, Embry-Riddle Aeronautical University, Everglades University, Flagler College, Florida College, Florida Hospital College of Health Sciences, Florida Institute of Technology, Florida Memorial University, Florida Southern College, Hodges University, Jacksonville University, Keiser University, Lynn University, Nova Southeastern University, Palm Beach Atlantic University, Ringling College of Art and Design, Rollins College, Saint Leo University, Southeastern University, St. Thomas University, Stetson University, University of Miami, University of Tampa, Warner University, and Webber International University.

This Senate Memorial provides the USDOE with a list of institutions necessary to comply with 34 CFR s. 600.9, by providing documentation necessary for the listed institutions and their students to remain eligible for federal student financial aid programs. The effective date of the new regulations is July 1, 2011, and state affirmation of these institutions must be completed by then in order to remain eligible for federal financial aid programs. However, two institutions that meet the requirements of s. 1005.06(10)(c), F.S., Everglades University and Keiser University, appear to be inadvertently omitted.

Copies of the memorial are to be sent to each college and university named in this memorial, the United States Secretary of Education, the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and to each member of the Florida delegation to the United States Congress.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

³ FRAG is a tuition assistance program established in s. 1009.89, F.S.

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

None.

B. Private Sector Impact:

By providing notice to the USDOE of the private postsecondary institutions that are authorized to operate the state, this bill meets a requirement that must be met before those institutions can continue to participate in federal financial aid programs.

C. Government Sector Impact:

None.

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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LEGISLATIVE ACTION

| Senate | . | House |
|--------|---|-------|
| | . | |
| | . | |
| | . | |
| | . | |
| | . | |

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Present subsection (4) of section 1004.015, Florida Statutes, is renumbered as subsection (6) and amended, and new subsections (4) and (5) are added to that section, to read:

1004.015 Higher Education Coordinating Council.—

(4) The council shall, with input of the State Board of Education and the Board of Governors, recommend improvement options and implementation plans to:



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13 (a) Define the primary core mission of public and nonpublic
14 postsecondary education institutions in the context of state
15 access demands and economic development goals.

16 (b) Establish performance outputs and outcomes designed to
17 meet annual and long-term state goals, including, but not
18 limited to, increased student access, preparedness, retention,
19 transfer, and completion. Performance measures must be
20 consistent across sectors and allow for a comparison of the
21 state's performance to that of other states.

22 (c) Evaluate the state's articulation policies and
23 practices to ensure that cost benefits to the state are
24 maximized without jeopardizing quality. The evaluation shall
25 consider return on investment for both the state and students.

26 (d) Establish a plan for implementing changes in workforce
27 development education to:

28 1. Align school district and Florida College System
29 workforce development education programs to ensure cost
30 efficiency and mission delineation, including an examination of
31 the need for both college credit and noncollege credit
32 certificate programs, an evaluation of the merit of retaining
33 the associate in applied science degree, and the consolidation
34 of adult general education programs within school districts.

35 2. Improve the consistency of workforce education data
36 collected and reported by Florida College System institutions
37 and school districts, including the establishment of common
38 elements and definitions for any data that is used for state and
39 federal funding and program accountability.

40 (e) Address baccalaureate degree authorization and
41 production, which shall include the following:



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42 1. An assessment of the potential need to establish
43 comprehensive undergraduate institutions that would primarily
44 focus on the delivery of undergraduate instruction, including
45 offering baccalaureate degrees. Such institutions may include
46 Florida College System institutions, state universities, and
47 university branch campuses. The assessment must recommend
48 accountability options and address local and regional workforce
49 needs and gaps that might result from an institution's shift in
50 primary mission.

51 2. Recommendations related to appropriate student
52 enrollment and institutional expenditure thresholds for upper-
53 division programs that justify legislative consideration in
54 order to establish or reestablish an institution under the
55 governance and oversight of the State Board of Education, the
56 Board of Governors, or another statutorily established or
57 created governing or advisory organization.

58 3. Recommendations related to funding options and
59 strategies, student tuition and fees, student financial aid
60 funding, and other strategies to encourage performance-based
61 funding.

62 (5) The council shall submit a report to the Governor, the
63 President of the Senate, and the Speaker of the House of
64 Representatives by December 31, 2011, which specifically
65 includes recommendations for consideration by the Legislature
66 for implementation in the 2012-2013 fiscal year.

67 (6)-(4) The Board of Governors and the Department of
68 Education shall provide administrative support for the council.

