

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HJR 931 Board of Governors/Student Body President

**SPONSOR(S):** Education Committee; Gaetz

**TIED BILLS:** **IDEN./SIM. BILLS:** SJR 1508

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-20 Innovation Subcommittee	8 Y, 5 N	Thomas	Sherry
2) Education Committee	14 Y, 2 N, As CS	Thomas	Klebacha

### SUMMARY ANALYSIS

The joint resolution proposes to amend the Florida Constitution to revise the membership of the Board of Governors (BOG) of the State University System (SUS).

As established in Article IX of the Florida Constitution, state-level government of the SUS is provided by the BOG and Legislature. The BOG is comprised of 17 members – the Commissioner of Education, the chair of the Advisory Council of Faculty Senates, the Florida Student Association (FSA) president, and 14 members appointed by the Governor. Members appointed by the Governor must be confirmed by the Florida Senate.

The joint resolution proposes to amend Section 7(d), Article IX of the Florida Constitution as follows:

- The specific reference to “the president of the Florida student association, or the equivalent,” as the student member of the BOG is removed;
- The number of members appointed by the Governor is increased from 14 to 15; and
- One of the 15 members appointed by the Governor must be a state university student body president selected from a pool of applicants.

The state university student body president will serve a one-year term and is not subject to confirmation by the Florida Senate. A state university student body president is ineligible for appointment if the student body president appointed to the BOG in the previous year was from the same university. The joint resolution contains a ballot summary that notifies voters regarding the contents of the proposed amendment.

The joint resolution, if adopted by three-fifths vote of the membership of each house of the Legislature, would place the proposed amendment on the ballot of the next general election or an earlier special election if specifically authorized for that purpose. The proposed amendment must be approved by 60 percent of the voters in order to take effect.

See Fiscal Analysis and Economic Impact Statement.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### **The Board of Governors of the State University System**

As set forth in the Florida Constitution, state-level governance of the state university system (SUS) is provided by the Board of Governors (BOG) and Legislature.<sup>1</sup> The BOG's responsibilities include, but are not limited to, defining the distinctive mission of each SUS institution and its articulation with public schools and Florida College System institutions, ensuring the well-planned coordination and operation of the system, and avoiding wasteful duplication of facilities or programs.<sup>2</sup> Among other things, the BOG is responsible for:

- Accounting for the expenditure of state funds;
- Submitting a legislative budget request for each SUS institution;
- Adopting strategic plans;
- Approving, reviewing, and terminating degree programs;
- Governing admissions to SUS institutions; and
- Complying with and enforcing all applicable local, state, and federal laws.<sup>3</sup>

The BOG's oversight of the SUS is subject to the Legislature's power to appropriate funds and establish tuition, fee, and financial aid policies, as well as the Legislature's responsibility to provide for the establishment, maintenance, and operation of institutions of higher learning and other public education programs that the needs of the people may require.<sup>4</sup>

The BOG may establish policies through rulemaking or the adoption of regulations. When acting pursuant to statutory authority derived from the Legislature, the BOG must adopt rules under the Administrative Procedure Act,<sup>5</sup> unless expressly authorized by law to adopt regulations. The BOG may also adopt regulations when implementing its constitutional duties and responsibilities.<sup>6</sup>

The BOG is comprised of 17 members – the Commissioner of Education, the chair of the Advisory Council of Faculty Senates, the Florida Student Association (FSA) president, and 14 members appointed by the Governor. Members appointed by the Governor serve staggered seven-year terms and must be confirmed by the Florida Senate.<sup>7</sup>

FSA is comprised of the student body presidents of Florida Agricultural and Mechanical University, Florida Atlantic University, Florida Gulf Coast University, Florida International University, New College of Florida, University of Central Florida, University of Florida, University of North Florida, University of South Florida, and University of West Florida. Florida State University is not represented by FSA.<sup>8</sup> Participating institutions pay membership dues, which are based upon Fall semester student enrollment for the previous year.<sup>9</sup>

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<sup>1</sup> Section 7(d), Art. IX of the State Constitution; s. 1001.705(2), F.S.

<sup>2</sup> Section 7(d), Art. IX of the State Constitution; ss. 1001.705(3) and 1001.706, F.S.

<sup>3</sup> Section 1001.705(2), F.S.

<sup>4</sup> Sections 1(a) and 7(d), Art. IX of the State Constitution; s. 1001.705(3), F.S.

<sup>5</sup> Chapter 120, F.S.

<sup>6</sup> Section 1001.706(2), F.S. If the BOG adopts regulations, it must comply with its regulation development procedure, rather than Administrative Procedure Act rulemaking requirements. *Id.*

<sup>7</sup> Section 7(d), Art. IX of the State Constitution; s. 1001.70(1), F.S.

<sup>8</sup> Florida Student Association, <http://myfsa.org/> (last visited Jan. 10, 2012).

<sup>9</sup> Florida Student Association, *Constitution and Bylaws of the Florida Student Association*, at 2 (Jan. 10, 2012), available at [http://myfsa.org/includes/files/FSA\\_Bylaws\\_January\\_1\\_2011.pdf](http://myfsa.org/includes/files/FSA_Bylaws_January_1_2011.pdf).

## **Effect of Proposed Changes**

The joint resolution proposes to amend the Florida Constitution to ensure that all state university student body presidents have an opportunity to serve as a member of the BOG, regardless of their university's membership in FSA. Membership of the BOG of the SUS would be revised, as follows:

- The specific reference to “the president of the Florida student association, or the equivalent,” as the student member of the BOG is removed;
- The number of members appointed by the Governor is increased from 14 to 15; and
- One of the 15 members appointed by the Governor must be a state university student body president selected from a pool of applicants.

The state university student body president appointed by the Governor will serve a one-year term and is not subject to confirmation by the Florida Senate. A state university student body president is ineligible for appointment if the student body president appointed to the BOG in the previous year was from the same university. The joint resolution contains a ballot summary that notifies voters regarding the contents of the proposed amendment.

The joint resolution, if adopted by three-fifths vote of the membership of each house of the Legislature, would place the proposed amendment on the ballot of the next general election or an earlier special election if specifically authorized for that purpose.<sup>10</sup> The proposed amendment must be approved by 60 percent of the voters in order to take effect.<sup>11</sup>

### **B. SECTION DIRECTORY:**

As this legislation is a joint resolution proposing a constitutional amendment, it does not contain bill sections. The joint resolution proposes to amend Section 7 (d) of Article IX of the Florida Constitution, relating to the state university system.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

None.

#### **2. Expenditures:**

The Florida Constitution requires the proposed amendment to be published, once in the tenth week and once in the sixth week immediately preceding the week of the election, in one newspaper of general circulation in each county where a newspaper is published.<sup>12</sup> The Department of State executes this requirement and has projected a non-recurring fiscal impact of \$65,382.24 for the publication.<sup>13</sup>

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### **1. Revenues:**

None.

#### **2. Expenditures:**

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<sup>10</sup> Section 1 an 5, Art. XI of the State Constitution.

<sup>11</sup> Section 5(a) and (e), Art. XI of the State Constitution.

<sup>12</sup> Section 5(d), Art. XI of the State Constitution.

<sup>13</sup> Department of State Analysis, *Bill Analysis for HJR 931* (Dec. 16, 2011).

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On February 7, 2012, the Education Committee adopted one amendment and reported the bill favorably as a committee substitute. The amendment requires the Governor to appoint a state university student body president to the Board of Governors from a pool of submitted applications. Previously, the bill did not require student body presidents to submit an application to the Governor in order to be considered for appointment to the Board of Governors.