

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

Prepared By: The Professional Staff of the Committee on Education

BILL: CS/SB 1296

INTRODUCER: Education Committee and Senator Diaz

SUBJECT: Organization and Operation of State Universities

DATE: April 3, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bouck	Sikes	ED	Fav/CS
2.			AED	
3.			AP	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

**I. Summary:**

CS/SB 1296 modifies requirements relating to Board of Governors (BOG) oversight of the State University System (SUS) and to the operation of state universities. Specifically the bill:

- Requires each state university to annually assess the intellectual freedom and viewpoint diversity at that university using a survey designated by the BOG. The BOG must annually compile and publish the assessments by September 1, beginning in 2020.
- Requires the BOG to match individual student information with state, federal, and Department of Economic Opportunity data sources for auditing and evaluation purposes.
- Modifies data sources for certain metrics in the preeminent state research universities program to specify use of the BOG Accountability Plan.
- Modifies the SUS performance-based incentive to:
  - Establish metrics relating to 2+2 transfer students, students with excess hours, and six-year graduation rates for Pell Grant students, beginning in 2020-2021.
  - Remove the metric for the access rate for Pell Grant students, effective June 30, 2020.
  - Specify that benchmarks and metrics may not be adjusted after the BOG receives university performance data.
- Requires the BOG Office of Inspector General to annually verify data in the performance-based incentive and preeminent state research university programs.
- Applies restrictions on the transfer of state appropriations to a state university direct-support organization (DSO) to include the DSO not-for-profit subsidiaries and affiliates.
- Modifies requirements relating to University of Florida (UF) health DSOs by:

- Applying requirements relating to board of trustees (BOT) appointments to DSO boards to include specified UF health DSOs.
- Specifying allowable uses of funds transferred from the UF BOT to certain UF health DSOs.
- Requires a reverse transfer agreement for Florida College System institution students who transfer to a state university before earning an associate in arts degree.
- Requires the University of South Florida (USF) St. Petersburg and USF Sarasota/Manatee to maintain branch campus status after the consolidation of accreditation with USF.
- Provides that students in the UF student enrollment pilot program who are eligible for Bright Futures Scholarships may receive a scholarship in the fall term for off-campus and online coursework, subject to conditions.
- Requires the BOG legislative budget request to include 5-year trend information about the number of faculty and administrators as each university, and specifies that the growth rate of administrators may not exceed the growth rate of faculty.

The bill takes effect July 1, 2019.

## II. Present Situation:

### **Powers and Duties of the Board of Governors**

The Board of Governors of the State University System (BOG) is required to operate, regulate, control, and be fully responsible for the management of the whole university system.<sup>1</sup>

#### ***Board of Governors Powers and Duties Relating to Organization and Operation of State Universities***

Florida law requires the BOG to exercise authority over state university organization and operations, including, but not limited to, information systems, sponsored research, direct-support organizations, academic programs, student and student organization conduct, and purchasing.<sup>2</sup>

#### **Intellectual Freedom and Viewpoint Diversity**

The Commission on Colleges of the Southern Association of Colleges and Schools (SACSCOC) requires member institutions to preserve intellectual and academic freedom.<sup>3</sup> The SACSCOC asserts that “[t]he essential role of institutions of higher education is the pursuit and dissemination of knowledge. Academic freedom respects the dignity and rights of others while fostering intellectual freedom of faculty to teach, research, and publish. Responsible academic freedom enriches the contributions of higher education to society.”<sup>4</sup>

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<sup>1</sup> Art. IX, Sec. 7(d), Fla. Const.

<sup>2</sup> Section 1001.706(3), F.S.

<sup>3</sup> Southern Association of Colleges and Schools, *The Principles of Accreditation: Foundations for Quality Enhancement* (Dec. 2017), available at <http://www.sacscoc.org/pdf/2018PrinciplesOfAcreditation.pdf>, at principles 6.1 and 6.4.

<sup>4</sup> Southern Association of Colleges and Schools, *Resource Manual for the Principles of Accreditation: Foundations for Quality Enhancement* (2018), available at <http://www.sacscoc.org/pdf/2018%20POA%20Resource%20Manual.pdf>, at 53.