69 Section 2. Subsections (2), (6), and (10) of section
70 1007.27, Florida Statutes, are amended to read:



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71 1007.27 Articulated acceleration mechanisms.—

72 (2) The Department of Education shall annually identify and
73 publish the minimum scores, maximum credit, and course or
74 courses for which credit is to be awarded for each College Level
75 Examination Program (CLEP) ~~general examination, CLEP subject~~
76 ~~examination, College Board Advanced Placement Program~~
77 ~~examination, Advanced International Certificate of Education~~
78 ~~examination, and International Baccalaureate examination. The~~
79 ~~department shall use student performance data in subsequent~~
80 ~~postsecondary courses to determine the appropriate examination~~
81 ~~scores and courses for which credit is to be granted.~~ In
82 addition, the department shall identify such courses in the
83 general education core curriculum of each state university and
84 community college.

85 (6) Advanced placement shall be the enrollment of an
86 eligible secondary student in a course offered through the
87 Advanced Placement Program administered by the College Board.
88 Postsecondary credit for an advanced placement course shall be
89 limited to students who score a minimum of 3, on a 5-point
90 scale, on the corresponding Advanced Placement Examination for
91 examinations taken before June 30, 2011. On or after July 1,
92 2011, postsecondary credit for an advanced placement course
93 shall be limited to credit for one course per exam taken for
94 students who score a minimum of 4, on a 5-point scale, on the
95 corresponding Advanced Placement Examination. The specific
96 courses for which students receive such credit shall be
97 identified in the statewide articulation agreement required by
98 s. 1007.23(1). Students of Florida public secondary schools
99 enrolled pursuant to this subsection shall be exempt from the



100 payment of any fees for administration of the examination
101 regardless of whether or not the student achieves a passing
102 score on the examination.

103 ~~(10) Any student who earns 9 or more credits from one or~~
104 ~~more of the acceleration mechanisms provided for in this section~~
105 ~~is exempt from any requirement of a public postsecondary~~
106 ~~educational institution mandating enrollment during a summer~~
107 ~~term.~~

108 Section 3. Subsections (6) and (7) of section 1007.33,
109 Florida Statutes, are amended to read:

110 1007.33 Site-determined baccalaureate degree access.-

111 ~~(6) (a) Beginning July 1, 2010, and each subsequent July 1,~~
112 ~~the Division of Florida Colleges may accept and review~~
113 ~~applications from a Florida college to obtain an exemption from~~
114 ~~the State Board of Education's approval for subsequent degrees~~
115 ~~as required in subsection (5), if the Florida college is~~
116 ~~accredited by the Commission on Colleges of the Southern~~
117 ~~Association of Colleges and Schools as a baccalaureate-degree-~~
118 ~~granting institution and has been offering baccalaureate degree~~
119 ~~programs for 3 or more years. The division shall develop~~
120 ~~criteria for determining eligibility for an exemption based upon~~
121 ~~demonstrated compliance with the requirements for baccalaureate~~
122 ~~degrees, primary mission, and fiscal, including, but not limited~~
123 ~~to:~~

124 ~~1. Obtaining and maintaining appropriate SACS~~
125 ~~accreditation;~~

126 ~~2. The maintenance of qualified faculty and institutional~~
127 ~~resources;~~

128 ~~3. The maintenance of enrollment projections in previously~~



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129 ~~approved programs;~~

130 ~~4. The appropriate management of fiscal resources;~~

131 ~~5. Compliance with the primary mission and responsibility~~
132 ~~requirements in subsections (2) and (3);~~

133 ~~6. The timely submission of the institution's annual~~
134 ~~performance accountability report; and~~

135 ~~7. Other indicators of success such as program completers,~~
136 ~~placements, and surveys of students and employers.~~

137 ~~(b) If the Florida college has demonstrated satisfactory~~
138 ~~progress in fulfilling the eligibility criteria in this~~
139 ~~subsection, the Division of Florida Colleges may recommend to~~
140 ~~the State Board of Education that the institution be exempt from~~
141 ~~the requirement in subsection (5) for approval of future~~
142 ~~baccalaureate degree programs. The State Board of Education~~
143 ~~shall review the division's recommendation and determine if an~~
144 ~~exemption is warranted. If the State Board of Education approves~~
145 ~~the application, the Florida college is exempt from subsequent~~
146 ~~program approval under subsection (5) and such authority is~~
147 ~~delegated to the Florida college board of trustees. If the State~~
148 ~~Board of Education disapproves of the Florida college's request~~
149 ~~for an exemption, the college shall continue to be subject to~~
150 ~~the State Board of Education's approval of subsequent~~
151 ~~baccalaureate degree programs.~~

