

STORAGE NAME: h1227.cu.doc

DATE: February 17, 2002

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMITTEE ON COLLEGES & UNIVERSITIES
ANALYSIS**

BILL #: HB 1227

RELATING TO: Community College Funding

SPONSOR(S): Representative Arza

TIED BILL(S): None

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

- (1) COMMITTEE ON COLLEGES & UNIVERSITIES
 - (2) EDUCATION APPROPRIATIONS
 - (3) COUNCIL FOR LIFELONG LEARNING
 - (4)
 - (5)
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I. SUMMARY:

The Legislature is responsible for determining the apportionment of state funds to be allocated in the General Appropriations Act (GAA) to each public community college. Current law requires that the state apportionment be determined in the GAA and requires certain components to be considered in the determination.

HB 1227 changes the procedure for determining the apportionment of state funds to be allocated to each community college by permitting rather than requiring that the apportionment be determined annually in the GAA. The Legislature in determining each college's apportionment must consider: base budget; cost-to-continue allocation; operating costs of new facilities adjustments; new and improved program enhancements; performance-based budget funding; and workforce development funding. HB 1227 removes the requirement that the Legislature consider an enrollment workload adjustment; removes the requirement that student fees and student fee revenues generated by fee rate increases must be subtracted from the subtotal of all considered components prior determining the net amount to be apportioned; and removes the requirement that the Department of Education (DOE) estimate the annual enrollment of each college for the current fiscal year and for the six subsequent fiscal years.

The fiscal impact of HB 1227 is indeterminate at this time. HB 1227 requires that new state appropriations must be multiplied by the relative need index to determine the annual state appropriation by college. HB 1227 only requires that the Legislature consider the cost-to-continue allocation as computed by the resource distribution funding model. Yet HB 1227 also requires that the new appropriations be calculated based on the relative need index which results from the use of the model.

HB 1227 requires the Legislature to consider, in determining a college's apportionment from the State Community College Program Fund, a cost-to-continue allocation which includes costs "allocated through the resource allocation funding model" which must be "approved by the Florida Board of Education." Article II, Section 3, of the Florida Constitution provides, "No person belonging to one branch shall exercise any powers appertaining to either of the other branches unless expressly provided herein." The separation of powers doctrine prevents the legislature from delegating its constitutional duties. *Florida State Board of Architecture v. Wasserman*, 377 So.2d 653 (Fla. 1979).

HB 1227 has an effective date of July 1, 2002.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|-----------------------------------------|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

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

B. PRESENT SITUATION:

Section 240.359, F.S., provides a required procedure for determining state financial support and the annual apportionment to each community college district authorized to operate a community college under the provisions of s. 240.313, F.S.¹ The procedure is comprised of three main functions:

1. Determining the amount to be included in the State Community College Program Fund.
2. Determining the amount to be included for capital outlay and debt service.
3. Determining the apportionment from state funds.

Determination of the Apportionment of State Funds for Each Community College

In determining the apportionment from state funds, s. 240.359(3)(b), F.S, provides that the apportionment to each community college from the State Community College Program Fund must be determined annually in the General Appropriations Act. Current law further requires that in determining each college's apportionment, the Legislature must consider the following components:

- Base budget, which includes the state appropriation to the Community College Program Fund in the current year plus the related student matriculation and tuition fees assigned in the current General Appropriations Act.
- The cost-to-continue allocation, which consists of incremental changes to the base budget, including salaries, price levels, and other related costs.
- Enrollment workload adjustment. The enrollment workload adjustment must be determined as follows:
 - The actual full-time equivalent (FTE) enrollment for the prior year, as accepted or modified by the Legislature, must be the assigned enrollment and the basis for allocating appropriated funds for enrollment workload. If the enrollment workload allocation to a

¹ Section 240.313, F.S., provides that each community college district authorized by law and the Department of Education is an independent, separate, legal entity created for the operation of a community college.

college is determined to be less than zero, the reduction in allocation must be implemented over a two-year period.

- The systemwide average direct instructional cost level of each program of study must be used to calculate the enrollment workload adjustment. This amount, multiplied by a factor of 1.3, for support services must be multiplied by the change in enrollment as determined pursuant to s. 240.359(3)(b)3.a., F.S. From this amount, student matriculation and tuition fees generated by the change in assigned enrollment must be deducted and the remaining amount shall be the state allocation to each college for enrollment workload.
 - Students enrolled in a recreation and leisure program and students enrolled in a lifelong learning program may not be counted as FTE enrollments for purposes of enrollment workload adjustments.
- Operating costs of new facilities adjustments, which shall be provided, from funds available, for each new facility that is owned by the college and is recommended in accordance with s. 235.15.
 - New and improved program enhancements, which must be determined by the Legislature.
 - Student fees in the base budget plus student fee revenues generated by increases in fee rates must be deducted from the sum of the above component. The amount remaining must be the net annual state apportionment to each college.

