

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 5009 PCB SUPC 09-01 Postsecondary Education Funding
SPONSOR(S): State Universities & Private Colleges Appropriations Committee; Proctor
TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	State Universities & Private Colleges Appropriations Committee	8 Y, 0 N	Trexler	Trexler
1)	Full Appropriations Council on Education & Economic Development		Trexler	Martin
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

HB 5009 authorizes the Board of Governors, or the board's designee, to increase tuition and out-of-state fees for graduate programs by up to 15 percent each year, rather than 10 percent as currently authorized.

The bill revises provisions relating to several state student financial assistance programs. The bill:

- Limits eligibility for the Rosewood Family Scholarship Program to direct descendants of the Rosewood families.
- Specifies that awards made under the following state financial assistance programs may be prorated based on legislative appropriations: the Critical Teacher Tuition Reimbursement Program, the Critical Teacher Loan Forgiveness Program, the Florida Teacher Scholarship and Loan Forgiveness Program, and the Minority Teacher Education Scholars Program.
- Requires the return of any unused Minority Teacher Education Scholarship funds at end the fiscal year.
- Requires recipients of First Generation Matching Grants to meet the same criteria for determining need as recipients of the Florida Public Student Assistance Grant Program.
- Requires annual reporting from all institutions that participate in state-funded student financial assistance programs.

The bill provides for consistent reporting requirements for private colleges and universities that receive state appropriations.

The bill authorizes the Prepaid College Board to provide advance payment contracts that cover registration fees, tuition differential fees, and local fees under one contract, rather than under separate contracts as presently offered. Such contracts may be provided in specific increments usable toward either an associate degree or a baccalaureate degree. The bill also establishes a new payment methodology to state universities on behalf of beneficiaries of Prepaid College Plan contracts purchased prior to July 1, 2009. The payment methodology specifies the level of tuition increases, tuition differential increases, and local fee increases that the Prepaid College Board will pay each year.

The bill provides an exemption from current statutory provisions relating to university debt. The exemption allows Florida International University to use lease payments as an eligible revenue stream to secure revenue bonds for the construction of a health facility on its campus.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: 1009.24, 1009.40, 1009.55, 1009.57, 1009.58, 1009.59, 1009.60, 1009.605, 1009.701, 1009.76, 1009.765, 1009.94, 1009.98, and 1011.521.

The effective date of this act is July 1, 2009.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

State University Graduate and Professional Tuition

Present Situation

The Board of Governors, or the board's designee, may establish tuition for graduate and professional programs, and out-of-state fees for all programs. The sum of tuition and out-of-state fees assessed to nonresident students must be sufficient to offset the full instructional cost of serving such students. However, adjustments to out-of-state fees or tuition for graduate programs may not exceed 10 percent in any year, and adjustments to out-of-state fees or tuition for professional programs may not exceed 15 percent in any year.¹

Effect of Proposed Changes

The bill increases the authorized annual tuition and out-of-state fees adjustment for graduate programs from 10 percent to 15 percent to match the existing authorization for professional programs.

Rosewood Family Scholarship Program

Present Situation

The Rosewood Family Scholarship Program was established in 1994 to provide annual scholarships of up to \$4,000 to descendants of Rosewood families affected by the incidents of January 1923. The program provides for a maximum of 25 scholarships each year, which are available to minority students with preference given to direct descendants of the Rosewood families.² Currently, all of the scholarships are going to Rosewood direct descendants.³

Effect of Proposed Changes

The bill limits eligibility to direct descendants of the Rosewood families. The bill also repeals obsolete language requiring legislative appropriations for the program to be deposited in the State Student Financial Assistance Trust Fund.

¹ Section 1009.24(4)(c), F.S.

² Section 1009.55, F.S.

³ Telephone conversation with Office of Student Financial Assistance staff.

