

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/CS/SB 1356

SPONSOR: Education Committee, Governmental Oversight and Productivity Committee and Senator Lawson

SUBJECT: Education and Training Opportunities for State Employees

DATE: March 12, 2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	White	Wilson	GO	Favorable/CS
2.	O'Farrell	O'Farrell	ED	Favorable/CS
3.	_____	_____	AED	_____
4.	_____	_____	AP	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The committee substitute amends s. 110.1099, F.S., to expand the type of educational benefits available to state employees. Under the bill, a new space available, fee waiver program is added to allow state employees, who are not employed by a public university or college, to attend public community colleges and universities and colleges for up to six credit hours per term. The courses do not have to be work-related. Employees receiving vouchers or grants for matriculation fees for work related courses are not to be charged any other fees for such courses. In addition, employees attending courses on a space available basis are not to be charged matriculation fees or any other fees associated with course enrollment. The bill directs the Department of Education to develop cost assessment data for the administrative costs incurred by the community colleges and universities affected by the bill, and provides that these educational institutions shall be reimbursed for these costs from funds appropriated by the Legislature. Further, the bill requires the State Comptroller, in cooperation with the public community colleges and universities and colleges, to ease the administrative burden on the institutions by facilitating the verification of state employment. The term "state employee" is defined for purposes of the bill to include full-time or part-time employees of the legislative, judicial, or executive branches of state government. Employees of public universities and colleges are not included in the definition.

This bill substantially amends section 110.1099 of the Florida Statutes.

II. Present Situation:

Since the 1970s, Florida law has provided free public university courses in various forms for state employees. Beginning 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.

For SUS employees, the Legislature, a decade later in 1990, enacted ch. 90-365, L.O.F., which 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 the subsection to also 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.

For state employees generally, the Legislature in 1991 enacted ch. 91-431, L.O.F., which created s. 110.1099, F.S. Under this section, state employees were authorized to receive tuition waivers on a space available basis or vouchers to attend work-related courses at public universities. Further, this section provided that the Department of Administration was responsible for administering the program. The Department of Administration was permitted to request that public universities 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) that permitted paid leave for job-related courses to instead provide for paid leave 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, ch. 98-422, L.O.F., did not provide any funding for the credit hours generated by state employees; however, it did direct the BOR to conduct a study of the impact the statutory fee waiver program.

In November of 1998, the BOR issued its report for the study required by ch. 98-422, L.O.F. The report indicated that during the 1997-1998 academic year 50,152 annual credit hours were

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.

waived by employees of the state universities and agencies.² Further, the report provided the following three recommendations:

- Recommendation one: The BOR indicated that it is difficult for university staff to verify that the person presenting the state employee waiver form is a state employee and that the authorizations 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.
- Recommendation two: The BOR indicated that agencies were applying different interpretations to the language in s. 110.1099, F.S., that 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.
- Recommendation three: The BOR indicated that the Legislature had four options concerning 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 that the Legislature could:
 1. Continue to provide no funding. The major disadvantage of this option is that it fails to recognize the costs incurred by the universities.
 2. 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.
 3. 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.
 4. 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

² Florida Board of Regents, *State University System State Employee Tuition and Fee Waivers*, November 20, 1998, pp. 5-6.

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.

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

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.”⁵ The study, after reviewing the BOR report and conducting independent research, recommended that the Legislature should:

- Appropriate some level of funding to the universities. The study indicated that, at a minimum, funding should be provided to the universities in the amount of fees waived for non-SUS employees in the prior year. This would have required approximately \$3.2 million in funding based on the credit hours taken by non-SUS employees during the 1997-1998 academic year.
- Amend s. 110.1099, F.S., to remove references to “fundable,” so that the section would be consistent with budget proviso that did not fund the waivers.
- Require formation of a work group that includes representatives from the DMS, State Comptroller, and state universities for the purpose of periodically reviewing the state employee fee waiver program with a focus on making recommendations to minimize the administrative burden of the program on employers and universities.⁶

Subsequently, during the 1999 Legislative Session, the Legislature appropriated \$9.5 million to the universities 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, ch. 2001-43, L.O.F., was enacted, 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. 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

⁴ *Id.* at 8-14.

⁵ *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.

⁶ *Id.* at 24.

appropriated to the agency. The General Appropriations Act, ch. 2001-253, L.O.F., provided a \$500,000 appropriation for the educational vouchers.⁷

In response to the legislative changes to s. 110.1099, 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.”⁸ “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.”

III. Effect of Proposed Changes:

Section 1. The bill amends s. 110.1099, F.S., to expand the educational benefits available to state employees. Under the bill, the current voucher program for work-related courses at public educational institutions is retained. Employees receive a voucher or grant for the work-related course matriculation fee, and they are not to be charged any other fees associated with enrollment in such courses. A new space available, fee waiver program is added. 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 courses per term on a space available basis at public community colleges or universities and colleges. No matriculation fees or other enrollment fees are to be charged state employees enrolling on a space available basis. The state employee is required to comply with the minimum requirements of the institution attended, both as to discipline and scholarship.

