

STORAGE NAME: h1241s1.llc.doc
DATE: February 21, 2002

HOUSE OF REPRESENTATIVES
LIFELONG LEARNING COUNCIL
ANALYSIS

BILL #: CS/HB 1241
RELATING TO: Education and Training Opportunities for State Employees
SPONSOR(S): Council for Lifelong Learning and Representative Ausley
TIED BILL(S): None

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

- (1) COLLEGES & UNIVERSITIES YEAS 11 NAYS 0
- (2) LIFELONG LEARNING COUNCIL YEAS 16 NAYS 0
- (3)
- (4)
- (5)

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I. SUMMARY:

CS/HB 1241 amends s. 110.1099, F.S., to expand the educational benefits available to state employees.

The bill creates a new, space available, tuition fee waiver program as a benefit to employers and employees of the state. The bill provides that state employees, who are not employed by a public university or college, may enroll for up to six credit hours of tuition-free, work-related courses per term on a space available basis at a public community college or public university.

The bill defines "work-related courses" as "coursework including coursework that leads to the award of a degree that is related to improving the knowledge or skills needed by an employee to continue employment for the State of Florida; to addressing staffing needs due to turnover within the agency's workforce and difficulty in attracting qualified applicants; or to improving the quality and delivery of programs and services to the public."

The bill requires the Department of Management Services to certify that all requests for tuition waivers are for work-related courses.

This bill expands educational benefits to state employees on a "space available" basis. The individual public postsecondary institutions determine space availability. The universities and community colleges will experience administrative costs associated with these students and may experience a loss of revenues from non-SUS state employees, who previously paid for community college and university courses.

This bill takes effect on 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 checked="" type="checkbox"/> | N/A <input 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 checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |

This bill does not appear to support the principle of less government because it creates a new employee benefit by establishing the tuition waiver program for state employees. State employees are authorized to take up to 6 tuition free credit hours at public community colleges and state universities.

In addition, this bill does not appear to support the principle of less government because it requires the Department of Management Services to review and approve each state employee tuition waiver request after the employee's agency head has approved the request.

This bill does not appear to support the principle of personal responsibility because it creates an entitlement permitting state employees to take free courses at public community colleges and state universities on a space available basis.

B. PRESENT SITUATION:

Since the 1970s, Florida law has provided educational benefits in various forms for state employees. In 1970, the Legislature enacted ch. 70-434, L.O.F., codified at s. 240.046, F.S., which authorized the Board of Regents (BOR) to permit permanent full-time employees in the State University System (SUS) to enroll on a space available basis for up to six hours of on-campus instruction per term without fees. In 1979, s. 240.046, F.S., was repealed by ch. 79-222, L.O.F. Concurrent with this repeal, proviso language was added to the General Appropriations Act that provided similar educational benefits to all full-time state employees.

State University System Employees

Ten years later, the Legislature amended s. 240.209, F.S. to authorize the BOR to permit full-time SUS employees to enroll for up to six credit hours of tuition-free courses per term on a space available basis. This provision is currently codified at s. 240.209(6), F.S.; however, in 2001, the Legislature enacted ch. 2001-254, L.O.F., which amended this subsection to provide that for the 2001-2002 fiscal year the BOR was not authorized to permit SUS employees to enroll in tuition-free courses. The statutory removal of the BOR's authorization expires July 1, 2002.

Other State Employees

In 1991, the Legislature created s. 110.1099, F.S. This section allows state employees to receive tuition waivers on a space available basis, or vouchers to attend work-related courses, at public universities. This section originally provided that the Department of Administration was responsible for administering the program. The Department of Administration was permitted to request public

universities to provide evening and weekend programs for state employees, and state employees were permitted to have paid leave from work for job-related courses when evening and weekend courses were not available.

