

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/SB 1560

SPONSOR: Education Committee and Senator Villalobos

SUBJECT: Education

DATE: March 9, 2002

REVISED: 03/11/02 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>White</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Favorable/CS</u>
2.	<u>Gillespie</u>	<u>Maclure</u>	<u>CM</u>	<u>Favorable</u>
3.	<u>Wilson</u>	<u>Wilson</u>	<u>GO</u>	<u>Fav/1 amendment</u>
4.	_____	_____	<u>RC</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Committee Substitute for Senate Bill 1560 reenacts ch. 239, F.S., relating to vocational, adult, and community education, thereby saving the chapter from being repealed on January 7, 2003, by s. 3(7), ch. 2000-321, L.O.F. In addition to reenacting the chapter, the committee substitute also amends ch. 239, F.S., making both technical and substantive changes throughout the chapter and reflecting these changes by redesignating the chapter as “Adult, Technical, and Community Education.” The committee substitute also removes numerous fee exemptions, relying on the enactment of SB 1564 or similar legislation to replace these fee exemptions with uniform exemptions in ch. 240, F.S.

This committee substitute substantially amends the following sections of the Florida Statutes: 239.101, 239.105, 239.113, 239.115, 239.116, 239.117, 239.125, 239.205, 239.209, 239.213, 239.233, 239.241, 239.245, 239.301, 239.401, 239.501, 239.513, 239.514, and 239.5141. The committee substitute repeals the following section of the Florida Statutes: 239.121, 239.201, 239.221, 239.225, 239.229, 239.251, 239.305, 239.309, and 239.505. The committee substitute also redesignates the title of ch. 239, F.S.

II. Present Situation:

During the 1992 Regular Session, the Legislature created ch. 239, F.S., relating to vocational, adult, and community education (ch. 92-136, L.O.F.). Chapter 239, F.S., authorized programs that emphasized the preparation of students for attaining employment in an occupation and the continuation of self-directed learning, to complement the traditional academic emphasis of preparing students for postsecondary education. The enactment of ch. 239, F.S., consolidated programs offered by school districts and community colleges from various other chapters of education laws, including chs. 228, 229, 230, 233, and 240, F.S.

The programs governed under ch. 239, F.S., are provided for school-age youths and adults preparing for employment in specific occupations, for adults attaining literacy and improving basic skills, and for community education and services. Throughout the existence of these programs, the Legislature has made various changes to the terms used to describe the programs, reflecting an evolving policy. The names used for these programs have included vocational education, applied technology, career education, technical education, and occupational education. The current term used in ch. 239, F.S., is “workforce development education.”

During the 1997 Regular Session, the Legislature enacted extensive changes to the manner in which postsecondary education programs are funded (ch. 97-307, L.O.F.), creating a Workforce Development Education Fund and establishing that the fund would provide performance-based funding for all workforce development programs. Before 1997, adult, career, and technical programs offered by community colleges were funded by the Legislature through the Community College Program Fund, and those programs offered by school districts were funded through the Florida Education Finance Program. By funding programs through the Workforce Development Education Fund for both delivery systems, the Legislature placed an emphasis on competition and performance-based funding that introduced market forces into the funding of the adult and technical education system.

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

Other factors have led to provisions in ch. 239, F.S., becoming obsolete or suitable for streamlining. The emphasis on performance in the funding formula lessens the need for some reporting requirements, in that funding is no longer based upon counting students and the amount of time they spend in class. This method of funding is cited as full-time-equivalent (FTE) funding. Other programs were included in ch. 239, F.S., but were not funded by the Legislature. Funding has discontinued for other programs, including adult literacy centers, community instructional services, and community education coordinators.

During the 2000 Regular Session, the Legislature enacted the Florida Education Governance Reorganization Act of 2000 (ch. 2000-321, L.O.F.). The act principally reorganized each of the disparate education delivery systems, consolidating the programs into a single, seamless kindergarten through postsecondary education system under the control of a constitutionally-appointed, seven-member State Board of Education.¹ As part of this reorganization, the education reorganization act repealed extensive portions of the state’s education laws effective January 7, 2003, when the new board of education will assume its constitutional duties. Chapter 239, F.S., is among the education laws that the act repeals and requires the Legislature to review before January 7, 2003 (s. 3(7), ch. 2000-321, L.O.F.).

