

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 489

State University Presidents

SPONSOR(S): Coley

TIED BILLS:

IDEN./SIM. BILLS: SB 234

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	State Universities & Private Colleges Policy Committee	11 Y, 0 N	Thomas	Tilton
2)	Education Policy Council	10 Y, 0 N	Brock	Cobb
3)	State Universities & Private Colleges Appropriations Committee	8 Y, 0 N	Smith	Trexler
4)	Full Appropriations Council on Education & Economic Development			
5)				

SUMMARY ANALYSIS

Under current law, the Board of Governors, or the board's designee, must establish the personnel program for all employees of a state university, including the president.

On January 7, 2003, the Board of Governors adopted a resolution requiring each university board of trustees to establish the personnel program for all employees of the university, including the president. The resolution required each board of trustees to appoint a presidential search committee to make recommendations to the full board of trustees, from which the board of trustees may select a candidate for ratification by the Board of Governors. The resolution also required each university board of trustees to conduct an annual evaluation of the president and submit the evaluation to the Board of Governors for review.

HB 489 authorizes each state university board of trustees to appoint a university president and establish and administer a personnel program for the president.

The bill requires the Board of Governors, or the board's designee, to establish the personnel program for all other employees of a state university.

The bill requires each university board of trustees, to the extent delegated by the Board of Governors, to establish and administer the personnel program for all employees of the university except the president.

The fiscal impact, if any, of moving the authority for the personnel program for university presidents from the Board of Governors to each university board of trustees is unknown.

The effective date of this act is July 1, 2009.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

Under current law, the Board of Governors, or the board's designee, is responsible for establishing the personnel system for all employees of a state university, including the president.<sup>1</sup> To the extent delegated by the Board of Governors, each university board of trustees must establish the personnel program for all employees of the university, including the president.<sup>2</sup>

Ch. 2001-170, L.O.F., directed the Governor to appoint boards of trustees for each state university no later than November 1, 2001, and established the powers and duties of the university boards of trustees. Each university board of trustees was authorized to adopt rules and policies consistent with the university mission, with law, and with rules of the Florida Board of Education, including rules and policies for the following:

- Selecting the president to serve at the pleasure of the board and perform such duties as are assigned by the board or otherwise provided by law or rule.
- Fixing the compensation and other conditions of employment of the president.
- Conducting periodic evaluations of the president, submitting such evaluations to the Chancellor for review, and suspending or removing the president in accordance with guidelines established by the Chancellor.
- Appointing a presidential search committee to make recommendations to the full board of trustees, from which the board must select a candidate for reference to the Chancellor and ratification by the Florida Board of Education.

The 2002 Legislature rewrote the Florida Education Code, codifying the role of the State Board of Education as ". . . the chief implementing and coordinating body of public education in Florida."<sup>3</sup> The State Board was required to prescribe minimum standards, definitions, and guidelines for state university personnel<sup>4</sup> and to ratify presidential candidates selected by university boards of trustees.<sup>5</sup> University boards of trustees were required to submit annual evaluations of the presidents to the State Board of Education for review.<sup>6</sup>

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<sup>1</sup> Section 1001.706(5)(a), F.S.

<sup>2</sup> Section 1001.74(5)(a), F.S.

<sup>3</sup> Section 20, ch. 2002-387, L.O.F.

<sup>4</sup> Section 1001.02(9)(a), F.S. (2002)

<sup>5</sup> Section 1001.74(21), F.S. (2002)

<sup>6</sup> Section 1001.74(22), F.S. (2002)

With the passage of a constitutional amendment in 2002, the Board of Governors and the university boards of trustees were established in the State Constitution.<sup>7</sup> On January 7, 2003, the Board of Governors adopted a resolution requiring each university board of trustees to establish the personnel program for all employees of the university, including the president. This included: compensation and other conditions of employment, recruitment and selection, nonreappointment, standards for performance and conduct, evaluation, benefits and hours of work, leave policies, recognition and awards, inventions and works, travel, learning opportunities, exchange programs, academic freedom and responsibility, promotion, assignment, demotion, transfer, tenure and permanent status, ethical obligations and conflicts of interest, restrictive covenants, disciplinary actions, complaints, appeals and grievance procedures, and separation and termination from employment. The resolution requires each board of trustees to appoint a presidential search committee to make recommendations to the full board of trustees, from which the board of trustees may select a candidate for ratification by the Board of Governors. The resolution also requires each university board of trustees to conduct an annual evaluation of the president and submit the evaluation to the Board of Governors for review.

On February 2, 2009, the Board of Governors provided notice of a proposed new regulation relating to the powers and duties of the university boards of trustees. The proposed regulation requires each university board of trustees to provide for the establishment of the personnel program for all university employees, including the president; to select the university president subject to ratification of the candidate by the Board of Governors; and to conduct an annual evaluation of the president, including input from the chair of the Board of Governors. The chair of the board of trustees must request input from the chair of the Board of Governors pertaining to responsiveness to the strategic goals of the Board of Governors and compliance with systemwide regulations.<sup>8</sup>

### **Effect of Proposed Changes**

HB 489 requires the board of trustees of each state university to appoint a university president and establish and administer a personnel program for the president.

The bill requires the Board of Governors, or the board's designee, to establish the personnel program for all other employees of a state university.

The bill requires each university board of trustees, to the extent delegated by the Board of Governors, to establish and administer the personnel program for all employees of the university except the president.

#### **B. SECTION DIRECTORY:**

Section 1. Amends s. 1001.706, F.S., revising powers and duties of the Board of Governors relating to personnel.

Section 2. Amends s. 1001.74, F.S., revising powers and duties of the university boards of trustees relating to personnel; providing that a state university president is not subject to the personnel program established by the Board of Governors; requiring that a board of trustees appoint the university president and establish and administer a personnel program for the president.

Section 3. Provides an effective date of July 1, 2009.

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<sup>7</sup> Article IX, section 7 of the State Constitution.

<sup>8</sup> A copy of the proposed regulation is available at

[http://www.flbog.org/documents\\_regulations/proposed/2009\\_01\\_30\\_Regulation\\_1\\_001\\_Notice.pdf](http://www.flbog.org/documents_regulations/proposed/2009_01_30_Regulation_1_001_Notice.pdf)

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

See FISCAL COMMENTS.

#### 2. Expenditures:

See FISCAL COMMENTS.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See FISCAL COMMENTS.

### D. FISCAL COMMENTS:

The fiscal impact, if any, of moving the authority for the personnel program for university presidents from the Board of Governors to each university board of trustees is unknown.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require a city or county to expend funds or to take any action requiring the expenditure of funds.

The bill does not appear to reduce the authority that municipalities or counties have to raise revenues in the aggregate.

This bill does not appear to reduce the percentage of state tax shared with counties or municipalities.

#### 2. Other:

The Board of Governors has challenged the Legislature's authority over the state university system.<sup>9</sup> The case is currently in litigation.

### B. RULE-MAKING AUTHORITY:

### C. DRAFTING ISSUES OR OTHER COMMENTS:

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<sup>9</sup> *Bob Graham et al v. Ken Pruitt, President of the Florida Senate and Marco Rubio, Speaker of the Florida House of Representatives*, Case No. 2007-CA-1818.

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**