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HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE
COUNCIL FOR LIFELONG LEARNING
ANALYSIS

BILL #: CS/HB 443

RELATING TO: Industrial Partnership Professorship

SPONSOR(S): Council For Lifelong Learning and Representative(s) Wallace

TIED BILL(S): None

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

(1) COMMITTEE ON COLLEGES & UNIVERSITIES YEAS 10 NAYS 1
(2) FISCAL POLICY AND RESOURCES YEAS 12 NAYS 0
(3) COUNCIL FOR LIFELONG LEARNING YEAS 13 NAYS 0
(4)
(5)

I. SUMMARY:

CS/HB 443 establishes the Industrial Partnership Professorship Program within the State University System and permits the Board of Regents or its successor agency to establish up to 15 such professorships for the purpose of bringing into a university setting instructional and research personnel whose formal training and experience differ from the formal training and experience required of traditional university faculty. Industrial partnership professorships must be established through a contract between a state university and the corporation sponsoring the partnership. The duration of the contract must be for at least one year. The sponsoring corporation must agree to provide two-thirds of the cost of the professorship and the State University System must provide the remaining third. CS/HB 443 prohibits the State University System from spending more than $500,000 in any fiscal year for this program.

CS/HB 443 creates the industrial partnership professorship tax credit that provides a sponsoring corporation a credit equal to one-half of the amount of the corporation's contribution during the year to the establishment and maintenance of an industrial partnership professorship. If the credit is not fully used during the first year for which it becomes available, the unused amount can be carried forward for up to five years. CS/HB 443 prohibits a taxpayer from simultaneously taking the industrial partnership professorship tax credit while also excluding from the payroll factor fraction compensation paid to an employee dedicated exclusively to research and development activities and acting as an industrial partnership professor. CS/HB 443 places this tax credit at the end of the specific order in which credits against the corporate income tax or the franchise tax can be applied.

The Industrial Partnership Professorship Program and tax credit are repealed July 1, 2011.

The Revenue Estimating Conference adopted a total, annualized, negative impact of $500,000 for fiscal year 2001-2002, and a negative cash estimate of $625,000 for fiscal year 2001-2002. The cash impact consists of the full amount of credit taken during calendar year 2001 (reflected in both estimated payments and final returns filed) as well as a reduction in estimated payments made for calendar year 2002 in an amount of 25 percent of the full amount of the available credit.

CS/HB 443 takes effect July 1, 2001.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1.	Less Government	Yes []	No []	N/A [x]
2.	Lower Taxes	Yes [x]	No []	N/A []
3.	Individual Freedom	Yes []	No []	N/A [x]
4.	Personal Responsibility	Yes []	No []	N/A [x]
5.	Family Empowerment	Yes []	No []	N/A [x]

For any principle that received a “no” above, please explain:

B. PRESENT SITUATION:

State University System Faculty Classifications

Regular personnel in the State University System (SUS) are categorized into the following three pay plans: Faculty Employees, Administrative and Professional Employees, and University Support Personnel System Employees. The faculty pay plan includes positions assigned the primary responsibility of teaching, conducting research, performing public service activities, or performing administrative functions directly related to an institution’s academic mission. Most faculty are classified as Professors, Associate Professors, Assistant Professors, Instructors, and Lecturers. Additional faculty classifications include Graduate Research Professors and Eminent Scholars.

Professors, Associate Professors, and Assistant Professors are required to possess a terminal degree from an accredited institution or the highest degree appropriate in their field of specialization and possess a demonstrated record of achievement in the areas of teaching, academic research, and public service. These faculty members are usually required to publish professional writings, academic research, or creative work in refereed and professional journals. Furthermore, they must be recognized authorities in their field of specialization. A university president may confer the title of “Distinguished Professor” upon a faculty member in recognition of truly outstanding accomplishments in his or her field of specialization.

Instructors and Lecturers are primarily responsible for teaching, performing public service, and performing related activities. Their secondary responsibilities may include conducting research and providing academic advisement to students. These faculty members tend to be required to possess a master’s degree from an accredited institution in an appropriate field of specialization or possess equivalent qualifications based on professional experience.

Graduate Research Professors are primarily responsible for conducting research and performing related activities. Their secondary responsibilities may include teaching, performing public service, and providing academic advisement to students. Usually, these faculty members possess a terminal degree from an accredited institution or the highest degree appropriate in their field of specialization and possess a demonstrated record of achievement in the areas of teaching, academic research, and public service. These faculty members are usually required to publish professional writings, academic research, or significant creative work in refereed and professional journals. Furthermore, they must be recognized as national or international authorities in their field of specialization.