¹ Section 2, Art. IX of the State Constitution, as amended (effective January 7, 2003).

The education reorganization act also abolished the Division of Workforce Development within the Department of Education effective January 7, 2003. In 2001, the Legislature continued the transition to the new education governance system by enacting the Florida Education Governance Reorganization Implementation Act (ch. 2001-170, L.O.F.). Many of the accountability measures and incentives for the funding of programs under the Workforce Development Education Fund are included in accountability sections enacted under the education reorganization and implementation acts.

Each section in ch. 239, F.S., is repealed January 7, 2003, unless reenacted by the Legislature before that date.

III. Effect of Proposed Changes:

The committee substitute reenacts, reenacts and amends, or repeals every section of ch. 239, F.S. One of the most substantive changes made by the committee substitute is the redesignation of the names of the programs governed by the chapter. Other changes are more technical, reflecting the present situation, although several appear to be substantive, such as repealing laws governing programs that are not funded. The committee substitute also removes numerous fee exemptions, relying on the enactment of SB 1564 or similar legislation to replace these fee exemptions with uniform exemptions in ch. 240, F.S.

The name designated for these programs in 1997, “workforce development,” has become popular and no longer carries an education connotation, but instead carries a connotation associated with economic development. At least three governmental functions having little to do with education have “workforce” or “workforce development” in their names,² and the use of the term in the private sector is also prolific. Confusion over the names of these programs was exacerbated in 1992 when the Legislature directed that the term “vocational education” be replaced with “career education” throughout the Florida Statutes (ch. 92-136, L.O.F.). The requirement, however, 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 unchanged, leading to additional confusion about the educational nature of these programs. Most of the changes made by the committee substitute are technical and are needed only because of the name changes and elimination of obsolete provisions.

Section 1 redesignates the title of ch. 239, F.S., from “Vocational, Adult, and Community Education,” to “Adult, Technical, and Community Education.” Under current law, the chapter is subdivided into five parts: part I (General Provisions), part II (Vocational Education), part III (Adult Education), part IV (Community Education), and part V (Special Programs). The committee substitute provides that ch. 239, F.S., shall not be divided into parts.

² The state’s “workforce system” entails employment and training programs administered by the Agency for Workforce Innovation, Workforce Florida, Inc., and the regional workforce boards using, among other state and federal resources, funds from the federal Workforce Investment Act block grant.

Section 2 reenacts and amends s. 239.101, F.S. (legislative intent).

Present Situation: This section summarizes the state’s policy regarding career and academic education. Under current law, the Legislature recognizes that both career and academic education are important to a complete education, that a high school education should not emphasize one type to the exclusion of the other, and that a postsecondary technical education should focus on relevant competencies and not seat-time. The Legislature further recognizes that occupations related to the programs should be capable of sustaining self-sufficiency. This policy has, among other things, assisted in the improvement of vocational programs in high schools. Consequently, high school “vocational” students now attend postsecondary education at a higher rate than students who do not take vocational courses.

Effect of Proposed Changes: In addition to making technical and conforming changes, the committee substitute eliminates a warning against programs that prepare for “minimum wage” employment because none exist. Instead, the committee substitute 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: Under current law, the definitions section for ch. 239, F.S., is considered by many to have become confusing, in that several of the terms have evolved to have new meanings, definitions added to this section were inserted out of alphabetical order, and several terms are obsolete because they are not used by any section in ch. 239, F.S. In addition, some distinctions between terms defined in this section have become less significant since the Legislature began funding all career and technical programs through the same funding formula, regardless of whether a particular program is offered by a community college or school district.

Effect of Proposed Changes: The committee substitute substantially rewords s. 239.105, F.S., providing changes to definitions of the terms used throughout ch. 239, F.S., in the following substantive ways:

- The terms “career and technical education,” “career education,” and “technical education” are each defined to have the same meaning: education that leads to a specific occupation. The use of three terms with the same meaning accommodates existing providers of career and technical education at sites throughout the state referred to as “technical centers” or “career centers.” The committee substitute uses the composite term, “career and technical education,” to replace references to programs formerly cited as vocational education.

