

By Senator Kurth

15-598-98

1                                   A bill to be entitled  
2           An act relating to higher education; amending  
3           s. 240.299, F.S.; providing reporting  
4           requirements for university direct-support  
5           organizations; amending s. 240.311, F.S.,  
6           relating to rules of the State Board of  
7           Community Colleges; requiring a community  
8           college district board of trustees to annually  
9           evaluate the college president; amending s.  
10          240.324, F.S.; providing an additional  
11          requirement for the accountability plan for  
12          community colleges; amending ss. 240.331,  
13          240.3315, F.S.; prescribing membership of  
14          boards of directors and executive committees of  
15          community college direct-support organizations  
16          and statewide community college direct-support  
17          organizations; restricting activities of such  
18          direct-support organizations; providing  
19          reporting requirements for such organizations;  
20          amending s. 240.3335, F.S.; removing the  
21          authority of a board of directors of a center  
22          of technology innovation to acquire, lease, or  
23          sublease property; amending s. 240.363, F.S.;  
24          providing restrictions upon the transfer of  
25          funds to a direct-support organization;  
26          providing an effective date.

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28 Be It Enacted by the Legislature of the State of Florida:

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30           Section 1. Subsection (6) is added to section 240.299,  
31 Florida Statutes, to read:

1           240.299 Direct-support organizations; use of property;  
2 board of directors; audit; facilities.--

3           (6) ANNUAL BUDGETS AND REPORTS.--Each direct-support  
4 organization shall submit to the university president and the  
5 Board of Regents its federal Internal Revenue Service  
6 Application for Recognition of Exemption form (Form 1023) and  
7 its federal Internal Revenue Service Return of Organization  
8 Exempt from Income Tax form (Form 990).

9           Section 2. Paragraph (f) of subsection (3) of section  
10 240.311, Florida Statutes, is amended to read:

11           240.311 State Board of Community Colleges; powers and  
12 duties.--

13           (3) The State Board of Community Colleges shall:

14           (f) Specify, by rule, procedures to be used by the  
15 boards of trustees in the annual ~~periodic~~ evaluations of  
16 presidents and formally review the evaluations of presidents  
17 by the boards of trustees.

18           Section 3. Present paragraph (g) of subsection (1) of  
19 section 240.324, Florida Statutes, is redesignated as  
20 paragraph (h) and a new paragraph (g) is added to that  
21 subsection, to read:

22           240.324 Community college accountability process.--

23           (1) It is the intent of the Legislature that a  
24 management and accountability process be implemented which  
25 provides for the systematic, ongoing improvement and  
26 assessment of the improvement of the quality and efficiency of  
27 the State Community College System. Accordingly, the State  
28 Board of Community Colleges and the community college boards  
29 of trustees shall develop and implement a plan to improve and  
30 evaluate the instructional and administrative efficiency and  
31

1 effectiveness of the State Community College System. This  
2 plan must address the following issues:

3 (g) Institutional assessment efforts related to the  
4 requirements of s. III in the Criteria for Accreditation of  
5 the Commission on Colleges of the Southern Association of  
6 Colleges and Schools.

7 Section 4. Section 240.331, Florida Statutes, is  
8 amended to read:

9 240.331 Community college direct-support  
10 organizations.--

11 (1) DEFINITIONS.--For the purposes of this section:

12 (a) "Community college direct-support organization"  
13 means an organization that ~~which~~ is:

14 1. A Florida corporation not for profit, incorporated  
15 under the provisions of chapter 617 and approved by the  
16 Department of State.

17 2. Organized and operated exclusively to receive,  
18 hold, invest, and administer property and to make expenditures  
19 to, or for the benefit of, a community college in this state.  
20 ~~The direct-support organization may, at the request of the~~  
21 ~~district board of trustees, provide residency opportunities on~~  
22 ~~or near the college campus for students. Community College~~  
23 ~~Program Fund and Public Education Capital Outlay funds may not~~  
24 ~~be used to construct, maintain, or operate such facilities.~~

25 3. An organization that ~~which~~ the board of trustees,  
26 after review, has certified to be operating in a manner  
27 consistent with the goals of the community college and in the  
28 best interest of the state. Any organization that ~~which~~ is  
29 denied certification by the board of trustees may ~~shall~~ not  
30 use the name of the community college that ~~which~~ it serves.

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1 (b) "Personal services" includes full-time or  
2 part-time personnel as well as payroll processing.

3 (2) BOARD OF DIRECTORS.--The chairperson of the board  
4 of trustees shall appoint a representative to the board of  
5 directors and the executive committee of each statewide,  
6 direct-support organization established under this section,  
7 including those established before July 1, 1998. The president  
8 of the community college for which the direct-support  
9 organization is established, or the president's designee,  
10 shall also serve on the board of directors and the executive  
11 committee of the direct-support organization, including any  
12 direct-support organization established before July 1, 1998.