Eminent Scholars occupy an endowed chair established within a university and are primarily responsible for teaching, conducting research, performing public service, and performing related activities. Their secondary responsibility may include providing academic advisement to students. Typically, these faculty members possess a terminal degree from an accredited institution or the highest degree appropriate in their field of specialization and possess a demonstrated record of achievement in the areas of teaching, academic research, and public service. Furthermore, they must be recognized as foremost scholars in their field of specialization and serve at the discretion of the university president.

Personnel Exchange Program

Section 240.227(11), F.S., directs each state university president to develop rules that are necessary for the establishment and maintenance of a personnel exchange program. Individuals that are employed by a university as instructional and research faculty and as comparable administrative and professional staff may be exchanged with individuals employed in similar capacities by institutions of higher learning which are not under the jurisdiction of a university. These institutions of higher learning not under the jurisdiction of a university can include units of government or private industries. The salaries and benefits of SUS personnel and State of Florida personnel participating in the exchange program must be continued during the period of time they participate in the exchange program, while the salaries and benefits of individuals participating in the personnel exchange program who are employed by institutions of higher learning which are not under the jurisdiction of a university must be paid by the originating employers of those participants. The duties and responsibilities of a person participating in the exchange program must be the same as those of the person he or she replaces.

Practitioners in the Classroom

In their article, *Bringing Corporate Know-How To Class*, Michael G. Kovac and Norman R. Augustine discuss recent efforts to enhance the position of the United States as a worldwide leader in technology including initiatives such as R&D tax credits, national laboratory outreach programs, technology transfer programs, and small business research programs. They propose a complementary approach of "industrial professorships" in which people from industry work full-time at an engineering school. They suggest that the direct interaction between experienced industry practitioners and students can enhance the cultural transfer of industrial ideas and attitudes into the classroom. Students can have the opportunity to learn first-hand about project management and relationships between design, manufacturing, and sales. Additionally, students can become familiar with typical work assignments and corporate work ethics, and learn the importance of group interaction when creating successful design teams.

According to Kovac and Augustine, an industrial professor might be involved in technology development activities such as facilitating the commercialization of technologies and patents derived from university research; writing proposals with other faculty for technology-related research when the proposal is submitted in collaboration with private industry; organizing seminars in which industries present their technology and research needs to faculty, students, and research staff; facilitating the interaction of faculty with private industry; facilitating the diffusion of research results and technology from federal laboratories to private industry; and expediting the migration of new technology into the marketplace.

Corporate Income Tax Credit

Section 220.02(1), F.S., provides that it is the intent of the Legislature to "impose a tax upon all corporations, organizations, associations, and other artificial entities which derive from this state or from any other jurisdiction permanent and inherent attributes not inherent in or available to all natural persons, such as perpetual life, transferable ownership represented by shares or certificates, and limited liability for all owners . . . It is the intent of the Legislature to subject such corporations and other entities to taxation hereunder for the privilege of conducting business, deriving income, or existing within this state."

Chapter 220, F.S., provides for a number of tax credits that can be applied against the corporate income tax including: enterprise zone job credit; enterprise zone property tax credit; community contribution tax credit; hazardous waste facility tax credit; contaminated site rehabilitation tax credit; state housing tax credit; credit for Florida alternative minimum tax; rural job credit and urban high-crime area job tax credit; child care tax credits; and capital investment tax credit. Most of these credits are limited to a percentage of the annual costs a corporation incurs, are capped at an annual amount, and can be carried forward for a certain amount of time. Subsection (8) of s. 220.02, F.S., specifies the order in which credits are to be applied against either the corporate income tax or the franchise tax.

Apportionment of Adjusted Federal Income to the State of Florida

Under s. 220.15, F.S., the amount of adjusted federal income of a taxpayer doing business within the state and outside the state that is apportioned to the State of Florida is computed using an apportionment fraction. The apportionment fraction has three components – a sales factor, a property factor, and a payroll factor. Section 220.15(4), F.S., sets forth the method by which the payroll factor is calculated. The numerator of the payroll factor fraction is the total amount paid in this state during the taxable year or period by the taxpayer for compensation.[1] The denominator is the total compensation paid everywhere during the taxable year or period. Compensation is paid in this state if:

- the employee's service is performed entirely within the state;
- the employee's service is performed both within the state and outside the state, but the service performed outside the state is incidental to the employee's service within the state;
- some of the employee's service is performed in the state and the base of operations or the place from which the service is directed or controlled is in this state;
- some of the employee's service is performed in the state and the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed and the employee's residence in this state.