- The comprehensive term “workforce development education” is replaced by the term “adult and technical education.” This term comprises adult general education and career and technical programs at both the college-credit level and the technical-certificate level.
- The terms “degree career education” and “certificate career education,” which are defined in current law, are omitted from the substantial rewording of this section. These terms are not used in ch. 239, F.S., as reenacted by the committee substitute. The committee substitute allows students to earn a certificate by earning either college credit or technical credit. In addition, since 1997, the two programs have been funded in the same manner. Accordingly, the committee substitute removes the distinction between degrees and certificates.
- The following new terms are defined:
 - The term “technical degree” means an associate in science or an associate in applied science. These terms have almost the same meaning; however, there are some discrete differences between the qualifications required for instructors in these degree programs. Each community college in the state offers both types of degree.
 - The term “technical credit” means noncollege credit, although a technical certificate may be generated by either technical credit or college credit.
 - The terms “program progression point” (level of college credit) and “literacy completion point” (level of literacy) mean levels of program performance that generate funding through a funding formula.

Section 4 reenacts and amends s. 239.113, F.S. (registration of adult students). The committee substitute provides only technical and conforming changes.

Section 5 reenacts and amends s. 239.115, F.S. (funds for operation of adult and technical education programs).

Present Situation: Under current law, this section governs the Workforce Development Education Fund. Many of its provisions govern the transition from the former process of funding community colleges and school districts separately for adult and technical education to the current process of consolidated funding under the Workforce Development Education Fund. Each year, the Legislature has adopted the funding formula for the fund in the General Appropriations Act.

Effect of Proposed Changes: The committee substitute removes dated provisions governing the transition between funding processes, which have become obsolete. The committee substitute provides other technical and conforming changes. The committee substitute also makes the following changes, reflecting the manner in which the Legislature has annually adopted the funding formula in the General Appropriations Act. In effect, these changes conform the substantive provisions in law to the appropriations process:

- Additional flexibility is provided for continuing workforce education programs, which are funded by 50 percent state funds. Under the

committee substitute, it is not required that the remaining funds be generated from student fees, and the fees may vary by course and section.

- Incentives are established for adults with disabilities to complete programs, but these incentives do not apply to placement in employment.
- Relative program costs are not required to be considered in the funding 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 including program costs within the formula would not affect the earnings by program.
- The committee substitute removes authorization for a program to assist new and expanding businesses (currently in s. 239.115(7)(b), F.S.). This program is not included in the performance criteria under the funding formula, and the program has not been funded in the General Appropriations Act. Because the committee substitute provides additional flexibility for continuing workforce education programs, specific authority for this program is duplicative.
- The committee substitute removes authorization for separate categorical funding of a program for adult basic education courses for the elderly in large school districts (currently in s. 239.115(5), F.S.). Because this provision is not self-executing and requires the Legislature to provide separate categorical funds in the General Appropriations Act, this provision is duplicative of the Legislature’s power to provide the funding, irrespective of whether the authority is provided in this section.

Section 6 reenacts and amends s. 239.116, F.S. (cost accounting for adult and technical education). The committee substitute provides only technical and conforming changes.

Section 7 reenacts and amends s. 239.117, F.S. (postsecondary student fees for adult and technical education).

Present Situation: This section governs student fees, fee exemptions, and fee waivers for technical and adult education for which college credit is not provided. In the Senate Committee on Education’s recommendations for the school code revisions, fee exemptions are included in the section entitled, State Funded Student Assistance. Before 1997, fees for these programs were comparatively low (under 6 cents per contact hour for some programs). Consequently, in some instances, institutions benefited more from waiving fees than collecting them. In response, the Legislature capped the amount that could be waived and reduced an institution’s budget the next year if the institution waived more fees than the amount authorized. The cap was annually included in the General Appropriations Act at 8 percent of the total fee revenue generated by technical certificate programs. Since 1997, when student fees for adult and technical certificate programs were doubled over a three-year period, to 25 percent of the prior year’s average cost of the program, the relative benefit for institutions to grant fee waivers has reversed. Because fee revenue is currently a fiscal benefit, the penalty may not be required; however, under current law, the cap must annually be established in the General Appropriations Act.