13 (3)(2) USE OF PROPERTY.--

14 (a) The board of trustees is authorized to permit the  
15 use of property, facilities, and personal services at any  
16 state community college by any community college  
17 direct-support organization, subject to the provisions of this  
18 section.

19 (b) The board of trustees is authorized to prescribe  
20 by rule any condition with which a community college  
21 direct-support organization must comply in order to use  
22 property, facilities, or personal services at any state  
23 community college.

24 (c) The board of trustees may ~~shall~~ not permit the use  
25 of property, facilities, or personal services at any state  
26 community college by any community college direct-support  
27 organization that ~~which~~ does not provide equal employment  
28 opportunities to all persons regardless of race, color,  
29 national origin, sex, age, or religion.

30 (4) ACTIVITIES; RESTRICTIONS.--

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1           (a) A direct-support organization may, at the request  
2 of the district board of trustees, provide residency  
3 opportunities on or near campus for students.

4           (b) A community college may not pledge public funds or  
5 property to pay for or guarantee the payment of any bonds or  
6 other obligation issued by a direct-support organization or by  
7 a unit of local government on behalf of a direct-support  
8 organization. However, a community college that has incurred  
9 such a legal obligation before March 6, 1998, may continue to  
10 honor that obligation. Each community college board of  
11 trustees may adopt policies that provide procedures for  
12 transferring to the direct-support organization of that  
13 community college, for administration by the organization,  
14 contributions made to the community college.

15           (c) A direct-support organization that constructs  
16 facilities for use by a community college or its students must  
17 comply with all requirements of this chapter relating to the  
18 construction of facilities by a community college, including  
19 requirements for competitive bidding.

20           (d) Any transaction or agreement between one  
21 direct-support organization and another direct-support  
22 organization or between a direct-support organization and a  
23 center of technology innovation designated under s. 240.335  
24 must be approved by the district board of trustees.

25           (5) ANNUAL BUDGETS AND REPORTS.--Each direct-support  
26 organization shall submit to the board of trustees its federal  
27 Internal Revenue Service Application for Recognition of  
28 Exemption form (Form 1023) and its federal Internal Revenue  
29 Service Return of Organization Exempt From Income Tax form  
30 (Form 990).

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1           ~~(6)~~(3) ANNUAL AUDIT.--Each direct-support organization  
2 shall make provisions for an annual postaudit of its financial  
3 accounts to be conducted by an independent certified public  
4 accountant in accordance with rules to be promulgated by the  
5 district board of trustees. The annual audit report must  
6 ~~shall~~ be submitted to the Auditor General, the State Board of  
7 Community Colleges, and the board of trustees for review. The  
8 board of trustees and the Auditor General may ~~shall have the~~  
9 ~~authority to~~ require and receive from the organization or from  
10 its independent auditor any detail or supplemental data  
11 relative to the operation of the organization. The identity  
12 of donors who desire to remain anonymous shall be protected,  
13 and that anonymity shall be maintained in the auditor's  
14 report. All records of the organization, other than the  
15 auditor's report, any information necessary for the auditor's  
16 report, any information related to the expenditure of funds,  
17 and any supplemental data requested by the board of trustees  
18 and the Auditor General, shall be confidential and exempt from  
19 the provisions of s. 119.07(1).

20           Section 5. Section 240.3315, Florida Statutes, is  
21 amended to read:

22           240.3315 Statewide community college direct-support  
23 organizations.--

24           (1) DEFINITIONS.--For the purposes of this section:

25           (a) "Statewide community college direct-support  
26 organization" means an organization that ~~which~~ is:

27           1. A Florida corporation not for profit, incorporated  
28 under the provisions of chapter 617 and approved by the  
29 Department of State.

30           2. Organized and operated exclusively to receive,  
31 hold, invest, and administer property and to make expenditures

1 to, or for the benefit of, the Community College System in  
2 this state.

3 3. An organization that ~~which~~ the State Board of  
4 Community Colleges, after review, has certified to be  
5 operating in a manner consistent with the goals of the  
6 Community College System and in the best interest of the  
7 state. Any organization that ~~which~~ is denied certification by  
8 the State Board of Community Colleges may ~~shall~~ not use the  
9 name of any community college.

10 (b) "Personal services" includes full-time or  
11 part-time personnel as well as payroll processing.

12 (2) BOARD OF DIRECTORS.--The chairperson of the State  
13 Board of Community Colleges may appoint a representative to  
14 the board of directors and the executive committee of any  
15 statewide, direct-support organization established under this  
16 section or s. 240.331. The chairperson of the State Board of  
17 Community Colleges, or the chairperson's designee, shall also  
18 serve on the board of directors and the executive committee of  
19 any direct-support organization established to benefit the  
20 State Community College System.