152 ~~(c) Prior to developing or proposing a new baccalaureate~~
153 ~~degree program, all Florida colleges, regardless of an exemption~~
154 ~~from subsection (5), shall:~~

155 ~~1. Engage in need, demand, and impact discussions with the~~
156 ~~state university in their service district and other local and~~
157 ~~regional, accredited postsecondary providers in their region.~~



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158 ~~2. Send documentation, data, and other information from the~~
159 ~~inter-institutional discussions regarding program need, demand,~~
160 ~~and impact required in subparagraph 1. to the college's board of~~
161 ~~trustees, the Division of Florida Colleges, and the Chancellor~~
162 ~~of the State University System.~~

163 ~~3. Base board of trustees approval of the new program upon~~
164 ~~the documentation, data, and other information required in this~~
165 ~~paragraph and the factors in subsection (5) (d).~~

166
167 ~~The Division of Florida Colleges shall use the documentation,~~
168 ~~data, and other information required in this subsection,~~
169 ~~including information from the Chancellor of the State~~
170 ~~University System, in its compliance review.~~

171 ~~(d) The board of trustees of a Florida college that is~~
172 ~~exempt from subsection (5) must submit newly approved programs~~
173 ~~to the Division of Florida Colleges and SACS within 30 days~~
174 ~~after approval.~~

175 ~~(e) Within 30 days after receiving the approved~~
176 ~~baccalaureate degree program, the Division of Florida Colleges~~
177 ~~shall conduct a compliance review and notify the college if the~~
178 ~~proposal meets the criteria for implementation based upon the~~
179 ~~criteria in paragraphs (5) (d) and (6) (e). If the program fails~~
180 ~~to meet the criteria for implementation as determined by the~~
181 ~~Division of Florida Colleges, the college may not proceed with~~
182 ~~implementation of the program until the State Board of Education~~
183 ~~reviews the proposal and the compliance materials and gives its~~
184 ~~final approval of the program.~~

185 ~~(6)(7)~~ The State Board of Education shall adopt rules to
186 prescribe format and content requirements and submission



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187 procedures for notices of intent, proposals, and alternative
188 proposals under subsection (5).

189 Section 4. Subsection (3) of section 1001.64, Florida
190 Statutes, is amended to read:

191 1001.64 Community college boards of trustees; powers and
192 duties.—

193 (3) A board of trustees shall have the power to take action
194 without a recommendation from the president and shall have the
195 power to require the president to deliver to the board of
196 trustees all data and information required by the board of
197 trustees in the performance of its duties. A board of trustees
198 shall ask the Commissioner of Education to authorize an
199 investigation of the president's actions by the department's
200 inspector general if the board considers such investigation
201 necessary. The inspector general shall provide a report
202 detailing each issue under investigation and shall recommend
203 corrective action. If the inspector general identifies potential
204 legal violations, he or she shall refer the potential legal
205 violations to the Commission on Ethics, the Department of Law
206 Enforcement, the state attorney, or another appropriate
207 authority.

208 Section 5. This act shall take effect July 1, 2011.

209
210 ===== T I T L E A M E N D M E N T =====

211 And the title is amended as follows:

212 Delete everything before the enacting clause
213 and insert:

214 A bill to be entitled

215 An act relating to postsecondary education; amending



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216 s. 1004.015, F.S.; requiring the Higher Education
217 Coordinating Council to recommend plans and submit a
218 report to the Governor and the Legislature relating to
219 core missions of postsecondary education institutions,
220 performance outputs and outcomes, articulation
221 policies, workforce development education, and
222 baccalaureate degree authorization; amending s.
223 1007.27, F.S.; requiring the Department of Education
224 to use student performance data to determine
225 appropriate credit-by-examination scores and courses;
226 revising the minimum Advanced Placement Examination
227 scores for postsecondary credit; deleting an exemption
228 from summer-term enrollment in a public postsecondary
229 education institution for students earning accelerated
230 credit; amending s. 1007.33, F.S.; deleting an
231 exemption from provisions governing the approval
232 process for baccalaureate degrees; amending s.
233 1001.64, F.S.; requiring a community college board of
234 trustees to ask the Commissioner of Education to
235 authorize an investigation of a college president by
236 the Department of Education's inspector general in
237 specified circumstances; requiring the inspector
238 general to report on the investigation and make
239 recommendations; requiring the inspector general to
240 refer any potential legal violation to the Commission
241 on Ethics, the Department of Law Enforcement, the
242 state attorney, or other appropriate authority;
243 providing an effective date.