Effect of Proposed Changes: The committee substitute makes the following changes to the requirements for student fees:

- The committee substitute provides that, if the General Appropriations Act does not cap fee waivers, the cap will be 8 percent of the 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 committee substitute removes a list of fee exemptions, but provides fee exemptions through a cross-reference to s. 240.4043, F.S., as created by SB 1564 or similar legislation. According to the Senate Committee on Education, proposed CS/SB 1564 combines each of the fee exemptions from various education laws into one section. The proposed committee substitute would place these exemptions in part IV of ch. 240, F.S., to be designated as “State-Funded Student Assistance.”
- The committee substitute consolidates three types of fees (financial aid fee, capital improvement fee, and technology fee) into one fee, which will be deposited into a single account. The funds in the account may be used flexibly for any of the purposes established for the fees, which include financial aid, childcare, capital improvements, technology, technology, and student activities and services.
- The committee substitute does not raise fees, and it does not require colleges and technical centers to charge the full amount authorized. The amount authorized is equal to the amounts authorized in current law for the separate fees. Under current law, revenue from the capital improvement fee may be bonded. The committee substitute limits the amount of the consolidated fee that may be bonded or used for repayment of debt to 25 percent of the total fee revenue. This ratio represents the proportion of the combined amount of the three fees attributable to the existing capital improvement fee.
- The committee substitute removes authorization for school districts and community colleges to phase in fee increases over a three-year period ending 1999-2000, which has expired.
- The committee substitute allows fees for continuing workforce education to vary by course and by section, if fees and other funding sources comprise at least 50 percent of the cost of these programs. In effect, the committee substitute would allow institutions to charge higher fees to some business firms and use the revenue to reduce fees for other programs.
- The committee substitute extends the annual deadline for the Commissioner of Education to recommend the fee schedule to the Legislature by one month, to January 31 of each year. The law requires the fee schedule to generate 25 percent of the prior year’s cost, and school districts do not submit expenditure data until the end of the fiscal year. The Department of Education receives the data in October. Due to the

time associated with aggregating and analyzing the data, the deadline has expired before the fee schedule is submitted.

Section 8 repeals s. 239.121, F.S. (occupational specialists). The committee substitute repeals this section, which authorized school districts and community colleges to employ occupational specialists to provide student counseling services and occupational information to students. Under current law, the State Board of Education may establish competencies and certification requirements for school-based personnel (s. 231.15, F.S.).

Section 9 reenacts s. 239.125, F.S., (computer-assisted student advising). The committee substitute reenacts this section, but does not amend its provisions.

Section 10 repeals s. 239.201, F.S., (career education instruction). The committee substitute repeals this section, but its provisions are included in other sections of the 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 State Board of Education's procedures for determining criteria by which the level of degree or certificate is assigned to a career and technical education program. Commonly referred to as the "leveling" process, the purpose of these procedures is to conform program lengths throughout the state, in order to prevent an institution from inflating a certificate program into a degree program.

Effect of Proposed Changes: The committee substitute also reenacts the leveling process and removes an obsolete requirement for the State Board of Education to define associate in science degree programs. The committee substitute also reenacts an existing provision in s. 239.229, F.S., concerning program standards and industry benchmarks, thereby allowing that section to be repealed. (*See* Section 16 of the committee substitute.)

Section 12 reenacts and amends s. 239.209, F.S. (adult and technical education; management information system). The committee substitute provides only technical and conforming changes.

Section 13 reenacts and 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 the Legislature's intent to improve the literacy skills of students in technical programs. In an annual survey, employers repeatedly commend the technical skills of former students, but cite that they lack basic skills. This is the only type of education program that retains the name "vocational" in the committee substitute.

Effect of Proposed Changes: The committee substitute replaces an exemption from the basic skills test for students who enroll in programs of less than 450 clock hours. This exemption was in the law until 1999. The committee substitute makes mandatory an exemption for a student who passes or who is exempt from taking College Level Academic Skills Test (CLAST). The committee substitute also provides technical and conforming changes.

Section 14 repeals s. 239.221, F.S. (eye-protective devices required in certain vocational courses). The committee substitute repeals this section, but its provisions are required in other sections of law.

Section 15 repeals s. 239.225, F.S. (vocational improvement program). The committee substitute repeals this section, which is obsolete.

Section 16 repeals s. 239.229, F.S. (vocational standards). The committee substitute repeals this section, but its provisions are reenacted in s. 239.205, F.S., with technical and conforming changes. (*See* Section 11 of the committee substitute.)