21 (3)(2) USE OF PROPERTY.--

22 (a) The State Board of Community Colleges may is  
23 ~~authorized to~~ permit the use of property, facilities, and  
24 personal services of the Division of Community Colleges by any  
25 statewide community college direct-support organization,  
26 subject to the provisions of this section.

27 (b) The State Board of Community Colleges may is  
28 ~~authorized to~~ prescribe by rule any condition with which a  
29 statewide community college direct-support organization must  
30 comply in order to use property, facilities, or personal  
31 services of the Division of Community Colleges.

1           (c) The State Board of Community Colleges may ~~shall~~  
2 not permit the use of property, facilities, or personal  
3 services of the Division of Community Colleges by any  
4 statewide community college direct-support organization that  
5 ~~which~~ does not provide equal employment opportunities to all  
6 persons regardless of race, color, national origin, sex, age,  
7 or religion.

8           (4) RESTRICTIONS.--

9           (a) A statewide, direct-support organization may not  
10 use public funds to acquire, construct, maintain, or operate  
11 any facilities.

12           (b) Any transaction or agreement between a statewide,  
13 direct-support organization and any other direct-support  
14 organization or between a statewide, direct-support  
15 organization and a center of technology innovation designated  
16 under s. 240.3335 must be approved by the State Board of  
17 Community Colleges.

18           (5) ANNUAL BUDGETS AND REPORTS.--Each direct-support  
19 organization shall submit to the State Board of Community  
20 Colleges its federal Internal Revenue Service Application for  
21 Recognition of Exemption form (Form 1023) and its federal  
22 Internal Revenue Service Return of Organization Exempt From  
23 Income Tax form (Form 990).

24           (6)~~(3)~~ ANNUAL AUDIT.--A statewide community college  
25 direct-support organization shall make provisions for an  
26 annual postaudit of its financial accounts to be conducted by  
27 an independent certified public accountant in accordance with  
28 rules to be adopted by the State Board of Community Colleges.  
29 The annual audit report shall be submitted to the Auditor  
30 General and the State Board of Community Colleges for review.  
31 The State Board of Community Colleges and the Auditor General

1 shall have the authority to require and receive from the  
2 organization or from its independent auditor any detail or  
3 supplemental data relative to the operation of the  
4 organization. The identity of a donor or prospective donor who  
5 desires to remain anonymous and all information identifying  
6 such donor or prospective donor are confidential and exempt  
7 from the provisions of s. 119.07(1) and s. 24(a), Art. I of  
8 the State Constitution. Such anonymity shall be maintained in  
9 the auditor's report.

10 Section 6. Subsection (7) of section 240.3335, Florida  
11 Statutes, is amended to read:

12 240.3335 Centers of technology innovation.--

13 (7) Each center shall have a board of directors with  
14 at least five members who shall be appointed by the district  
15 board of trustees. The board of directors is ~~shall be~~  
16 responsible for overseeing the operation of the center,  
17 approval of the annual budget, and setting policy to guide the  
18 director in the operation of the center. ~~The board of~~  
19 ~~directors shall have the authority to acquire, lease, and~~  
20 ~~sublease property subject to the provisions of general law.~~  
21 The board of directors shall consist of at least the  
22 following:

23 (a) The director of the center.

24 (b) The vice president of academic affairs, or the  
25 equivalent, of the community college.

26 (c) The vice president of business affairs, or the  
27 equivalent, of the community college.

28 (d) Two members designated by the president of the  
29 community college.

30 Section 7. Section 240.363, Florida Statutes, is  
31 amended to read:

1           240.363 Financial accounting and expenditures.--All  
2 funds accruing to ~~the benefit of~~ a community college must  
3 ~~shall~~ be received, accounted for, and expended in accordance  
4 with rules of the State Board of Community Colleges. A  
5 community college may not transfer public funds or property to  
6 a direct-support organization or pledge public funds or  
7 property to pay or guarantee the payment of any bonds or other  
8 obligations issued by a direct-support organization or by a  
9 unit of local government on behalf of a direct-support  
10 organization, except that each community college board of  
11 trustees may adopt policies that provide procedures for  
12 transferring ~~private contributions to the community college to~~  
13 the direct-support organization of that ~~the~~ community college  
14 for administration by such organization private contributions  
15 made to the community college. However, if a community college  
16 had incurred such a legal obligation before March 6, 1998, it  
17 may continue to honor that obligation.

18           Section 8. This act shall take effect July 1, 1998.

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SENATE SUMMARY

Provides reporting requirements for university  
direct-support organizations. Provides an additional  
requirement for the accountability plan for community  
colleges. Prescribes membership of boards of directors  
and executive committees of community college  
direct-support organizations and statewide community  
college direct-support organizations. Restricts the  
activities of such direct-support organizations. Provides  
reporting requirements for such organizations. Removes  
from a board of directors of a center of technology  
innovation the authority to acquire, lease, or sublease  
property.