

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 1288

SPONSOR: Senator Horne

SUBJECT: Community College/Distance Learning Products

DATE: March 17, 1999

REVISED: 03/22/99

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>White</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Fav/1 amendment</u>
2.	<u> </u>	<u> </u>	<u>FP</u>	<u> </u>
3.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
4.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
5.	<u> </u>	<u> </u>	<u> </u>	<u> </u>

## I. Summary:

This bill authorizes the State Board of Community Colleges to develop, own, and market distance learning products through a not-for-profit corporation.

The bill amends section 240.311 of the Florida Statutes.

## II. Present Situation:

### Department of Education

Section 233.255, F.S., authorizes the Department of Education to develop, own, and disseminate among public school districts educational products (except text). The products must be provided to school districts at cost. The department may develop the products through contracts, licenses, leases, sales, or other methods designed to protect them against improper use or infringement. Any proceeds are deposited into the Educational Media and Technology Trust Fund and used to produce and disseminate educational materials and products.

### State Universities

Section 240.229, F.S., grants essentially the same authority to each state university, without the stipulation requiring the products to educational or to be made available at cost to other public educational institutions. The university must report to the Department of State actions to secure or exploit trademarks, patents, and copyrights for the products. Section 240.241, F.S., authorizes each university to finance a division of sponsored research with funds derived from the proceeds of research. Each division maintains a fund that manages the proceeds.

### Community Colleges

Section 240.319(j), F.S., grants the authority to own and market products to each board of trustees of a community college. The provisions for community colleges are essentially the same to those for universities.

**State Boards**

Neither the Board of Regents or the State Board of Community Colleges has statutory authority to own, license, or sell educational products.

In 1996, the State Board of Community Colleges created in rule the Community College Distance Learning Consortium to coordinate the ways community colleges develop and distribute instruction through distance learning. Since 1996, the consortium has been supported by an annual appropriation of \$250,000. As a branch of the State Board of Community Colleges rather than of any single college, the consortium does not have authority to own, license, or sell any products it may develop. According to staff of the board, the nature of the work products developed by the consortium are difficult to protect against infringement.

**III. Effect of Proposed Changes:**

The legislation under consideration will amend s. 240.311, F.S., to authorize the State Board of Community Colleges to own, license, and sell work products related to distance learning. The wording of the addition to the statute is a combination of the provisions that apply to state universities and to the Department of Education.

Like a university, the State Board of Community Colleges will be authorized to develop products subject to trademark, copyright, or patent, but those products are limited. They must “relate to mechanisms to provide for consolidated and coordinated program development and educational endeavors to support distance learning instruction.” The board may secure patents, copyrights, and trademarks and enforce the rights of ownership.

Like the Department of Education, the board will be required to make the products “readily available for appropriate use in the state system of education.” The board may assess a fee for the products to be used by the state education system, but no more than the cost of producing and disseminating them. It may sell copies of the products to nonpublic schools and the public. The proceeds of sales to nonpublic entities will not be limited to cost.

The proceeds will be managed by a Florida not-for-profit corporation. The Community College Distance Learning Consortium either will become one or will create one. The corporation must employ an independent certified public accountant to conduct an annual postaudit of its financial accounts. The State Board of Community College is to adopt rules for the conduct of the audit, which must be submitted to the board and the Auditor General.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Nonpublic schools and other entities could purchase products owned by the State Board of Community Colleges. The products would relate to or support distance learning or its coordination. Since distance learning is a rapidly changing field, some of the products might compete with those owned by private entities.

C. Government Sector Impact:

If the State Board of Community Colleges generated enough funds through the marketing of its products, the annual appropriation of \$250,000 for the Community College Distance Learning Consortium might no longer be requested.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

#1 by Education:

Requires the State Board of Community Colleges annually to report on the implementation of the act to the Speaker of the House of Representatives and the President of the Senate.