State Financial Assistance Programs

Present Situation

Florida has a variety of specialty state financial assistance programs, including the Florida Teacher Scholarship and Forgivable Loan Program, the Critical Teacher Shortage Tuition Reimbursement and Student Loan Forgiveness Program, and the Minority Teacher Education Scholars Program. The statutes for these programs include specified award amounts that are not consistent with the level of appropriations for these programs.⁴ During recent years the state priority as reflected in appropriations has been growth in need-based awards for students as opposed to specialty programs. Awards for the specialty programs have been prorated based on funds available. The Minority Teacher Education Scholars Program is administered by a private entity, the Florida Fund for Minority Teachers.⁵ Unlike other scholarship funds, these funds, if unused, are not required to be returned to the state.

The First Generation Matching Grant Program provides grants to degree-seeking undergraduate Florida residents whose parents have not earned baccalaureate degrees. Although the statute authorizing the program lists need as a basis for consideration for receiving the grant, no criteria for determining need are provided.⁶

The Ethics in Business Scholarship Program was created by the 1997 Florida Legislature from funds received from a settlement as specified in the Consent Order of the Treasurer and Insurance Commissioner, case number 18900-96-c.⁷ The scholarship is not heavily utilized.

Currently, there are different reporting requirements for each of the state financial assistance programs, limiting the ability of the Department of Education to collect consistent information from each institution participating in these programs.⁸

Effect of Proposed Changes

The bill aligns the statutes with current practice by clarifying that the Florida Teacher Scholarship and Forgivable Loan Program, the Critical Teacher Shortage Tuition Reimbursement and Student Loan Forgiveness Program, and the Minority Teacher Education Scholars Program awards will be based on funds available, rather than a fixed amount. The bill requires unused scholarship funds for the Minority Teacher Education Scholars Program to be returned to the state, as is the practice for other state scholarship programs.

The bill provides that students participating in the First Generation Matching Grant Program must meet the same need-based criteria as the state's primary need-based financial aid program, the Florida Public Student Assistance Grant Program.⁹

The bill repeals the Ethics in Business Scholarship Program, allowing the settlement proceeds to be utilized for other state financial assistance programs.

The bill requires each institution participating in a state-funded financial assistance program to report annually to the Department of Education the eligible students to whom financial assistance is disbursed, the eligibility requirements for recipients, and the aggregate demographics of recipients.

Florida Prepaid College Plan

Present Situation

The State of Florida offers the Stanley G. Tate Florida Prepaid College Plan (Prepaid Plan) to assist families in planning and saving for a college education.¹⁰ The Prepaid Plan contracts lock in many of

⁴ Sections 1009.57, 1009.58, 1009.59, 1009.60, and 1009.605, F.S.

⁵ Section 1009.605, F.S.

⁶ Section 1009.701, F.S.

⁷ Sections 1009.76 and 1009.765, F.S.

⁸ Part III, ch. 1009, F.S.

⁹ See s. 1009.50, F.S.

the costs associated with postsecondary attendance at the time the contracts are purchased. The Prepaid College Board is authorized to offer advance payment contracts for a community college tuition plan, a university tuition plan, a community college plus university tuition plan, a university dormitory plan, a local fee plan, and a tuition differential fee plan.¹¹

The tuition plans cover registration fees, which include the tuition fee, the financial aid fee, the building fee, and the Capital Improvement Trust Fund fee.¹² Typically, the tuition fee increases annually based on Legislative authorization.¹³ Below is a chart showing the authorized undergraduate tuition increases for the previous three years:

Tuition Increase	2006-07	2007-08	2008-09
Community Colleges	2.5%	5.0%	6.0%
State Universities	3.0%	5.0%	6.0%

The local fee plans cover the local fees charged by community colleges and state universities.¹⁴ Local fees at state universities include the activity and service fee, the health fee, and the athletic fee.¹⁵ The aggregate sum of the local fees may not increase by more than five percent each year.¹⁶

