

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 for SB 1560

SPONSOR: Education Committee and Senator Villalobos

SUBJECT: Education Reenactment/Ch. 239, F.S.

DATE: February 25, 2002 REVISED: _____

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

I. Summary:

The Committee Substitute makes technical and substantive changes to save ch. 239, F.S., from mandatory repeal effective January 7, 2003.

This bill substantially amends the following sections of the Florida Statutes: Title of Chapter 239, 239.101, 239.105, 239.113, 239.115, 239.116, 239.117, 239.125, 239.205, 239.209, 239.213, 239.241, 239.245, 239.301, 239.401, 239.501, 239.513, 239.514, and 239.5141.

It repeals the following sections of the Florida Statutes: 239.121, 239.201, 239.221, 239.225, 239.229, 239.233, 239.251, 239.305, 239.309, and 239.505.

The bill takes effect January 7, 2003.

II. Present Situation:

The 1992 Legislature created ch. 239, F.S., Vocational, Adult, and Community Education.¹ The chapter pertains to programs that may be conducted by school districts and community colleges, so the chapter contains provisions that were formerly in chapters 228, 229, 230, 233, and 240, F.S.

The programs governed by the chapter are for school-age youth and adults preparing for employment in specific occupations, for adults attaining literacy, or for community education and services. Various Legislatures have changed the terms, especially the name used for programs that prepare for occupations: vocational education, applied technology, career

¹ Ch. 92-136, L.O.F.

education, technical education, and occupational education. The current term in the statutes is “workforce development education.”

The 1997 Legislature made extensive changes in how the postsecondary programs are funded.² Until 1997, adult, career, and technical programs offered by community colleges were funded by the Community College Program Fund, and those offered by school districts were funded by the Florida Education Finance Program. By creating the Workforce Development Education Fund for both delivery systems, the Legislature intended to allow an emphasis on competition and performance-based funding to exert market forces on the adult and technical education system.

The transition required time to implement, largely because the emphasis on performance funding required a unified data base for reporting on programs and student progress. So ch. 239, F.S., contains many provisions governing steps in the transition process that have become obsolete now that the reporting system is in place and programs have adjusted to emphasize performance in terms of student completions and placements.

Other factors make provisions in ch. 239, F.S., either obsolete or ready for streamlining. The emphasis on performance in the funding formula lessens the need for some reporting requirements because the funding is no longer based upon counting students and the amount of time they spend in class (this funding method is called full-time-equivalent, or FTE, funding). Other programs were included in the chapter in hopes that they would be funded, but they never were. Funding has discontinued for other programs, such as adult literacy centers, community instructional services, and community education coordinators.

The Education Governance Reorganization laws, chapters 2000-321 and 2001-170, L.O.F., are the most important reason for amending these laws. The Division of Workforce Education will be eliminated. Many of the accountability measures and incentives are included in the new accountability sections. Every section will repeal automatically unless it is reenacted during the 2002 Legislative Session.

III. Effect of Proposed Changes:

The legislation under consideration reenacts, reenacts and amends, or repeals every section of ch. 239, F.S. The most substantive change is to rename the programs governed by the chapter. Other changes reflect the present situation even though they appear to be substantive, such as repealing laws governing programs that are not funded.

The name changes are recommended because the name adopted in 1997, *Workforce Development*, has become so popular that it no longer carries an education connotation, but is a form of economic development. At least three governmental functions that have little to do with education have *workforce* or *workforce development* in their names, not to mention the many uses of the term in the private sector.³ Further complicating the naming problem is that the 1992

² By those involved in the transition, ch. 97-307, L.O.F., is still called “1688” for CS/CS/SB 1688.

³ The *Agency for Workforce Innovation* was created in 1999 to take over many of the functions of the former Department of Labor and Employment Security. The former Private Industry Councils were reconstituted and renamed *Regional Workforce*

law, ch. 92-136, L.O.F., included a requirement that changed the term *vocational education* to *career education* throughout the statutes. However, the requirement did not direct the Division of Statutory Revision to change the word *vocational* when followed by any word other than *education*, such as *vocational program* or *vocational and adult education*, so those terms remain in the statutes. This anomaly makes some of the statutes confusing or even ludicrous.

