

**STORAGE NAME:** h1007a.ed

**DATE:** April 11, 1999

**HOUSE OF REPRESENTATIVES  
AS REVISED BY THE COMMITTEE ON  
EDUCATION APPROPRIATIONS  
ANALYSIS**

**BILL #:** House Bill 1007

**RELATING TO:** Distance Learning

**SPONSOR(S):** Committee on Community Colleges and Career Prep, Representative Harrington

**COMPANION BILL(S):** Senate Bill 1228, Senator Horne

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) COMMUNITY COLLEGES AND CAREER PREP YEAS 10 NAYS 0
  - (2) EDUCATION APPROPRIATIONS YEAS 10 NAYS 0
  - (3)
  - (4)
  - (5)
- 

**I. SUMMARY:**

This bill would provide a consolidated, coordinated, and potentially self supporting system of distance learning instruction for the Florida Community College System. The bill would authorize the State Board of Community Colleges to own, license, and copyright work products related to distance learning for the purposes of sale and protection against infringement. This is similar to the authority granted to the Department of Education in Section 233.255, F.S.

The bill would require that all work products developed by the State Board of Community Colleges be made readily available for appropriate use in the state system of education and would authorize the board to charge for the costs of production and dissemination within the state system. The bill would also authorize the board to sell copies of those products to nonpublic schools and to the public for educational use. Revenues generated from the development of work products would be deposited and expended by a Florida not-for-profit corporation and used to enhance program development. The not-for-profit corporation would be required to submit an annual postaudit of its financial accounts, conducted by an independent certified public accountant, to the Auditor General and to the State Board of Community Colleges. The State Board of Community Colleges must also annually report on the implementation of this bill, beginning in December of 1999, to the Speaker of the House and the President of the Senate.

The bill could provide a mechanism for a self-supporting system of distance learning within the community college system. As a result, the need for future state appropriations to the Florida Community College Distance Learning Consortium may be reduced (currently \$250,000 per year for administrative costs).

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Currently, the Community College Distance Learning Consortium, as a branch of the State Board of Community Colleges, can coordinate the development of programs and products, but has no authority to own, license, or sell those products. However, Florida Statutes currently authorize the Department of Education, state universities and community colleges to develop, own, license, and sell educational programs and products (ss. 233.255, 240.229, 240.241, and 240.319, F.S. respectively).

Without statutory authorization, products developed by the Community College Distance Learning Consortium are not owned by the State Board of Community Colleges. Therefore, these products cannot be protected from infringement or marketed to other states, nonpublic institutions in the state, or to the general public for educational use. According to the State Board of Community Colleges, the nature of the work products developed by the Consortium are such that they are easily accessible to nonpublic entities as well as to other states which makes it more difficult to protect against infringement.

B. EFFECT OF PROPOSED CHANGES:

This bill would authorize the State Board of Community Colleges to own, license, and sell work products related to distance learning. It would expand the authority of the Community College Distance Learning Consortium beyond its current role of coordinating distance learning programs and products into the marketing and sale of such products. The bill would strengthen the consolidation and coordination of distance learning instruction in the Florida Community College System.

Given the ability to secure letters of patent, copyright, and trademark for products developed by the Consortium, the State Board of Community Colleges would have the ability to license, lease, manufacture, and sell work products and be protected from improper infringement. The board would also be in a better position to enforce the collection of sums due the board for the manufacture and use of products.

The bill would require that any revenues generated from work products developed by the Consortium be deposited and expended by a Florida not-for-profit corporation and used as directed by the State Board of Community Colleges to cover costs associated with the production and dissemination of educational materials. Proceeds from the sale of such materials, managed by the not-for-profit corporation, would allow the Consortium to enhance program development and develop new and innovative distance learning work products.

The bill would require that the Florida not-for-profit corporation make provisions for an independent certified public account to conduct an annual postaudit of its financial accounts. Annual reports must be submitted to the Auditor General and the State Board of Community Colleges for review. The State Board of Community Colleges must also annually report on the implementation of this bill, beginning in December of 1999, to the Speaker of the House and the President of the Senate.

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?

No.