Each year, the Prepaid College Board conducts an analysis of the actuarial adequacy of the Prepaid Trust Fund.¹⁷ In order to conduct this analysis, a series of assumptions are made regarding investment yield, tuition increases, tuition differential fee increases, local fee increases, and dormitory fee increases.¹⁸ The result of the analysis is a determination of the actuarial reserve, which means the amount by which the expected value of the assets in the Prepaid Trust Fund exceeds the value of the expected liabilities. Below is a chart showing a three-year history of the actuarial reserve and the university tuition and local fee increases used in the assumptions.¹⁹

Actuarial Information	2005-06	2006-07	2007-08
Actuarial Reserve	\$586 million	\$847 million	\$775 million
% of Expected Liabilities	9.6%	12.9%	10.3%
Assumed Tuition Increase	6.5%	6.5%	6.5%
Assumed Local Fee Increase	6.0%	5.0%	5.0%

To the extent the tuition increase and other assumptions are more or less than the actuarial assumptions, the actuarial reserve may grow or decline significantly. The current reserve, estimated as of March 20, 2009, is approximately \$408 million, which is 4.9 percent of expected liabilities.²⁰

Beginning July 1, 2007, the Prepaid College Board was authorized to provide a tuition differential contract to cover the tuition differential fee, which was created during the 2007 Session.²¹ As of February 12, 2009, the board has sold 17,846 tuition differential contracts.²² Beneficiaries who enroll at state universities and have prepaid tuition contracts for university plans which were in effect on July 1,

¹⁰ Section 1009.98(1), F.S.

¹¹ Section 1009.98(2), F.S.; see also <http://www.myfloridaprepaid.com/plans> (last visited Sept. 29, 2008).

¹² Section 1009.97(3)(g), F.S.

¹³ Sections 1009.23 and 1009.24, F.S.

¹⁴ Sections 1009.98(2)(a)2. and 1009.98(2)(b)2., F.S.

¹⁵ Section 1009.24(9) – (12), F.S.

¹⁶ Section 1009.24(4)(d), F.S.

¹⁷ Section 1009.971(4)(f), F.S.

¹⁸ Florida Prepaid College Board, *Analysis of Actuarial Adequacy as of June 30, 2008*.

¹⁹ Florida Prepaid College Board, *Analysis of Actuarial Adequacy as of June 30, 2006; June 30, 2007; June 30, 2008*.

²⁰ E-mail from Prepaid College Board staff (March 29, 2009).

²¹ Ch. 2007-225, L.O.F.; s. 1009.24(16), F.S.

²² Florida Prepaid College Board analysis of HB 403.

2007, which remain in effect, are exempt from the payment of the tuition differential.²³ As of June 30, 2007, there were 829,804 active prepaid contracts.²⁴

Effect of Proposed Changes

The bill authorizes the Prepaid College Board to provide advance payment contracts that cover registration fees, tuition differential fees, and local fees under one contract, rather than under separate contracts as presently offered. The board is authorized to provide such contracts in specific increments, such as credit hours, usable toward either an associate degree or a baccalaureate degree, rather than the two-year or four-year increments presently offered.

The bill establishes a payment methodology to state universities on behalf of beneficiaries of advance payment contracts purchased prior to July 1, 2009. The payment methodology specifies the level of tuition increases and tuition differential increases that the Prepaid College Board will pay each year, based on the actuarial reserve for that year. Such a methodology may provide greater predictability to both the Prepaid College Board and the state universities.

The payment methodology is as follows:

If the actuarial reserve is:	The increase above the prior year shall be:
<5% of expected liabilities	5.5%
5% - 6% of expected liabilities	6.0%
6% - 7.5% of expected liabilities	6.5%
>7.5% of expected liabilities	7.0%

Qualified beneficiaries of advance payment contracts purchased prior to or on July 1, 2007, are exempt from paying the tuition differential. For local fees, the Prepaid College Board will pay state universities five percent above the amount assessed for local fees in the preceding fiscal year.