From 1991 to 1998, s. 110.1099, F.S., was amended as follows:

- Ch. 94-113, L.O.F., amended subsection (2), which permitted paid leave for job-related courses, to instead provide for paid leave only when the “training and career development” benefits the employer.
- Ch. 96-399, L.O.F., amended subsection (5) to provide that the Department of Management Services (DMS), rather the Department of Administration, was responsible for administration of the program.
- Ch. 98-309, L.O.F., amended the section to add that the student credit hours generated by state employee fee waivers were to be fundable credit hours.¹ The General Appropriations Act for that year, ch. 98-422, L.O.F., did not provide any funding for the credit hours generated by state employees; however, the GAA did direct the BOR to conduct a study of the impact the statutory fee waiver program.

Research on the Fee Waiver Program

In February 1999, the Florida House of Representatives Committee on Colleges and Universities completed a study entitled, “A Review of the State Employee Fee Waiver Program and the Impact of the Program on State Universities.”² That study found that during the 1997-1998 academic year, more than 7,100 employees (SUS and non-SUS) took at least one course using a state employee fee waiver. These employees submitted 11,441 waivers with a dollar value of fees waived reported at \$5.2 million. Students using a fee waiver generated over 50,000 credit hours.

The study noted that although students attend classes only on a “space available” basis, universities incur a number of administrative costs associated with the program. Separate registration times must be offered for fee waiver students after the end of regular registration. The study advised that problems arising by failure of a student using an employee waiver to register during the appropriate time period must be resolved. The study found that drop/add scenarios are also problematic. Time is required to accurately identify courses for which the waiver may be used. Time is also required to prepare information for the employing agency and the State Comptroller’s Office on the tax liability status when a student takes a graduate level course.

The study made the following findings:

- Both state employees and the agencies that employ them view the State Employee Fee Waiver Program as a valuable benefit.
- The State Employee Fee Waiver Program assists state agencies in their professional development and training needs at a minimal cost to the agencies.

¹ The space available fee waiver program was never funded by the Legislature until 1999, as is discussed *infra*. It was felt that funding was unnecessary because state employee participation was limited to a space available basis. In other words, due to the fact that university resources were already being expended for paying students, it was believed that state employees participating with fee waivers would not require significant, additional resources from the universities. See House of Representatives Council for Lifelong Learning, *State Employee Fee Waivers/Tuition Voucher Program Fact Sheet*, September 2001.

² *A Review of the State Employee Fee Waiver Program and the Impact of the Program on State Universities*, Florida House of Representatives Committee on Colleges and Universities, February 1999.

- Over 40% of the employees who used an employee fee waiver were employed by the State University System.
- Over 95% of the course sections with students using an employee fee waiver experienced an increase in class size of 5 or fewer students.
- Within the physical limits of classroom space and academic considerations, state universities determine the appropriate class size for each course section and accordingly have direct control over the "space available."
- State universities appear to have procedures in place to minimize abuses of the "space available" policy.
- State universities incur costs associated with administering the employee fee waiver program. The estimated costs incurred by state universities to administer the fee waiver program ranged from \$124,920 to \$570,722.

Ch. 98-422, L.O.F., required the BOR to conduct a study of the impact of the fee waiver program. The report issued by the BOR in November 1998 made the following three recommendations:

1. The BOR indicated that it is difficult for university staff to verify whether the person presenting the state employee waiver form is actually a state employee, and whether the authorizations for the fee waiver are legitimate. Accordingly, the BOR recommended that the State Comptroller allow the universities to access current state payroll information to facilitate verification of state employment, and that the DMS maintain a database accessible to the universities, which lists state human resource personnel who are authorized to sign waivers.
2. The BOR indicated that agencies applied different interpretations to the language in s. 110.1099, F.S., which provided that state employees may receive tuition waivers, ". . . on a space available basis or vouchers to attend work-related courses at public universities." Some agencies, according to the BOR, believed all waivers had to be work-related, while others did not apply that restriction. Accordingly the BOR recommended that s. 110.1099, F.S., be amended to clarify that the work-related restriction applies only to vouchers, not to tuition waivers granted on a space available basis.
3. The BOR indicated that the Legislature had four options with regard to funding for the tuition waiver program. Of these options, the BOR recommended option four, which would provide for full funding of the waiver program. The four options provided to the Legislature were:
 - Continue to provide no funding. The major disadvantage of this option is that it fails to recognize the costs incurred by the universities.
 - Require each agency to reimburse the universities for credit hours taken by its employees. Disadvantages to this option include that it would require extensive administrative overhead for the universities to bill the agencies, and that fewer funds would be available for waivers unless the Legislature provided such funding to the agencies.
 - Appropriate funds to the universities for the amount of fee revenue waived. The BOR indicated that this option would have cost the state approximately \$4.8 million for the 1997-1998 academic year. Disadvantages to this option include that universities would not be compensated for administrative costs, and that there would be a one-year lag

between the time the universities incur the cost and the time that they would be reimbursed.