Other Provisions Relative to Determining the Apportionment from State Funds

Section 240.359, F.S., also provides the following provisions relative to determining the apportionment from state funds to community colleges:

- The Department of Education is required to estimate the annual enrollment of each community college for the current fiscal year and for the six subsequent fiscal years. These estimates must be based upon prior years' enrollments, upon the initial fall term enrollments for the current fiscal year for each college, and upon each college's estimated current enrollment and demographic changes in the respective community college districts. DOE must submit this estimation by December 15 of each year.
- Community colleges are prohibited from committing funds for the employment of personnel or resources in excess of those required to continue the same level of support for either the previously approved enrollment or the revised enrollment, whichever is lower.
- The apportionment to each community college district for capital outlay and debt service must be the amount determined in accordance with s. 240.359(2), F.S. This amount, less any amount determined as necessary for administrative expense by the State Board of Education and any amount necessary for debt service on bonds issued by the State Board of Education, must be transmitted to the community college district board of trustees to be expended pursuant to State Board of Education rules.
- Colleges must seek to maintain an unencumbered fund balance of between four percent and ten percent of the funds available in the current general fund of the operating budget. If the ten-percent upper level is exceeded for two consecutive years, the appropriation to the college in a succeeding fiscal year must be reduced by the average of the excess of the fund balance over the ten percent for the two years. In exceptional cases, when fund balances greater than ten

percent are necessary for a college, prior approval must be obtained from the State Board of Community Colleges.²

- Expenditures for apprenticeship programs must be reported separately.

Current Community College Funding

Unlike public schools and state universities, community colleges are not enrollment funded. State universities can predict enrollment primarily based on the number of students they are permitted to admit in any given year. Public school growth corresponds with the population growth of the state. Community college enrollment, however, is not easy to predict and not an effective tool for determining funding. The enrollment patterns of community colleges, over time, conversely relate to growth in the economy thus creating a problem where more funding is available for community colleges when enrollment is down and vice versa.

The Division of Community Colleges (DCC) reports that the Legislature has utilized a different funding methodology for community colleges every year since 1991. "This has had an impact on the ability of the colleges to plan for their operations and created inequities within the system." HB 1779 was introduced during the 2001 Legislative Session in an effort to adopt the funding model into law; however, the bill died in committee without being heard. The Senate companion also died in committee without being heard. However, the apportionment of state funds to community colleges that was appropriated in the 2001 General Appropriations Act was calculated *in part* utilizing the operational resources funding model proposed by the community colleges.

The DCC reports that the proposed "Resource Distribution Funding Model was developed with extensive participation from community college stakeholders, including the State Board of Community Colleges, college presidents, Division of Community Colleges staff, business officers, academic and student affairs officers, and management information systems staff, using the following guidelines:

- (1) provide a 'fair' funding methodology by addressing equalization and funding of enrollments (stable, declining, and growing);
- (2) recognize differences among colleges including unique roles in providing a variety of educational programs, providing access, serving multiple campuses, and providing public service programs essential for high quality community colleges;
- (3) recognize unique circumstances such as cost-of-living differences for various parts of the state;
- (4) provide a clearer rationale on funding needs; and
- (5) recognize funding approaches used by other states."

C. EFFECT OF PROPOSED CHANGES:

HB 1227 changes the procedure for determining the apportionment of state funds to be allocated to each community college. HB 1227 permits rather than requires that the apportionment to each community college be determined annually in the GAA. Regardless of whether the apportionment to each community college is determined in the GAA, the Legislature in determining each college's apportionment must consider the following components:

² Chapter 2001-170, L.O.F., abolished the Board of Regents and the State Board of Community Colleges effective July 1, 2001. All powers and duties of those boards were transferred, by Type II transfer, to the Florida Board of Education.

- **Base budget** – The base budget includes the state general revenue and lottery appropriations to the State Community College Program Fund in the current year plus the related student matriculation and tuition fees established in the current GAA.
- **Cost-to-continue allocation** – The cost-to-continue allocation consists of incremental changes to the base budget, including salaries, price levels, and other related costs allocated through the resource allocation funding model. HB 1227 creates the resource allocation funding model. The model must consider the additional operational costs related to small community colleges and community colleges with multiple campuses. HB 1227 requires the Florida Board of Education to approve the funding model.