Section 220.15(4)(c), F.S., specifically excludes from the payroll factor fraction compensation paid to any employee located in Florida when it is certified to the Department of Revenue that such compensation was paid to employees dedicated exclusively to research and development activities performed pursuant to sponsored research contracts conducted in conjunction with and through a university within the State University System or a nonpublic university that is chartered in Florida and conducts graduate programs at the professional or doctoral levels.

Board of Regents

The Florida Education Governance Reorganization Act of 2000 (ch. 2000-321, L.O.F.) repeals the Florida Board of Regents (BOR) effective January 7, 2003. The Education Governance Reorganization Transition Task Force, created by ch. 2000-321, L.O.F., has recommended that the repeal be expedited to July 1, 2001.

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[1] Section 220.15(4)(a), Florida Statutes, defines "compensation", as used in subsection (4) of section 220.15, F.S., as "... wages, salaries, commissions, and any other form of remuneration paid to employees for personal services."

C. EFFECT OF PROPOSED CHANGES:

Industrial Partnership Professorship Program

CS/HB 443 establishes an Industrial Partnership Professorship Program within the SUS and permits the BOR or its successor agency to establish a maximum of 15 professorships for the purpose of bringing into a university setting instructional or research personnel whose formal training and experience may differ from that required of traditional university faculty.

The industrial partnership professorships may be established at any state university by means of a contract between the university and the sponsoring corporation. The contract must be for a minimum of one year and may be renewed for additional years. The contract must specify the terms and conditions of employment of the industrial partnership professor and the amount the sponsor is to contribute on an annual basis. The sponsoring corporation must provide at least two-thirds of the costs of each professorship; the SUS must provide one-third. Total expenditures by the SUS for the program are capped at $500,000 in any fiscal year. A university may use existing personnel classifications for an industrial partnership professorship.

A corporation may qualify for the industrial partnership professorship tax credit by partnering with an education department at any university within the State University System for the purposes of increasing opportunities for students to be trained to become instructional classroom professionals.

The corporation or corporations sponsoring the professorship will be allowed an annual credit against the corporate income tax for one-half of the amount contributed to the establishment and maintenance of an industrial partnership professorship during any year.

CS/HB 443 repeals the industrial partnership professorship program July 1, 2011.

The Board of Regents or its successor agency may adopt rules to administer the industrial partnership professorship program.

Industrial Partnership Tax Credit

CS/HB 443 creates an industrial partnership professorship tax credit for any private corporation that enters into a contract with a state university for the establishment of an industrial partnership professorship. The credit is equal to one-half the amount of the corporation's contribution during the *calendar* year to the establishment and maintenance of an industrial partnership professorship. If the credit is not fully used in the first year it becomes available, the unused amount may be carried forward for a period not to exceed 5 years.

The Department of Revenue is authorized to adopt rules to administer the tax credit.

CS/HB 443 amends s. 220.02 (8), F.S., to place the industrial partnership professorship tax credit at the end of the specific order in which credits against the corporate income tax or the franchise tax are to be applied.

CS/HB 443 repeals the industrial partnership professorship tax credit on July 1, 2011.

Apportionment of Adjusted Federal Income to the State of Florida

CS/HB 443 prohibits a taxpayer from simultaneously taking the industrial partnership professorship tax credit created in s. 220.192, F.S. while excluding from the payroll factor fraction compensation paid to the same employee dedicated exclusively to research and development activities as described in s. 220.15(4)(c), F.S. and acting as an industrial partnership professor, pursuant to s. 240.6065, F.S.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Creates s. 240.6065, F.S. – provides legislative intent; establishes the Industrial Partnership Professorship Program within the SUS; permits the BOR or its successor agency to establish no more than 15 industrial partnership professorships for the purpose of bringing into a university setting instructional or research personnel whose formal training and experience differ from that of traditional university faculty; provides that the industrial partnership professorships can be established at any state university through a contract between the university and a corporation or corporations agreeing to sponsor the professorship; provides that a corporation may qualify for the industrial partnership professorship tax credit by partnering with an education department at any university within the SUS for the purposes of increasing opportunities for students to be trained to become instructional classroom professionals; provides that the duration of the contract must be at least one year and may be renewed for additional periods; requires the sponsoring corporation to provide two-thirds of the cost of each professorship and the SUS to provide one-third; prohibits the SUS from expending more than $500,000 per year for the Industrial Partnership Professorship Program; provides the corporation or corporations sponsoring the professorship with an annual credit against the corporate income tax; authorizes the BOR or its successor agency to adopt rules.