- Appropriate funds to the universities in the amount of the full cost to the universities. The BOR indicated that this option would have cost the state approximately \$14.9 million for the 1997-1998 academic year.³ The major disadvantage to the state is that this would be the most expensive option, while the chief advantages would be that it would relieve the fiscal burden on the universities and would allow the “space available” restriction to be lifted.⁴

Recent changes to the Fee Waiver Program

In 1999, the Legislature appropriated \$9.5 million to the SUS for purposes of funding the state employee fee waiver program. Additionally, the Legislature enacted ch. 99-399, L.O.F., which added subsection (6) to s. 110.1099, F.S., to provide that an agency or the judicial branch could, as a precondition to approval of an employee’s training request, require an employee to enter an agreement specifying that the employee must reimburse the agency or judicial branch for the registration fee or similar expense for any training when the cost exceeded \$1000 if the employee voluntarily terminated his or her employment or was discharged for cause within a specified period of time not to exceed four years after the conclusion of the training. The new subsection also provided that it did not apply to any training program that the employee was required by the agency or judicial branch to attend.

No amendments were made to s. 110.1099, F.S., during the 2000 Legislative Session; however, in the General Appropriations Act, ch. 2000-166, L.O.F., funding in the amount of \$9 million was appropriated for the fee waiver program by the Legislature. In 2001, the Legislature eliminated the funding for the fee waiver program, and replaced it with the State Employee Education Voucher Program.

State Employee Education Voucher Program

In 2001, the Legislature enacted ch. 2001-43, L.O.F., which amended s. 110.1099, F.S., to eliminate the “space available” tuition waiver program and to expand the types of educational institutions subject to the section. Under the new law, a state employee may receive a voucher or grant for matriculation fees to attend work-related courses at public community colleges, technical centers, or universities. Employees earning a grade below “C” (or “Unsatisfactory” in a pass/fail course) are required to reimburse the value of the voucher should the cost of matriculation fees for the training or training series exceed \$1,000. The employee must sign an agreement stating that they will remain employed in state government, unless involuntarily separated, for an amount of time equal to the length of the course. If the total cost of matriculation fees for the training exceeds \$1,000, the employee is required to remain employed for one calendar year.

Further, the new law directed the DMS to implement the section from funds appropriated to the DMS for this purpose, and specified that agencies were authorized to supplement this funding to support the training and education needs of its employees from funds appropriated to the agency. The General Appropriations Act, ch. 2001-253, L.O.F., provided a \$500,000 appropriation for the

³ This figure appeared to be based upon total costs to the universities of approximately \$3.2 to administer the program and \$11.7 million for the direct cost of instruction. The administration costs included costs for academic advising, academic administration, library resources, university support, and student services. *Id.* at Appendix.

⁴ *Id.* at 8-14.

educational vouchers.⁵ This appropriation was reduced to \$250,000 during the Legislature's 2001C Special Session.

In response to the legislative changes to s. 110.1099, F.S., the DMS issued a policy statement effective July 1, 2001, which provides that, "An agency head or agency designee may request an education voucher for up to six credit hours per term (unless exceptional circumstances can be demonstrated by the agency) on behalf of a transitioning employee (as defined in Section II) who needs to acquire skills and training necessary for new job responsibilities for placement within the state government system."⁶ "Transitioning employee" is defined as, "An employee who occupies a position or is assigned to a work unit that is identified to be affected due to reorganization, program phase out, grant elimination, downsizing, outsourcing, budget reduction, or other reductions in force."