The resource distribution funding model must include, but is not limited to, the following components : **Direct instruction**, including class size, faculty load, average instructional salaries and benefits, program resource requirements, and full-time equivalent student enrollments; **Academic support; Libraries**, including library materials, library technology, and staffing; **Student services**, including student head count, full-time equivalent students, and disabled student services; **Plant operations and maintenance**, including maintenance, repair, custodial service, utilities, space utilization, and faculty inventory; **Special projects**; and a **District cost differential**.

Representatives of the Division of Community Colleges report that the components of the funding model are common activities or functions within a community college and each function has a mathematical calculation which funds all colleges based on the same standard or parameters for that particular function. “To the sum of these functions, a district cost differential is added which recognizes the difference in the cost of living for employees among Florida counties. This differential is calculated from the Florida Price Level Index...”

HB 1227 requires that standard student matriculation and tuition fee revenues and related state support must be deducted from the sum of the components included in the resource allocation funding model in order to determine state support. HB 1227 requires that the resultant calculated state support by community college must be compared to current state support by community college to determine a relative need index by community college. HB 1227 requires that new state appropriations must be multiplied by the relative need index to determine the annual state appropriation by community college. HB 1227 only requires that the Legislature *consider* the cost-to-continue allocation as computed by the resource distribution funding model. Yet HB 1227 also requires that the new appropriations be calculated based on the relative need index that results from the use of the funding model. It is unclear whether new allocations by community college must be calculated using the relative need index if after consideration the Legislature chooses not to use the resource distribution model.

- **Operating costs of new facilities adjustments** – Operational costs for new facilities adjustments must be provided from funds available for each new facility in accordance with s. 235.15, F.S. and guidelines of the Florida Board of Education.
- **New and improved program enhancements** – New and improved program enhancements must be determined by the Legislature and may be allocated through the resource allocation funding model.
- **Performance-based budget funding.**
- **Workforce development funding.**

HB 1227 removes the requirement that the Legislature consider an enrollment workload adjustment; removes the requirement that student fees and student fee revenues generated by fee rate increases must be subtracted from the subtotal of all considered components prior to determining the net amount to be apportioned; and removes the requirement that DOE estimate the annual enrollment of each community college for the current fiscal year and for the six subsequent fiscal years.

HB 1227 replaces references to "State Board of Community College"³ " and "State Board of Education"⁴ with "Florida Board of Education."

D. SECTION-BY-SECTION ANALYSIS:

This section need be completed only in the discretion of the Committee.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS.

2. Expenditures:

See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS.

2. Expenditures:

See FISCAL COMMENTS.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The fiscal impact of HB 1227 is indeterminate at this time. HB 1227 requires that new state appropriations must be multiplied by the relative need index to determine the annual state appropriation by community college. HB 1227 only requires that the Legislature consider the cost-to-continue allocation as computed by the resource distribution funding model. Yet HB 1227 also requires that the new appropriations be calculated based on the relative need index that results from the use of the funding model. It is unclear whether new allocations by community college must

³ Chapter 2001-170, L.O.F., abolished the Board of Regents and the State Board of Community Colleges effective July 1, 2001. All powers and duties of those boards were transferred, by Type II transfer, to the Florida Board of Education.

⁴ In the 1998 General Election, Floridians amended the State Constitution, effective January 7, 2003, to require a new state board of education consisting of seven members appointed by the Governor, subject to confirmation by the Senate, and to require that this board appoint the Commissioner of Education.

be calculated using the relative need index if after consideration the Legislature chooses not to use the resource distribution model.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

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

B. REDUCTION OF REVENUE RAISING AUTHORITY:

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

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

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

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

Article II, Section 3, of the Florida Constitution provides, "No person belonging to one branch shall exercise any powers appertaining to either of the other branches unless expressly provided herein." The separation of powers doctrine prevents the Legislature from delegating its constitutional duties. *Florida State Board of Architecture v. Wasserman*, 377 So.2d 653 (Fla. 1979).

The Legislature has the responsibility for determining the apportionment of state funds to be appropriated to community colleges. HB 1227 requires the Legislature to consider, in determining a college's apportionment from the State Community College Program Fund, a cost-to-continue allocation which includes costs "allocated through the resource allocation funding model" which must be "approved by the Florida Board of Education." Although HB 1227 only requires that the Legislature *consider* the cost-to-continue allocation as computed by the resource distribution funding model, HB 1227 also stipulates "[n]ew state appropriations shall be multiplied by the relative need index to determine the annual state appropriation by community college." The relative need index results from the use of the funding model. It is unclear whether new allocations by community college must be calculated using the relative need index if after consideration the Legislature chooses not to use the resource distribution model.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

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VII. SIGNATURES:

COMMITTEE ON COMMITTEE ON COLLEGES & UNIVERSITIES:

Prepared by:

Staff Director:

Maria L. Eckard

Betty H. Tilton, Ph.D.