The 2017 National Survey of Student Engagement<sup>5</sup> revealed that most students surveyed (64 percent) felt that postsecondary coursework generally respected the expression of diverse ideas, and that the postsecondary institution generally demonstrated a commitment to diversity (71 percent). This was reflected when specific forms of diversity were considered, such as gender, religious affiliation, or disability status. However, when political affiliation was considered, only half of students surveyed felt their postsecondary institution was generally supportive of different political ideas.<sup>6</sup>

### ***Board of Governors Powers and Duties Relating to Accountability***

The BOG is required to develop a strategic plan specifying goals and objectives for the State University System (SUS) and each constituent university, including each university's contribution to overall system goals and objectives.<sup>7</sup> The BOG must also develop an accountability plan for the SUS and each constituent university. The accountability plan must address institutional and system achievement of goals and objectives specified in the strategic plan and must be submitted as part of its legislative budget request.<sup>8</sup> To support such plans, the BOG is required to maintain an effective information system to provide accurate, timely, and cost-effective information about each university.<sup>9</sup>

### ***The Office of Inspector General***

The BOG Office of Inspector General<sup>10</sup> (OIGC) is organized to promote accountability, efficiency, and effectiveness and to detect fraud and abuse within state universities. The OIGC has three functional responsibilities: audit, investigations, and compliance.<sup>11</sup> OIGC duties include, but are not limited to:<sup>12</sup>

- Advising in the development of performance measures, standards, and procedures for the evaluation of state agency programs.
- Assessing the reliability and validity of the information provided by the state agency on performance measures and standards, and making recommendations for improvement, if necessary.

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<sup>5</sup> National Survey of Student Engagement, *2017 Topical Module: Inclusiveness and Engagement with Cultural Diversity*, available at [http://nsse.indiana.edu/2017\\_institutional\\_report/pdf/Modules/NSSE17%20Module%20Summary-Inclusiveness%20and%20Engagement%20with%20Cultural%20Diversity.pdf](http://nsse.indiana.edu/2017_institutional_report/pdf/Modules/NSSE17%20Module%20Summary-Inclusiveness%20and%20Engagement%20with%20Cultural%20Diversity.pdf).

<sup>6</sup> *Id.*

<sup>7</sup> Section 1001.706(5)(b), F.S.

<sup>8</sup> Section 1001.706(5)(c), F.S.

<sup>9</sup> Section 1001.706(5)(e), F.S.

<sup>10</sup> The office is chartered as the Office of Inspector General and Director of Compliance (OIGC). Board of Governors, *Charter: Office of Inspector General and Director of Compliance* (June 18, 2009), available at [https://www.flbog.edu/board/office/ig/doc/OIGC\\_Charter\\_FINAL.pdf](https://www.flbog.edu/board/office/ig/doc/OIGC_Charter_FINAL.pdf).

<sup>11</sup> *Id.* at 4.

<sup>12</sup> Section 20.055(2)(a) and (b), F.S.

## Performance Funding

### *State University System Performance-Based Incentive*

The SUS Performance-Based Incentive is awarded to state universities using performance-based metrics that are identified in law,<sup>13</sup> adopted by the BOG,<sup>14</sup> and include the following:<sup>15</sup>

- Percent of bachelor's graduates employed (earning \$25,000+) or continuing their education.
- Median wages of bachelor's graduates employed full-time.
- Average cost to the student (net tuition per 120 credit hours).
- Four-year graduation rate (Full-time, first-time-in-college students).
- Academic progress rate (2nd year retention with GPA above 2.0).
- Bachelor's degrees awarded in areas of strategic emphasis.
- University access rate (percent of undergraduates with a Pell-grant).
- Graduate degrees awarded in areas of strategic emphasis – all institutions but New College of Florida (NCF).
- Freshman in the top 10 percent of graduating high school class – for NCF only.
- BOG choice - percent of bachelor's degrees without excess hours.
- University board of trustees (BOT) choice.

The performance of an institution is evaluated based on benchmarks adopted by the BOG for each metric. For each fiscal year, the amount of funds available for allocation to SUS institutions consists of the state's investment, plus the institutional investment from each institution's base budget, as determined in the General Appropriations Act.<sup>16</sup> While specific requirements are specified in law for universities to receive the institutional investment, discretion is given to the BOG to set the allocation methodology for the universities to receive the state's investment.<sup>17</sup>

To provide assurance that the data submitted for this process is reliable, accurate, and complete, the BOG developed a Data Integrity Certification process in June 2014. University presidents and the BOT were directed to provide for an audit of the state university's processes to ensure the completeness, accuracy, and timeliness of data submissions to the BOG. Audits must be submitted to the BOG for its March meeting.<sup>18</sup>

### *Preeminent State Research Universities Program*

The preeminent state research universities program is a collaborative partnership between the BOG and the Legislature to raise the academic and research preeminence of the highest

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<sup>13</sup> Section 1001.92(1), F.S.

<sup>14</sup> *Id.*

<sup>15</sup> Board of Governors, *Performance Funding Model Overview*, available at [https://www.flbog.edu/board/office/budget/doc/performance\\_funding/Overview-Doc-Performance-Funding-10-Metric-Model-Condensed-Version.pdf](https://www.flbog.edu/board/office/budget/doc/performance_funding/Overview-Doc-Performance-Funding-10-Metric-Model-Condensed-Version.pdf).