The bill also establishes a payment methodology to state universities on behalf of beneficiaries of advance payment contracts purchased after July 1, 2009. The Prepaid College Board must pay state universities the actual amount assessed in accordance with law for registration fees and the tuition differential fee for such contracts.

Private Colleges and State Universities

Present Situation

Each year, the Legislature provides appropriations to a number of private colleges and universities in the state to provide access to Florida residents seeking a postsecondary education; to support programs that meet the state's workforce needs; and to support medical research. Examples of institutions receiving funds include the state's private Historically Black Colleges and Universities (Bethune-Cookman University, Edward Waters College, and Florida Memorial University) and the health programs at Nova Southeastern University, the Lake Erie College of Osteopathic Medicine, and the University of Miami.²⁵ Currently, there are no statutory provisions requiring an accounting of the expenditure of the appropriated funds.

Effect of Proposed Changes

The bill creates a new section of law to require private institutions receiving state appropriations to report annually to the Department of Education on the expenditure of appropriated funds and to prohibit the use of the appropriated funds to construct buildings.

²³ Section 1009.24(16)(c), F.S.

²⁴ Florida Prepaid College Board, *Analysis of Actuarial Adequacy as of June 30, 2007*.

²⁵ See Specific Appropriations 61 through 69, s. 2, ch. 2008-152, L.O.F.; Specific Appropriations 26 through 35, s. 2, ch. 2009-1, L.O.F.

State University Debt

Present Situation

State universities are authorized to secure debt to acquire, construct, or improve capital facilities. Such debt must be secured pursuant to statutory requirements and approval by the Board of Governors. The sources of revenue that may be pledged to secure debt include the Capital Improvement Trust Fund fee, the building fee, the health fee, the transportation access fee, hospital revenues, revenues derived from auxiliary enterprises, a portion of the activity and service fee, a portion of the athletic fee, or any other revenue approved by the Legislature for facilities construction. Current law does not specifically authorize the use of lease payments as a source of revenue to secure debt.²⁶

Florida International University (FIU) plans to construct a public health facility on its campus, a portion of which will be leased to the Florida Department of Health (FDOH) and the Miami-Dade County Health Department (MDCHD). The lease will cover a 30-year period. The FDOH and the MDCHD currently have a number of health care sites throughout Miami-Dade County. They are in the process of consolidating several of these sites and plan to locate a site on the FIU campus. At this site, they will collaborate on a community-based health program with the university's School of Public Health, the Medical School, and other health-related disciplines within the university. The FDOH pays for facilities rental through its expenses budget, which is subject to state appropriations.²⁷

Effect of Proposed Changes

The bill provides an exemption from statutory requirements relating to state university debt to authorize the use of lease payments from the FDOH and the MDCHD for the rental of space within a public health facility on the FIU campus. The bill requires the Board of Governors to approve the financial structure of the debt.

B. SECTION DIRECTORY:

- Section 1. Amends s. 1009.24, F.S.; revising authorization for state universities to increase tuition and out-of-state fees for graduate programs.
- Section 2. Amends s. 1009.55, F.S.; revising eligibility criteria for the Rosewood Family Scholarship Program.
- Section 3. Amends s. 1009.57, F.S.; revising provisions relating to awards made under the Florida Teacher Scholarship and Forgivable Loan Program.
- Section 4. Amends s. 1009.58, F.S.; revising provisions relating to awards made under the Florida Critical Teacher Shortage Tuition Reimbursement Program.
- Section 5. Amends s. 1009.59, F.S.; revising provisions relating to awards made under the Florida Critical Teacher Shortage Loan Forgiveness Program.
- Section 6. Amends s. 1009.60, F.S.; revising provisions relating to awards made under the Minority Teacher Scholarship Program.
- Section 7. Amends s. 1009.605, F.S.; requiring an annual report and return of unused funds by the Florida Fund for Minority Teachers.
- Section 8. Amends s. 1009.701, F.S.; revising eligibility criteria for the First Generation Matching Grant Program.