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 1732

INTRODUCER: Senator Lynn

SUBJECT: Postsecondary Education

DATE: March 31, 2011 REVISED: _____

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

I. Summary:

This bill addresses a number of aspects of the public postsecondary education system to increase efficiency, access and quality. The bill would:

- Require the Board of Governors of the State University System (BOG), in coordination with the Higher Education Coordinating Council, to produce a report, by January 31, 2012, on the potential for establishing comprehensive undergraduate universities, including recommendations for conditions under which a Florida College System institution should be transferred to the state university system;
- Require the State Board of Education, in coordination with the Higher Education Coordinating Council, to develop a plan to consolidate adult basic education and career education programs within school districts and Florida College System institutions and to submit the plan to the Governor and Legislative leaders by January 31, 2012;
- Authorize a community college board of trustees to request an investigation of the college president's actions by the DOE inspector general;
- 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;
- Authorize the statewide articulation agreement to permit a state university board of trustees to establish the scores on advanced placement tests that the university will accept for course credit and requires the DOE to identify courses for which a state university has established a higher score for the awarding of credit;
- Repeal the option for a Florida College System institution to receive an exemption from state board review for a proposed baccalaureate program; and

- Repeal the Florida Business and Education Collaborative, which was never appointed.

This bill amends ss. 1001.64, 1007.27, and 1007.33, Florida Statutes. The bill repeals s. 1000.07, Florida Statutes.

II. Present Situation:

Access to Baccalaureate Degrees

The 2009 Legislature created the Florida College System (FCS) and revised the primary mission of the community colleges to include upper level instruction and awarding baccalaureate degrees as authorized by law, in addition to the college’s long-standing mission of providing community needs for postsecondary education in career education and lower division academic programs leading to an associate degree. The baccalaureate degree programs established at FCS institutions must meet local workforce needs and unmet demand for such a program in the local area. An FCS institution proposing a baccalaureate degree program must first provide an opportunity for private institutions and state universities to propose an alternative baccalaureate program. With the exception of St. Petersburg College which has statutory authority to provide baccalaureate degrees as the college’s board of trustees decide is necessary in its service area, the State Board of Education must approve the proposal before the FCS institution may offer the program. However, the statute provides for an FCS institution to apply for an exemption from State board of Education approval of new baccalaureate programs. The chart below shows baccalaureate degrees awarded by postsecondary education sectors:

| Postsecondary Sector | Number of Institutions | Baccalaureate Degrees Awarded (2008-9) | % of Baccalaureate Degrees Awarded (2008-9) |
|-------------------------|------------------------|--|---|
| State University System | 14 | 51,443 | 64.1% |
| ICUF ¹ | 27 | 17,341 | 21.6% |
| OTHER | 301 | 10,550 | 13.1% |
| FCS | 20 | 941 | 1.2% |
| Total | 362 | 80,275 | 100% |

Source: Florida Board of Governors

Nineteen of the 28 Florida College System institutions currently offer baccalaureate degrees ranging from 0.46 percent (Broward College) of full-time enrollment (FTE) in 2009-10 to 9.53 percent (St. Petersburg College). The percentage of total enrollment for most colleges offering baccalaureate degrees is less than 3 percent.

While FCS institutions awarded only 1.2 percent of the baccalaureate degrees awarded in Florida the potential growth of the baccalaureate degree programs has led to concern that the baccalaureate degree programs could eventually overshadow the lower division programs that provide community access to postsecondary education.

¹ Independent Colleges & Universities of Florida.

Workforce Education

Workforce education programs in Florida are designed to assist individuals in attaining skills necessary for economic self-sufficiency and provide training to meet local and state workforce needs. These programs include both adult general education and career education programs and may be offered by school districts and FCS institutions. State agency oversight for workforce education is provided by the Division of Career and Adult Education within the DOE. While both school districts and FCS institutions are authorized to provide workforce education programs, only FCS institutions are permitted to award college credit.

In 2010, the Florida Legislature directed the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct a review of public workforce education programs for the purpose of identifying and analyzing the positive and negative aspects of merging the school district programs with FCS institution programs. OPPAGA found that school districts and colleges locally determine what workforce education programs to provide in their service areas and how to divide responsibility for these programs, resulting in a varied delivery system across the state. However, the entities tend to offer different types of workforce education programs and typically avoid duplicating programs within individual counties. With regard to consolidating workforce education, OPPAGA suggested that such reorganization could produce benefits. It could help provide more consistent policies and practices for workforce education programs, provide better alignment and articulation of postsecondary career education programs, and make it easier for some students to access financial aid. Consolidating adult education under school districts could help their efforts to address dropout prevention and recovery.