Section 2. Creates s. 220.192, F.S. – provides any private corporation sponsoring an industrial partnership professorship with a credit against the tax imposed by chapter 220, F.S., that is equal to one-half of the annual amount a corporation contributes to the establishment and maintenance of an industrial partnership professorship; provides that the amount of a credit that is not fully used in the first year for which it becomes available can be carried forward for a period not to exceed five years; provides that a taxpayer that has excluded any compensation from the payroll factor fraction pursuant to s. 220.15(4)(c), F.S., is ineligible to receive credit for the same employee when that employee is performing research and development activities pursuant to sponsored research contracts and acting as an industrial partnership professor pursuant to s. 240.6065, F.S.; permits the Department of Revenue to adopt rules in order to administer the tax credit.

Section 3. Amends s. 220.15(4)(c), F.S. - prohibits a taxpayer from excluding from the payroll factor fraction compensation paid to the any employee when that employee is performing research and development activities performed pursuant to sponsored research contracts and acting as an industrial partnership professor pursuant to s. 240.6065, F.S.

Section 4. Amends s. 220.02(8), F.S. -- places the industrial partnership professorship tax credit at the end of the specific order in which credits against the corporate income tax or the franchise tax can be applied.

Section 5. Repeals ss. 240.6065 and 220.192, F.S. as created by CS/HB 443 on July 1, 2011.

Section 6. Provides an effective date of July 1, 2001.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference adopted a total, annualized, negative impact of $500,000 for fiscal year 2001-2002, and a negative cash estimate of $625,000 for fiscal year 2001-2002. The cash impact consists of the full amount of credit taken during calendar year 2001 (reflected in both estimated payments and final returns filed) as well as a reduction in estimated payments made for calendar year 2002 in an amount of 25 percent of the full amount of the available credit.

2. Expenditures:

The State University System may spend up to $500,000 per year for the Industrial Partnership Professorship Program.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

CS/HB 443 requires the sponsoring corporation to provide two-thirds of the costs of each professorship and provides the corporation with an annual credit against the corporate income tax that is equal to one-half of the amount a corporation contributes to the establishment and maintenance of an industrial partnership professorship during any calendar year.

D. FISCAL COMMENTS:

None

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

A. APPLICABILITY OF THE MANDATES PROVISION:

CS/HB 443 does not require counties or municipalities to spend funds or to take action which requires the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

CS/HB 443 does not reduce the authority that counties and municipalities have to raise revenues.

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

CS/HB 443 does not reduce the percentage of a state tax shared with counties and municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None

B. RULE-MAKING AUTHORITY:

CS/HB 443 permits the BOR or its successor to adopt rules to administer the Industrial Partnership Professorship Program. The Department of Revenue is authorized to adopt rules to administer the industrial partnership professorship tax credit.

C. OTHER COMMENTS:

The Department of Revenue submitted the following comments/recommendations regarding HB 443:

> Strike references to "calendar" with regard to year. Many corporations file their returns using a tax year that is different from a calendar year. The bill provides for a credit against the corporate income tax based upon the amount contributed during a calendar year rather than the corporation's tax year. An amendment adopted by the Committee on Fiscal Policy and Resources on April 11, 2001 removed one reference to "calendar" year; one reference remains.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 11, 2001, the Committee on Fiscal Policy and Resources adopted five amendments. All five amendments were technical changes suggested by the Department of Revenue. The first amendment provides the Board of Regents or its successor agency with administrative authority. The second amendment inserts the words "or its successor agency" after the Board of Regents, on page 2. The third amendment removes the word "calendar" from the bill. This was done to eliminate problems with corporate calendar versus fiscal calendar issues. The fourth and fifth amendments provide language to the bill and to existing statute language that prohibits an entity from claiming both the exemption presented in this bill and an exemption for performing research and development activities already present in s. 220.15, F.S.

On April 19, 2001, the Council for Lifelong Learning adopted one amendment which was incorporated, along with the five amendments that were traveling with the bill, into CS/HB 443. The amendment clarified that industrial partnerships professorship tax credit may be available to corporations who partner with an education department at any university within the State University System for the purposes of increasing opportunities for students to be trained to become instructional classroom professionals.

VII. SIGNATURES:

COMMITTEE ON COMMITTEE ON COLLEGES & UNIVERSITIES:

Prepared by:	Staff Director:
Betty H. Tilton, Ph.D.	Betty H. Tilton, Ph.D.

AS REVISED BY THE COMMITTEE ON FISCAL POLCY AND RESOURCES:

Prepared by:	Staff Director:
Adam Shamy	Greg Turbeville

AS FURTHER REVISED BY THE COUNCIL FOR LIFELONG LEARNING:

Prepared by:	Staff Director:
Betty H. Tilton, Ph.D.	Patricia Levesque