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HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMUNITY COLLEGES AND CAREER PREP
BILL RESEARCH & ECONOMIC IMPACT STATEMENT

BILL #: HB 3409

RELATING TO: Higher Education

SPONSOR(S): Representative Goode

COMPANION BILL(S): SB 564, by Senator Kurth

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) COMMUNITY COLLEGES AND CAREER PREP
(2) GOVERNMENTAL RULES & REGULATIONS
(3) EDUCATION APPROPRIATIONS
(4)
(5)

I. SUMMARY:

This bill contains provisions relating to the review of community college presidents, requirements of the community college accountability plan, and governance, financing and reporting requirements for direct support organizations (DSOs).

Specifically, the bill requires community college presidents to be reviewed annually. Additionally, the bill requires specific accreditation criteria must be included in the community college accountability plan.

Provisions related to DSOs require a representative from the community college board of trustees to be a member of the board of the DSO; prohibit the transfer of public funds to a DSO for the guarantee or repayment of debt; and specify that DSOs may, at the request of the community college board of trustees, provide residency opportunities on or near campus.

There is an indeterminate nominal negative fiscal impact relating to increased reporting requirements.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION

COMMUNITY COLLEGE PRESIDENTS

Section 240.311, F.S., requires the State Board of Community Colleges to specify, by rule, a process for community college boards of trustees to evaluate presidents "periodically." According to the State Board of Community Colleges, the rule requires the annual evaluation of presidents.

ACCOUNTABILITY

Section 240.324, F.S., requires the community college system to develop and implement a plan to assure accountability and efficiency of instruction and administration. According to the State Board of Community Colleges, accreditation criteria are considered in the development of accountability plans.

CENTERS OF TECHNOLOGY INNOVATION

Centers of technology innovation are authorized by s. 240.3335, F.S., for public community colleges as designated by the State Board of Community Colleges. A center may be a single college or a consortium of colleges that is authorized to improve conditions in such areas as curriculum, faculty, research, testing, technology transfer, instructional equipment, or industrial partnership. A center may provide instruction, including instruction of secondary school students and teachers. It must have a board of directors with the authority to acquire, lease, and sublease property.

DIRECT SUPPORT ORGANIZATIONS

Direct-support organizations (DSOs) are private, not-for-profit corporations that function on behalf of a government entity, such as a community college or university. A DSO generally raises money or other resources on behalf of the entity with which it is affiliated. DSO funds and resources do not go through a governmental appropriation process and are not subject to state budgeting or financial management laws.

Although DSOs have existed for some time in private educational entities, there has been a dramatic increase over the past twenty years in the number and resources of DSOs associated with both community colleges and universities in Florida and other states. Factors which contributed to an increase in numbers included control of funds, loss of state revenues, protection of the privacy of donors, and flexibility in the use of funds controlled by a direct-support organization. As foundations become more prevalent and assume more importance in the support of public higher education institutions, the promulgation of clear state policies and guidelines become imperative.

During the 1994 interim, the House Committee on Higher Education studied issues associated with DSOs in postsecondary education. The purpose of the study was to determine the degree to which postsecondary education governing boards (i.e., the Board of Regents of the State University System, and the local boards of trustees of the community colleges) have retained adequate oversight of DSOs associated with their institutions comparable to the boards' oversight of the other operations of the community colleges and universities. Final recommendations of the report included:

- Budget and expenditure reports should be detailed, formally adopted and closely monitored by governing boards.
- Public records provisions should be clarified.
- Formal policies should be adopted by governing boards for fundraising activities.

- System-wide guidelines should be adopted related to:

  - formats for financial audit and budget and expenditure reports;
  - approval and reporting of employee compensation;
  - avoiding conflict of interest;
  - restrictions against gratuitous gifts;
  - approval and reporting of employee salary supplements; and
  - approval and reporting of athletic program support provided by the DSO.

Florida law requires a DSO to be annually audited by an independent auditor. Although general accounting principles are followed in each audit, varying reporting styles make system-wide comparisons difficult.

In order to receive non-profit status, a DSO is required to submit to the federal government an application describing both general and specific organizational and operational information (Internal Revenue Service, Application for Recognition of Exemption form, Form 1023). Standardized information on the form requires a complete disclosure of all planned fundraising activities as well as statements of mission, purpose, disposition of funds and revenue, and a variety of other compliance issues.

Once recognized as a non-profit entity, each DSO must then annually submit to the federal government its budget and expenditure information (Internal Revenue Service, Return of Organization Exempt From Income Tax form, Form 990). Standardized information on the form includes: itemized and specific assistance given to individuals; benefits paid to or for members; compensation of officers and directors; other salaries and wages; fundraising expenses; accounting fees, legal fees and other fees; office and operating expenses; travel, conference, convention and meeting expenses; depreciation; interest income and expenses; contributions, gifts, grants and other sources of revenue; balance sheet; statement of the accomplishments of the DSO to include the expenditures associated with each accomplishment which must balance to the DSO's total expenditures; liabilities; gain or loss on sale of investments; listing of investments and securities held by the DSO; expenditures for political purposes; analysis of income producing activities; and financial benefits to board members.