Higher Education Coordinating Council (HECC)

The Higher Education Coordinating Council was created by the Legislature in 2010 to identify unmet needs and to facilitate solutions to disputes regarding the creation of new degree programs and the establishment of new institutes, campuses, or centers. The Board of Governors (BOG) provides administrative support for the HECC.

The HECC is required to act as an advisory board to the Legislature, the State Board of Education and BOG. Recommendations of the HECC must be consistent with the following guiding principles:

- To achieve within existing resources a seamless academic educational system that fosters an integrated continuum of kindergarten through graduate school education for Florida's students;
- To promote consistent education policy across all educational delivery systems, focusing on students;
- To promote substantially improved articulation across all educational delivery systems;
- To promote a system that maximizes educational access and allows the opportunity for a high-quality education for all Floridians;
- To promote a system of coordinated and consistent transfer of credit and data collection for improved accountability purposes between the educational delivery systems.

The HECC is comprised of the following members: the Commissioner of Education; the Chancellor of the State University System of Florida; the Chancellor of the Florida College System; the Executive Director of the Commission for Independent Education; the Executive

Director of the Independent Colleges and Universities of Florida; and two members representing the business community, one appointed by the President of the Senate and one by the Speaker of the House of Representatives.

Advanced Placement Scores

Section 1007.27, F.S., authorizes a number of mechanisms whereby students may earn college credit for courses taken in high school. The DOE is required to establish minimum scores, maximum credit, and courses for which credit is award for College-Level Examination Program (CLEP) exams, Advanced Placement (AP), Advanced International Certificate of Education (AICE), and International Baccalaureate (IB) examinations. DOE is also required to identify each course in the general education core curriculum of each state university and FCS institutions. Section 1007.27(6), F.S., establishes the minimum score a student must earn on the Advanced Placement Examination administered by the College Board in order to receive college credit for the course corresponding to that examination. Currently, a minimum score of three on a 5-point scale entitles a student to credit for that course at state university or FCS institution. The rigor of some of the Advanced Placement Examinations has been questioned relative to coursework at state universities, particularly in math and science areas where a higher score might indicate that the student was more adequately prepared to receive credit for the entry level course and proceed with more advanced college-level work.

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. 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.

| Credit Hours | 12th Grade Students (Survey 3 Enrolled) | Standard Diploma Recipients 2010 |
|--------------|---|----------------------------------|
| 9+ | 21,900 | 21,200 |
| 12+ | 16,700 | 16,200 |
| 15+ | 12,300 | 11,900 |
| 18+ | 9,200 | 8,900 |

Source: Florida Department of Education

Powers of College Boards of Trustees

Section 1001.64(3), F.S, gives a college board of trustees the power to take action without a recommendation from the president and requires the president to deliver to the board of trustees all information it requires in the performance of its duties. The statute does not explicitly provide a course of action for a board to follow if it discovers that actions by the college president merit an investigation.

III. Effect of Proposed Changes:

This bill would require The Board of Governors of the State University System (BOG), in coordination with the Higher Education Coordinating Council, to produce a report, by January 31, 2012, on the potential for establishing comprehensive undergraduate universities, including recommendations for conditions under which a Florida College System institution should be transferred to the state university system. The bill specifies that two possible conditions for such a transfer could be if the college:

- Enrolls more than 20 percent of its students in upper division programs; or
- Constructs dormitories after July 1, 2011.

The bill would require the State Board of Education, in coordination with the Higher Education Coordinating Council, to develop a plan to consolidate adult basic education and career education programs within school districts and Florida College System institutions and to submit the plan to the Governor and Legislative leaders by January 31, 2012.

The bill would authorize a community college board of trustees to request an investigation of the college president's actions by the DOE inspector general. The bill requires the DOE inspector general to issue a detailed report and to refer potential legal violations to the Commission on Ethics, the Department of Law Enforcement, the state attorney, or another appropriate authority.

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. 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, but the Legislature has not funded the scholarship for the summer term.

The bill authorizes the statewide articulation agreement to permit a state university board of trustees to establish the scores on advanced placement tests that the university will accept for course credit and requires the DOE to identify courses for which a state university has established a higher score for the awarding of credit.

The bill repeals the option for a Florida College System institution to receive an exemption from state board review for a proposed baccalaureate program.

The bill repeals the Florida Business and Education Collaborative, which was never appointed.

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:

Recipients of a Bright Futures Scholarship would be required to pay for classes during the summer term unless funds were appropriated by the Legislature for summer enrollment.

C. Government Sector Impact:

The assignments to the HECC are within its scope and could be accomplished with staff support by the postsecondary sectors represented on the council.

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.