Most of the changes are technical and are needed only because of the name changes and elimination of obsolete provisions. For clarity, the following section-by-section analysis summarizes briefly the current law and the situation that calls for any substantive amendment. In cases where the changes are technical and will have no effect upon the present situation, the analyst uses the term “conforming provisions.”

Section 1. Changes the title of chapter 239.

The name is changed to *Adult, Technical, and Community Education* from *Vocational, Adult, and Community Education*. Under the bill, the chapter will no longer be divided up into different parts for each type of program because several statutes govern more than one type, and the bill shortens or repeals so many sections that the divisions do not add clarity.

Section 2. Reenacts and amends s. 239.101, F.S., Legislative intent

Present Situation

This important section states Florida’s policy regarding technical and academic education. Both types are important to a complete education, and a high school education should not emphasize one type to the exclusion of the other. A postsecondary technical education should focus on relevant competencies and not seat-time. The occupations related to the programs should be capable of sustaining self-sufficiency.

Among other things, this policy has helped to eliminate the inferior *vocational track* in high school, and high school “vocational” students attend postsecondary education at a higher rate than students who do not take vocational courses.

Effect of Proposed Changes

In addition to conforming changes, the bill eliminates a warning against programs that prepare for “minimum wage” employment because none exist. Instead, the bill warns against programs that provide *no direct route to economic self sufficiency*, and requires justification for conducting such programs. Examples of this justification might be identifying career paths for entry level occupations, or citing the state’s great need for those skills, such as Certified Nursing Assistant. But no program should continue without paying attention to labor market information.

Section 3. Reenacts and amends s. 239.105, F.S., Definitions

Present Situation

The definitions section is confusing because:

- Some of the terms have evolved new meanings.
- Insertions have put the list out of alphabetical order.

- Some terms are defined unnecessarily because they are no longer used in any section of the chapter.
- Some distinctions are less important now that all the career and technical programs have the same funding formula whether they are offered by community colleges or school districts.

Effect of Proposed Changes

The bill changes the terms in the following substantive ways:

- *Career education* may be called either **career and technical education, career education, or technical education**. All have the same meaning, education that leads to a specific occupation. The advantage of having all three options is that some sites that conduct career and technical education are called *technical centers* and some are called *career centers*. The bill uses the composite name, *career and technical education* for what used to be called vocational education.
- The encompassing term *workforce development education* is called **adult and technical education**. It includes adult general education and career and technical programs at both the college-credit level and the technical-certificate level.
- *Certificate career education* and *degree career education* are not renamed or used in the bill because students can get a certificate by earning either **college credit** or **technical credit**. So the bill uses those terms instead. The programs no longer need distinctive names because, since 1997, the two programs have been funded in the same way.⁴

The following new terms are defined:

- **Technical degree** means the associate in science or associate in applied science. The definition is needed because all the community colleges now offer both types of degree. There is no distinction between the two except for the qualifications of some of the instructors.
- **Technical credit** means noncollege credit, although a technical certificate may be generated by either technical credit or college credit.
- **A program progression point** is a level of college credit that generates funding in the formula.
- **A literacy completion point** is a level of literacy that generates funding in the formula.

Section 4. Amends s. 239.113, F.S., Registration of adult students

Conforming provisions only.

Section 5. Amends s. 239.115, F.S., Funds for operation of adult and technical education programs

Present situation:

In current law, this section governs the workforce development education fund. Many of the provisions are designed to govern the transition, and the actual formula is adopted annually by the Legislature in the General Appropriations Act.

Effect of proposed changes:

⁴ The terms used formerly are especially bureaucratic-sounding: *Postsecondary Adult Vocational Education* or PSAV, for technical credit programs, and *Postsecondary Vocational Education* or PSV for college credit technical programs.