Section 17 reenacts and amends s. 239.233, F.S. (reporting requirements). The section requires all program outcome data to be collected consistently and reliably for use in performance funding. The data must be generated by the Florida Education and Training Placement Information Program or collected by local institutions in a manner that can be audited. The committee substitute provides only technical and conforming changes.

Section 18 reenacts and amends s. 239.241, F.S. (dual enrollment and early admission in career and technical education programs). The committee substitute provides only technical and conforming changes.

Section 19 reenacts and amends s. 239.245, F.S. (public information concerning career and technical education programs). The committee substitute provides only technical and conforming changes.

Section 20 repeals s. 239.251, F.S. (Florida Education Technology Foundation). The committee substitute repeals this section, thereby eliminating a program that has not existed except in law.

Section 21 reenacts and amends s. 239.301, F.S. (adult general education). The committee substitute adds permissive authority to use this program for intergenerational community and parental responsibilities. Extensive guidelines are eliminated for a program for adults with disabilities, which is conducted through a competitive grant. The Request for Proposal for the grant contains the requirements. The committee substitute also removes a fee exemption for students with literacy skills below an eighth grade level for adult general education, but provides fee exemptions through a cross-reference to s. 240.4043, F.S., as created by SB 1564 or similar legislation. According to the Senate Committee on Education, proposed CS/SB 1564 combines fee exemptions from various education laws into one section. The proposed committee substitute would place these exemptions in part IV of ch. 240, F.S., to be designated as “State-Funded Student Assistance.”

Section 22 repeals s. 239.305, F.S. (adult literacy). The committee substitute repeals this section, thereby eliminating statutory authority for the program. The program no longer receives state funding, but is maintained by federal Workforce Investment Act funds and is governed under federal law.

Section 23 repeals s. 239.309, F.S. (adult literacy centers). The committee substitute repeals this section, thereby eliminating statutory authority for the centers, which are governed by provisions annually included in the General Appropriations Act.

Section 24 reenacts and amends s. 239.401, F.S. (community education). The committee substitute substantially rewords s. 239.401, F.S., eliminating obsolete provisions. The state has not provided funding for community education coordinators since 1992.

Section 25 reenacts and amends s. 239.501, F.S. (Florida Literacy Corps). The committee substitute permits universities and community colleges to award credit to students who tutor adults who are illiterate. It eliminates extensive requirements for program administration, in that the programs are conducted by individual colleges and universities.

Section 26 repeals s. 239.505, F.S. (Florida constructive youth programs). The committee substitute repeals this section, thereby eliminating statutory authority for the programs. These programs implement a federal program, for which the Legislature has not provided state funds.

Section 27 reenacts and amends s. 239.513, F.S. (workforce literacy programs). The committee substitute eliminates a restriction against providing the program to persons who are literate. These programs are subject to performance requirements through the funding formula, thereby mitigating against abuse of the programs.

Section 28 reenacts and amends s. 239.514, F.S. (Capitalization Incentive Grant Program). The committee substitute transfers administration of the competitive grant program from the Postsecondary Education Planning Commission to the Department of Education, with ranking of projects to be determined by the State Board of Education.

Section 29 reenacts and amends s. 239.5141, F.S. (Adult and Technical Education Information System). The committee substitute removes dated provisions governing the information systems used in the transition between funding processes, which have become obsolete.

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:**

The committee substitute removes numerous fee exemptions, relying on the enactment of SB 1564 or similar legislation to replace these fee exemptions with uniform exemptions in ch. 240, F.S. If the committee substitute is enacted without the corresponding enactment of these changes in other legislation, these fee exemptions will be repealed.

B. Private Sector Impact:

The committee substitute removes numerous fee exemptions, relying on the enactment of SB 1564 or similar legislation to replace these fee exemptions with uniform exemptions in ch. 240, F.S. If the committee substitute is enacted without the corresponding enactment of these changes in other legislation, these fee exemptions will be repealed. Consequently, those students who are currently exempt would be required to pay the respective fees in order to receive the education program.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

1 by Governmental Oversight and Productivity:

Eliminates the requirement for re-examination for any person who has taken and passed a national, state, or industry-level exam.