²⁶ Section 1010.62, F.S.

²⁷ Telephone conversation with Florida International University staff (March 31, 2009).

- Section 9. Amends s. 1009.94, F.S.; clarifying reporting requirements for institutions that participate in state-funded student financial assistance programs.
- Section 10. Amends s. 1009.98, F.S.; authorizing a new type of prepaid contract; authorizing a new payment procedure for prepaid beneficiaries who attend a state university and who purchase a prepaid contract before July 1, 2009.
- Section 11. Creates s. 1011.521, F.S.; providing requirements for private colleges and universities receiving state appropriations.
- Section 12. Repeals ss. 1009.76 and 1009.765, F.S.; relating to the Ethics in Business Scholarship Program.
- Section 13. Amends s. 1009.40, F.S.; conforming provisions.
- Section 14. Provides an exemption from the requirements of s. 1010.62, F.S., relating to revenue bonds and debt for state universities.
- Section 15. Provides an effective date of July 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS.

2. Expenditures:

See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS.

2. Expenditures:

See FISCAL COMMENTS.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

State University Graduate Tuition

To the extent state universities increase graduate tuition and out-of-state fees by 15 percent each year, rather than 10 percent as currently authorized, the cost for graduate education at a state university may increase at a faster rate.

Florida Prepaid College Plan

The bill authorizes the Prepaid College Board to provide advance payment contracts that cover registration fees, tuition differential fees, and local fees under one contract, rather than under separate contracts as presently offered. The board is authorized to provide such contracts in specific increments, such as credit hours, usable toward either an associate degree or a baccalaureate degree, rather than

the two-year or four-year increments presently offered. Such contracts provide an additional option for Floridians who are saving for the costs of a college education.

D. FISCAL COMMENTS:

State University Graduate Tuition

To the extent state universities increase graduate tuition and out-of-state fees by 15 percent each year, rather than 10 percent as currently authorized, the tuition revenue available to state universities may increase by an indeterminate amount.

State Financial Assistance Programs

Repeal of the Ethics in Business Scholarship Program allows the settlement proceeds of approximately \$4.9 million to be utilized for other state scholarships.

Florida Prepaid College Plan

The bill specifies the payout rates to state universities for advance payment contracts purchased prior to July 1, 2009, which may provide additional predictability to the Prepaid College Board to ensure the actuarial soundness and financial viability of the Prepaid Trust Fund. Linking the annual tuition increases to the size of the actuarial reserve may help to limit growth in the actuarial reserve. Additionally, the bill provides a more predictable revenue stream to state universities on behalf of all prepaid contract beneficiaries who purchase a contract prior to July 1, 2009. To the extent the annual increases in the tuition differential fee exceed annual increases in tuition, the payment methodology established in the bill will increase the revenue provided to state universities on behalf of prepaid beneficiaries.

State University Debt

The bill authorizes FIU to secure debt using lease payments from the FDOH and the MDCHD to construct a public health facility on its campus. The budget for the FDOH is subject to state appropriations for expenses. To the extent appropriations for the Department are reduced, the university may be in a position of seeking additional revenue to satisfy the required debt service for this project.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

2. Other:

The Board of Governors has challenged the Legislature's authority over the state university system.²⁸ One of the issues in that lawsuit is a challenge to the Legislature's authority in setting university tuition and fees.

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

²⁸ *Bob Graham et al v. Ken Pruitt, President of the Florida Senate and Marco Rubio, Speaker of the Florida House of Representatives*, Case No. 2007-CA-1818.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On April 2, 2009, the State Universities and Private Colleges Appropriations Committee adopted two amendments to the proposed committee bill. The first amendment provides a definition of local fees for the purpose of payments on behalf of Prepaid College Plan beneficiaries to state universities. The second amendment authorizes the Prepaid College Board to increase payments to state universities for local fee contracts by five percent each year.