The bill changes the names described in Section 1 of the bill and eliminates obsolete directions about the transition. In addition, the following changes reflect the ways in which the Legislature has adopted the formula. In effect, they conform the substantive law to the budget:

- Additional flexibility is given for continuing workforce education programs, which are funded by 50 percent state funds. Under the bill, it is not required that the remainder come from student fees, and fees may vary by course and section.
- Adults with disabilities have an incentive built in for completing programs, but not for being placed in employment.
- Costs are not required to be considered in the formula. In practice, program length is used as a “proxy” for costs, and a December 31, 2001, report by the Council for Education Policy Research and Improvement found that building costs into the formula would not affect the earnings by program.
- An authorization is eliminated (currently in paragraph (7)(b) of this section) for a program that is without regard for the performance criteria built into the formula. That program was to be funded in the Appropriations Act, but it never was. Since the bill adds flexibility to the authority for continuing workforce education, the two programs are duplicative.
- The bill eliminates reference to the authority for a separate categorical fund for adult education for the elderly in large school districts (in subsection (5) of this section). The authority exists for the Legislature to create such a categorical fund whether or not it is mentioned in statute.

Section 6. Amends s. 239.116, F.S., Cost accounting for adult and technical education
Conforming provisions only.

Section 7. Amends s. 239.117, F.S., Fees for adult and technical education
Present situation:

This section governs student fees, fee exemptions, and fee waivers for noncollege-credit technical and adult education. In the Senate Education Committee’s recommendations for the school code revisions, fee exemptions are included in the section of State Funded Student Assistance.

Since 1997, when student fees for adult and technical certificate programs were doubled over a 3-year period, to 25 percent of the prior year’s average cost of the program, the motivation for institutions to grant fee waivers has reversed. Fees were so low (under 6 cents per contact hour for some programs) that institutions benefited more from waiving them than from collecting them, in some instances. The legislature capped the amount that could be waived and penalized the next year’s budget if institutions waived more than authorized. The cap was included annually in the General Appropriations Act at 8 percent of the total fee revenue generated by technical certificate programs. Now that the fee revenue is a fiscal benefit, the penalty may not be required, and the cap should be included in statute so that the Appropriations Act need not include it every year.

Effect of proposed changes:

The bill makes the following changes to the requirements for student fees:

- The list of exemptions from fees is eliminated because it will be included in Part IV of ch. 240, F.S., *State-Funded Student Assistance*. The Proposed CS for SB 1564 creates s. 240.4043, F.S., to combine all the fee exemptions and waivers from various statutes.

- Three three types of student fees will be collected as one fee and deposited in one account. This account may be used flexibly for any of the purposes established for the fees. Those purposes are:
 - Financial aid and child care
 - Capital improvements
 - Technology
 - Student activities and services.
- The bill does not raise fees, and it does not require colleges and technical centers to charge the full amount authorized. The authorized amount is the same as in current law.
 - Under current law, revenue from the capital improvement fee may be bonded.
 - The amendment limits the amount that may be bonded or used for repayment of debt to 25 percent of the total fee revenue. This is the same proportion that can now be used for that purpose.
- The authority to phase in the fee increases over a 3 year period is eliminated because the 3 years have passed.
- Fees for continuing workforce education may vary by course and by section. As long as fees and other funding sources make up 50 percent of the cost of these programs, it does not matter if institutions charge more to some business firms and use the revenue to provide less expensive programs to others.
- If the Appropriations Act does not cap fee waivers, the cap will be 8 percent of total related fee revenue.
- The penalty for waiving fees in excess of 8 percent is eliminated. That penalty is irrelevant because it is based on FTE reporting, and these programs are no longer funded by FTE.
- The deadline is extended by 1 month for the commissioner to recommend the fee schedule to the Legislature, to January 31 of each year. The law requires the fee schedule to generate 25 percent of the prior year's cost, and districts do not submit expenditure data until the end of the fiscal year. The department receives it in October, and by the time it is aggregated the deadline is past.

Section 8. Repeals s. 239.121, F.S., Occupational specialists

This profession is regulated in ch. 231, F.S.

Section 9. Reenacts without amending s. 239.125, F.S., computer assisted student advising.

Section 10. Repeals s. 239.201, relating to career education instruction.

These provisions are included in other sections of this chapter.