Further, the bill provides that the public community colleges and universities are to be reimbursed for administrative costs on a pro rata basis from funds appropriated by the Legislature. The amount of costs are to be based upon cost assessment data developed by the Department of Education. The Auditor General is required to review the cost assessment data in conjunction with his or her audit responsibilities for the Department of Education.

The bill also requires the State Comptroller, or his or her successor, in cooperation with the public community colleges and universities and colleges, to ease the administrative burden on the institutions by facilitating the verification of state employment.

For purposes of the bill, state employees are defined as employees of the legislative, judicial, or executive branches of state government. Employees of public colleges and universities are not eligible for the benefits provided by the bill.

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

⁷ 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.

⁸ This policy statement is published at http://www.state.fl.us/dms/hrm/guides/vouchers/voucher_policy.html.

longer necessary as that paragraph only addresses the voucher program, not fee waivers. The bill also strikes s. 110.1099(1)(b), F.S., which provided that state employees were not authorized during FY 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.

The bill amends the term “universities” throughout s. 110.1099, F.S., to instead provide “universities and colleges” in order to reflect the recent restructuring of the post-secondary educational system.

Finally, the bill amends s. 110.1099(2), F.S., that provides that the department, in conjunction with the agencies, shall request that the universities and colleges provide evening and weekend programs for state employees, to also permit such a request to be made of the community colleges.

Section 2. The bill provides an effective date of July 1, 2002.

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:

None.

C. Government Sector Impact:

The bill provides that public community colleges and universities shall be reimbursed for administrative costs on a pro rata basis according to a cost assessment conducted by the Auditor General. The term “administrative costs” is not defined by the bill; however, in its 1998 report, the BOR explained that the universities’ administrative costs associated with the state employee tuition-waiver program consisted of academic advising, academic administration, library resources and staffing, university support, and student

services.⁹ The report indicated that this cost, based on data for the academic year of 1996-1997 during which 50,152 credit hours were waived for state employees, was approximately \$3.2 million.¹⁰ In order to determine the fiscal impact of this bill, however, this figure would have to be adjusted for inflation and to include the administrative costs that would be incurred by community colleges under the bill. Moreover, it would be necessary to consider whether it is likely that fewer or greater credit hours would be waived for the current state employee population.

Representatives from the Department of Education have stated that the precise fiscal impact of the bill cannot be determined. The department has indicated that it expects at least the following fiscal impacts to occur:

- Revenue generated in the past by non-university state employees, who previously paid for community college and university courses, will be lost. The department has stated that this amount is indeterminable as to community colleges because fee waivers have not been previously been available to state employees in the community college system. The department estimates that the number of credit hours waived for state employees during the 2000 educational year would have generated approximately \$19 million in funding.¹¹
- Start up administrative costs will be incurred by the community colleges in order to change their advising, registration, and enrollment systems, and for personnel training to accommodate state employees wishing to take tuition-free courses. The department has indicated that this cost is indeterminable as the number of state employees who will take advantage of this benefit is unknown.
- Recurring administrative costs, in addition to those funded under the bill, may be incurred by the community colleges and the universities because it is unknown precisely which administrative costs will be assessed by the Auditor General.

VI. Technical Deficiencies:

None.

VII. Related Issues:

From 1991 to 2000, s. 110.1099, F.S., permitted state employees to receive, “tuition waivers on a space-available basis or vouchers to attend work-related courses at public universities.” As discussed in the “Present Situation” section of this analysis, the BOR in its 1998 report to the Legislature indicated that agencies were applying different interpretations to this language. Some agencies believed all waivers had to be work-related, while others did not apply that restriction. During the 2001 Legislative Session, this issue was eliminated because s. 110.1099(1)(a), F.S., was amended to provide that state employees could receive a voucher or grant for matriculation

⁹ Board of Regents, *State University System State Employee Tuition and Fee Waivers*, November 20, 1998, Appendix.

¹⁰ *Id.*

¹¹ It is not clear based on the data received whether the figure of \$19 million includes only fee-waivers for state employees, who are not employed by the universities, or whether the figure refers to all fee-waivers for all state employees. Furthermore, it is not clear if this figure refers only to revenue generated by matriculation fees, or if it also includes administrative costs.

fees *only for work-related* courses at public community colleges, technical centers, or universities.

Under the bill, the voucher/grant program for work-related courses is retained. The bill, however, adds in a separate paragraph a second space available program for *any type of* course. Thus, it will be clear under this bill that state employees have the following two options, provided there is an appropriation by the Legislature: (1) the state employee may receive a voucher or grant for matriculation fees to attend up to six hours of *work-related*¹² courses at public community colleges, technical centers, or universities; or (2) the state employee may enroll in up to six hours of courses on a space-available basis *without a requirement that the course be work-related*.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

¹² Section 110.1099, F.S., has referred to the term "work-related" since it was created by the Legislature in 1991. Past law nor this bill specify who is determine what is in fact "work-related." Presumably, the agency head or his or her designee make this decision.