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

The Community College Distance Learning Consortium would be responsible for the marketing and sale of distance learning work products.

This bill specifies that all proceeds from distance learning work products shall be deposited and expended by a Florida not-for-profit corporation, incorporated under the provisions of Chapter 617, and approved by the Department of State. This entity would be used by the State Board of Community Colleges to pay for the costs of production and dissemination of educational materials related to distance learning.

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

No.

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

An agency or program is not 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. Lower Taxes:

- 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. Personal Responsibility:

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

No.

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

The State Board of Community Colleges (SBCC) would pay for costs associated with the development of distance learning programs and would also receive any benefits from the lease or sale of work products. Out-of-state or private institutions would pay a fee established by the SBCC for the benefit of the use of any such products.

4. Individual Freedom:

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

Private sector institutions and the general public would have new access to products developed by the State Board of Community Colleges for a fee.

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

No.

5. Family Empowerment:

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

This bill does not purport 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?

No.

- 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:

This bill does not create or change a program providing services to families or children.

- (1) parents and guardians?

N/A

- (2) service providers?

N/A

- (3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

The bill amends section 240.311, Florida Statutes, 1998 Supplement.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends section 240.311, Florida Statutes, 1998 Supplement.

Section 2. Provides that the act take effect on July 1, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

The bill would not require the expenditure of state funds.

2. Recurring Effects:

The bill would not require the expenditure of state funds.

3. Long Run Effects Other Than Normal Growth:

Since the bill would provide a mechanism for a self-supporting system of distance learning within the community college system, the need for future state funding for the Florida Community College Distance Learning Consortium could potentially be reduced (currently \$250,000 per year).

4. Total Revenues and Expenditures:

The bill would not require the expenditure of state funds. Indeterminate at this time.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

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

1. Direct Private Sector Costs:

The private sector would not have to pay for the development of these programs, however, a fee would be assessed for the utilization of work products developed by the Consortium.

2. Direct Private Sector Benefits:

The private sector would have an opportunity to lease, purchase or otherwise make use of distance learning work products developed by the State Board of Community Colleges.

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

The State Board of Community Colleges, utilizing the Florida not-for-profit corporation, would be able to market and sell distance learning work products developed by the Consortium in the private sector.

D. **FISCAL COMMENTS:**

Since the bill would provide a mechanism for a self-supporting system of distance learning within the community college system, the need for future state funding for the Florida Community College Distance Learning Consortium could potentially be reduced (currently \$250,000 per year).

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

A. **APPLICABILITY OF THE MANDATES PROVISION:**

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. **REDUCTION OF REVENUE RAISING AUTHORITY:**

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

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

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

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 15, 1999, the Committee on Community Colleges and Career Prep considered PCB 99-03 and passed it unanimously with one amendment which was incorporated into the bill. The amendment added a new section 2, requiring the State Board of Community Colleges to report on the

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implementation of the bill by December 1999 and annually thereafter. Subsequent sections of the bill were renumbered.

On April 9, 1999 the Education Appropriations Committee considered HB 1007 and passed it with one amendment. The amendment:

1. Adds a new Section 2, transferring Section 364.507, F.S., renumbering it Section 241.001, F.S., and amending it to delete the definitions of "network" and "plan."
2. Adds a new Section 3, transferring Section 364.509, F.S., renumbering it Section 241.002, F.S., and amending it to prescribe the duties of the Department of Education concerning distance learning.
3. Adds a new Section 4, transferring Section 364.510, F.S., renumbering it Section 241.003, F.S., and amending it to create the Florida Distance Learning Network Advisory Council.
4. Adds a new Section 5, transferring Section 364.514, F.S., renumbering it Section 241.004, F.S., and amending it to read Department of Education.
5. Adds a new Section 6, repealing Sections 364.511, 364.512, and 364.513, F.S.

VII. SIGNATURES:

COMMITTEE ON Community Colleges and Career Prep:

Prepared by:

Staff Director:

Heather R. Sherry

Stacey S. Webb

AS REVISED BY THE COMMITTEE ON EDUCATION APPROPRIATIONS:

Prepared by:

Staff Director:

John Newman

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