Section 11. Amends s. 239.205, F.S., State Board of Education rules regarding career and technical education programs; common definitions; criteria for determining program level.

Present situation:

This section governs the tedious “leveling” process, by which a program was assigned either to the level of a technical certificate or a technical degree. It was created to conform program lengths throughout the state in a time when institutions tended to inflate certificate programs into degree programs.

Effect of proposed changes:

- An obsolete requirement for the State Board to define associate in science degree programs is eliminated.
- In addition to retaining the leveling process in case it is needed in future, the bill “moves” a requirement for program standards and industry benchmarks to this section. This allows s. 239.229, F.S., to be repealed.

Section 12. Amends s. 239.209, F.S., Adult and technical education; management information system.

Conforming provisions only.

Section 13. Amends s. 239.213, F.S., Vocational preparatory instruction

Present situation:

This section governs remedial education required for students in technical certificate programs. Each program has a minimum level of skills without which a student may not receive a technical certificate. Students who do not demonstrate skills at that level are referred to remediation, but they may continue to progress through the technical program.

This requirement represents Legislative intent to improve the literacy skills of students in technical programs. In an annual survey, employers repeatedly praise the technical skills of former students, but complain that they lack basic skills. This is the only type of education that retains the name “vocational.”

Effect of proposed changes:

In addition to conforming provisions, this section replaces in law an exemption from the basic skills test for students who enroll in very short programs, of less than 450 clock hours. This exemption was in the law until 1999. Also, the bill makes mandatory an exemption for a student who has passed or exempted the College Level Skills Test (CLAST).

Sections 14, 15, and 16 repeal ss. 239.221, 239.225, and 229.233, F.S.

These sections relate to eye-protective devices, which are required in other sections of law; the vocational improvement program, which is obsolete; and vocational standards, which are renamed and included in section 11 of the bill.

Section 17. Amends s. 239.233, F.S., Reporting requirements

This section requires all program outcome data to be collected consistently and reliably for use for performance funding. It must be generated by the Florida Education and Training Placement Information Program, or collected by local institutions in a way that can be audited. Conforming provisions only.

Section 18. Amends section 239.241, F.S., Dual enrollment and early admission in career and technical education programs.

Conforming provisions only.

Section 19. Amends s. 239.245, F.S., Public information on career and technical information programs.

Conforming provisions.

Section 20. Repeals s. 239.251, Florida Education Technology Foundation

This program has never existed except in the statute.

Section 21. Amends s. 239.301, F.S., Adult general education

The bill adds permissive authority to use this program for intergenerational community and parental responsibilities. Extensive guidelines are eliminated for a program for adults with disabilities. This program is conducted by competitive grant, and the Request for Proposal contains the requirements.

Section 22. Repeals s. 239.305, F.S., Adult literacy

This program no longer receives state funding. It is maintained by federal funding and governed by federal law, the Workforce Investment Act, Title II.

Section 23. Repeals s. 239.309, F.S., Adult literacy centers

These centers are governed by the annual Appropriations Act.

Section 24. Amends s. 239.401, F.S., Community education

The bill eliminates obsolete provisions. The state has not provided funding for community education coordinators since 1992.

Section 25. Amends s. 239.501, Florida literacy corps

The bill permits universities and community colleges to award credit to students who tutor adults who are illiterate. It eliminates extensive requirements for program administration, since the programs are conducted by individual colleges and universities.

Section 26. Repeals s. 239.505, F.S., Florida Constructive Youth Program

This is a federal program that has never attracted state funds.

Section 27. Amends s 239.513, F.S., Workforce literacy programs

The bill eliminates a restriction against providing the program to people who are literate. The program is unlikely to be abused because of the performance requirements in the funding formula.

Section 28. Amends s. 239.514, F.S., Capitalization Incentive Grants

The bill changes the administration of this competitive grant program from the Postsecondary Education Planning Commission to the Department of Education, with selection by the State Board of Education.

Section 29. Amends s. 239.5141, F.S., Adult and technical education information system.

The bill eliminates obsolete transition provisions.

Section 30. Provides an effective date of January 7, 2003.

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:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.