According to DMS, 162 vouchers, totaling \$67,287.46, were provided to state employees for the Fall 2001 semester. For the Spring 2002 semester, DMS has so far provided 96 vouchers totaling \$39,845.14. The current balance of the State Employee Education Voucher Program is \$142,867.40.

C. EFFECT OF PROPOSED CHANGES:

CS/HB 1241 amends s. 110.1099, F.S., to expand the educational benefits available to state employees. The bill retains the State Employee Education Voucher Program for work-related courses at public educational institutions. The bill provides that DMS may fund the voucher program from funds appropriated to it for the program. The bill retains the provision that if insufficient funds are appropriated to DMS, each state agency may supplement the voucher program, from funds appropriated to the agency, in order to support the training and education needs of its employees.

The bill also creates a new, space available, tuition fee waiver program as a benefit to employers and employees of the state. The bill provides that state employees, who are not employed by a public university or college, may enroll for up to six credit hours per term to attend work-related, tuition-free courses on a space available basis at a public community college or public university. The state employee must meet the academic requirements of the institution in order to enroll in the courses.

The bill defines "work related courses" as "coursework including coursework that leads to the award of a degree that is related to improving the knowledge or skills needed by an employee to continue employment for the State of Florida; to addressing staffing needs due to turnover within the agency's workforce and difficulty in attracting qualified applicants; or to improving the quality and delivery of programs and services to the public."

The bill requires the Department of Management Services (DMS) to certify that all requests for tuition waivers are for work-related courses. This will present a significant workload increase for DMS. Currently DMS certifies all requests for employee education vouchers. For the 2001-2002 school year, DMS approved a total of 258 state employee education vouchers. During the 1997-1998 academic year (the last year for which statistics are available), over 4,200 non-SUS state employees took at least one course using a state employee waiver. These employees submitted 6,709 tuition waivers for courses in the SUS system. With the reinstatement of the tuition waiver

⁵ Chapter 2001-254, L.O.F., also enacted during the 2001 Legislative Session, added language to s. 110.1099, F.S., stating that state employees were not authorized during FY 2001-2002 to receive fundable tuition waivers on a space-available basis. This language does not appear necessary as ch. 2001-143, L.O.F., eliminated the space-available waiver program.

⁶ This policy statement is published at http://www.state.fl.us/dms/hrm/guides/vouchers/voucher_policy.html.

program, it can be expected that state employees will request a similar number of tuition waivers. In fact, the number may increase because the tuition waiver program created by CS/HB 1241 is expanded to courses in the community college system as well. DMS will be responsible for certifying each of those requests, thereby causing a significant increase in the workload as compared to the 258 vouchers certified during the current academic year. Rationale for requiring DMS certification in addition to agency head approval is not clear.

The bill strikes language in s. 110.1099(1)(a), F.S., which provides that, "Student credit hours generated by state employee fee waivers shall be fundable credit hours." This language is no longer necessary as that paragraph only addresses the voucher program, not fee waivers. The bill also strikes a portion of s. 110.1099(1)(b), F.S., which provides that state employees are not authorized during fiscal year 2001-2002 to receive fundable tuition waivers on a space available basis, as that paragraph expires on July 1, 2002, the effective date of this bill.

CS/HB 1241 provides that as a precondition to approving an employee's training request, the legislative branch may require an employee to enter into an agreement that requires the employee to reimburse the legislative branch for the registration fee, or similar expense, for any education training when the cumulative cost of the fee exceeds \$1,000 if the employee voluntarily terminates or is discharged for cause from the legislative branch within a specified period of time, which cannot exceed four years, after the conclusion of the training. This precondition currently only applies to employees of state agencies or of the judicial branch. It is unclear whether the \$1,000 amount refers to actual money expended by the agency for education training of employees, or if the amount refers to the face value of tuition waived under the state employee tuition waiver program.

D. SECTION-BY-SECTION ANALYSIS:

See "Effect of Proposed Changes."

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:

This bill does not appear to have a significant fiscal impact to local government revenues.