Of the three reports, only the statutorily-required annual audit is required to be submitted to the governing board of the institution supported by the DSO (i.e., board of trustees for community colleges and Board of Regents for universities.) The Internal Revenue Service requires that Form 1023 and Form 990 be made available for public inspection.

B. EFFECT OF PROPOSED CHANGE:

COMMUNITY COLLEGE PRESIDENTS

The bill would require the State Board of Community Colleges to specify, by rule, procedures for community college boards of trustees to evaluate presidents *annually*. This would codify current practice and could ensure accountability of community college presidents through annual evaluations.

ACCOUNTABILITY

The bill would require that the institutional assessment efforts related to the criteria for accreditation of the Southern Association of Colleges and Schools be addressed in the accountability plan to improve and evaluate the instructional effectiveness and efficiency of the community college system. This would codify current practice and would ensure that this information is utilized in the accountability process.

CENTERS OF TECHNOLOGY INNOVATION

Centers of technology innovation boards of directors would be prohibited from acquiring, leasing, or subleasing property. A community college board of trustees would be required to approve any transaction or agreement between DSOs or between a DSO and a center of technology innovation. Likewise, the State Board of Community Colleges would be required to approve any transaction between a statewide DSO and a center of technology innovation. These provisions would potentially increase accountability through the added oversight of centers of technology innovation by the appropriate board.

DIRECT SUPPORT ORGANIZATIONS

A DSO would submit to its governing board (i.e., board of trustees for community colleges and Board of Regents for universities) its application for non-profit status (Form 1023) and its annual tax return (Form 990). Submission of the plans to the governing boards would then make them public records for the open-record purposes of Chapter 120. A community college DSO would also submit its annual audit to the State Board of Community Colleges.

Membership of DSO boards of directors would be changed to include the community college president or designee and a member appointed by the chairperson of the community college board of trustees. This provision would codify current practice.

These provisions would potentially increase accountability of the DSO by increasing reporting requirements, increasing public inspection of reports, and ensuring the participation of the community college president on the DSO board.

Community colleges would be prohibited from transferring or pledging public funds or property to a DSO. This provision would prohibit community colleges from guaranteeing bond issues used to construct student housing. It would not affect legal obligations for bonds already issued, but would prohibit community colleges from entering into them in the future.

Limiting DSOs to “private funds” only could eliminate opportunities to use donations by cities, counties, or the federal government as matching funds. These other governmental revenues represent valuable sources of money and limiting their use would restrict the abilities of community colleges to be successful in raising funds.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

The State Board of Education has rulemaking authority to specify procedures for the “periodic” evaluations of community college presidents by the boards of trustees. This bill changes the requirement from “periodic” to “annual.”

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

There would be expanded reporting requirements for community colleges (to include the SACS accreditation criteria in their accountability process) and DSOs (to submit certain documents to the community college board of trustees and State Board of Community Colleges for statewide DSOs).

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. <u>Lower Taxes:</u>

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. <u>Personal Responsibility:</u>

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

The bill would prohibit DSOs from receiving public funds for the guarantee or repayment of bonds or other obligations.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

   a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

      N/A

   b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

      N/A

5. Family Empowerment:

   a. If the bill purports to provide services to families or children:

      (1) Who evaluates the family's needs?

          N/A

      (2) Who makes the decisions?

          N/A

      (3) Are private alternatives permitted?

          N/A

      (4) Are families required to participate in a program?

          N/A

      (5) Are families penalized for not participating in a program?

          N/A

   b. Does the bill directly affect the legal rights and obligations between family members?

      N/A

   c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

      (1) parents and guardians?

          N/A

      (2) service providers?

          N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Amends ss. 240.299, 240.311, 240.324, 240.331, 240.3315, 240.3335, 240.363, F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1. Amends s. 240.299, F.S., relating to direct-support organizations (reporting requirements).

Section 2. Amends s. 240.311, F.S., relating to the State Board of Community Colleges (rules for annual evaluations of community college presidents by community college boards of trustees).

Section 3. Amends s. 240.324, F.S., relating to the community college accountability process.

Section 4. Amends s. 240.331, F.S., relating to direct-support organizations.

Section 5. Amends s. 240.3315, F.S., relating to statewide direct support organizations.

Section 6. Amends s. 240.3335, F.S., relating to centers of technology innovation.

Section 7. Amends s. 240.363, F.S., relating to financial accounting and expenditures (restricting use of public funds on behalf of a DSO).

Section 8. Provides that the act take effect on July 1, 1998.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

   None.

2. Recurring Effects:

   Indeterminate costs associated with increased reporting requirements which are not substantial according to the State Board of Community Colleges.

3. Long Run Effects Other Than Normal Growth:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

   None.

2. Direct Private Sector Benefits:

   None.

3. Effects on Competition, Private Enterprise and Employment Markets:

   None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

V. COMMENTS:

A technical amendment is needed on page 4, line 5, because there is a reference to “statewide” DSOs. This is incorrect as this section does not apply to statewide DSOs.

A second technical amendment is needed on page 5, line 23, because the reference to s. 240.334, F.S., is incorrect. The correct reference is s. 240.3335, F.S.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON COMMUNITY COLLEGES AND CAREER PREP:

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