2. Expenditures:

This bill does not appear to have a significant fiscal impact to local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

The fiscal impact of this bill is indeterminate. The bill expands educational benefits to state employees on a "space available" basis. The individual public postsecondary institutions determine space availability. The universities and community colleges will experience administrative costs associated with these students and may experience a loss of revenues from non-SUS state employees, who previously paid for community college and university courses.

Because the bill requires DMS to certify that all requests for tuition waivers are for work-related courses, there will be a significant workload increase for DMS. Currently DMS certifies all requests for employee education vouchers. In the current academic year, DMS approved a total of 258 state employee education vouchers. During the 1997-1998 academic year (the last year for which statistics are available), over 4,200 non-SUS state employees took at least one course using a state employee waiver. These employees submitted 6,709 tuition waivers for courses in the SUS system. With the reinstatement of the tuition waiver program, it can be expected that state employees will request a similar number of tuition waivers. In fact, the number may increase because the tuition waiver program created by CS/HB 1241 is expanded to courses in the community college system as well. DMS will be responsible for certifying each of those requests, thereby causing a significant increase in the workload as compared to the 258 vouchers certified during the current academic year.

The term "administrative costs" is not defined in the bill; however, in its 1998 report, the BOR estimated administrative costs associated with the program of \$3.2 million. They included in this figure: (1) one hundred percent of the costs associated with academic advising and student services, (2) one-half of the costs associated with academic administration and the costs associated with university support, and (3) two-thirds of the costs associated with library resources and staff. The \$3.2 million also included the costs associated with the fee waivers used by SUS employees, who accounted for 40% of the employees using waivers.

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 spend funds or take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The 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:

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

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

The bill provides that state employees are eligible for "tuition-free courses." The term "tuition" is statutorily defined in s. 228.041(33), F.S., as, "The additional fee for instruction provided by a public postsecondary institution in this state, which fee is charged to a non-Florida student as defined in rules of the State Board of Education, the State Board of Community Colleges, or the Board of Regents." Thus, "tuition" is not appropriately used in this bill, which provides fee waivers for state employees, the majority of whom will be state residents. It may be appropriate to amend the bill to provide for "a waiver for fees a student must pay to register for a course, including the matriculation fee, building fee, capital improvement fee, financial aid fee, activity & service fee, athletic fee, and health fee."

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 20, 2002, the Council for Lifelong Learning adopted a "strike-everything" amendment to HB 1241 and made the bill into a council substitute. The "strike-everything" made the following changes to the bill:

- Requires that all requests for tuition waivers be for "work-related" courses.
- Defines "work-related" courses as: "coursework including coursework that leads to the award of a degree that is related to improving the knowledge or skills needed by an employee to continue employment for the State of Florida; to addressing staffing needs due to turnover within the agency's workforce and difficulty in attracting qualified applicants; or to improving the quality and delivery of programs and services to the public."
- Requires that the Department of Management Services certify that each request for a tuition waiver is for work-related courses.
- Provides that as a precondition to approving an employee's training request, the legislative branch may require an employee to enter into an agreement that requires the employee to reimburse the legislative branch for the registration fee, or similar expense, for any education training when the cumulative cost of the fee exceeds \$1,000 if the employee voluntarily terminates or is discharged for cause from the legislative branch within a specified period of time, which cannot exceed four years, after the conclusion of the training. This precondition currently only applies to employees of state agencies or of the judicial branch.
- Removes the requirement that the Legislature appropriate reimbursements to the community colleges and state universities for administrative costs.
- Removes the requirement that the State Comptroller identify and implement ways to ease the administrative burden to public postsecondary institutions relating to the implementation of the tuition waiver program. Under the provisions of the council substitute, DMS will certify that all tuition waivers are for state employees for work-related courses.
- Removes the requirement that the Auditor General must conduct a review of the cost assessment data related to the tuition waiver program.

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VII. SIGNATURES:

COMMITTEE ON COLLEGES & UNIVERSITIES:

Prepared by:

Anitere Flores

Staff Director:

Dr. Betty Tilton

AS REVISED BY THE LIFELONG LEARNING COUNCIL:

Prepared by:

Anitere Flores

Council Director:

Patricia Levesque