<sup>16</sup> BOG Regulation 5.001(3).

<sup>17</sup> Florida Board of Governors, *2019 Agency Analysis for SB 1926* (Mar. 14, 2019), at 3.

<sup>18</sup> Board of Governors, *Performance Based Funding Model—Data and Methodology*, [https://www.flbog.edu/board/office/budget/performance\\_funding.php](https://www.flbog.edu/board/office/budget/performance_funding.php) (last visited Mar. 9, 2019).

performing state research universities in Florida.<sup>19</sup> Academic and research excellence standards are established in law,<sup>20</sup> and certain metrics specify data sources, which include:

- A freshman retention rate of 90 percent or higher for full-time, first-time-in-college students, as reported annually to the Integrated Postsecondary Education Data System (IPEDS).<sup>21</sup>
- A 4-year graduation rate of 60 percent or higher for full-time, first-time-in-college students, as reported annually to the IPEDS. However, for the 2018 determination of a state university's preeminence designation and the related distribution of the 2018-2019 fiscal year appropriation associated with preeminence and emerging preeminence, a university is considered to have satisfied this graduation rate measure by attaining a 6-year graduation rate of 70 percent or higher by October 1, 2017, for full-time, first-time-in-college students, as reported to the IPEDS and confirmed by the BOG.
- Four hundred or more doctoral degrees awarded annually, including professional doctoral degrees awarded in medical and health care disciplines, as reported in the BOG Annual Accountability Report.
- Two hundred or more postdoctoral appointees annually, as reported in the Top American Research Universities (TARU)<sup>22</sup> annual report.
- An endowment of \$500 million or more, as reported in the BOG Annual Accountability Report.

A state university that meets 11 of the 12 academic and research excellent standards specified in law<sup>23</sup> is designated a "preeminent state research university."<sup>24</sup> Currently, the University of Florida, Florida State University, and the University of South Florida are designated as preeminent state research universities.<sup>25</sup>

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<sup>19</sup> Section 1001.7065(1), F.S.

<sup>20</sup> Section 1001.7065(2), F.S.

<sup>21</sup> IPEDS is the Integrated Postsecondary Education Data System. It is a system of interrelated surveys conducted annually by the U.S. Department of Education's National Center for Education Statistics (NCES). IPEDS gathers information from every college, university, and technical and vocational institution that participates in the federal student financial aid programs. National Center for Education Statistics, *About IPEDS*, <https://nces.ed.gov/ipeds/about-ipeds> (last visited Apr. 2, 2019)

<sup>22</sup> The Top American Research Universities (TARU) report offers analysis and data intended to help understand American research university performance. A key feature of the report is classification of universities into groups based upon nine specified quality indicators. The Center for Measuring University Performance, *Top American Research Universities*, <https://mup.umass.edu/Top-Universities> (last visited Apr. 2, 2019).

<sup>23</sup> Section 1001.7065(2), F.S. The standards include: incoming freshman academic characteristics (average weighted GPA and average SAT score); institutional ranking nationally; freshman retention rate; 6-year graduation rate; national academy membership of institution faculty; research expenditures and patents awarded annually; doctoral degrees awarded annually; postdoctoral appointees annually; and institutional endowment.

<sup>24</sup> Section 1001.7065(3)(a), F.S. Prior to July 1, 2014, state university boards of trustees were authorized to establish a tuition differential upon approval from the BOG. However, after that date the BOG may approve a new or increase in the tuition differential for an institution designated as a preeminent state research university. Section 1009.24, F.S.

<sup>25</sup> Board of Governors, *2018 System Accountability Plan* (June 28, 2018), available at [https://www.flbog.edu/board/doc/accountabilityplan/ap\\_2018/2018\\_System\\_Accountability\\_Plan\\_FINAL\\_2018-06-28.pdf](https://www.flbog.edu/board/doc/accountabilityplan/ap_2018/2018_System_Accountability_Plan_FINAL_2018-06-28.pdf), at 9.

A state university that meets at least 6 of the 12 academic and research excellence standards is identified as an “emerging preeminent state research university.”<sup>26</sup> Currently, the University of Central Florida is designated as an emerging preeminent state research university.<sup>27</sup>

### **State University Direct-Support Organizations**

A state university direct-support organization (DSO) is:<sup>28</sup>

- A Florida corporation not-for-profit, incorporated under the provisions of chapter 617, and approved by the Department of State;
- Organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to, or for the benefit of, a state university; and
- An organization reviewed and certified by the state university board of trustees (BOT) to be operating in a manner consistent with the goals of the college or university and in the best interest of the state.

A state university BOT, in accordance with regulations and guidelines of the BOG, must specify conditions for a university DSO to use property, facilities, or personal services at any university. Such conditions must provide for budget and audit review and oversight by the BOT, including thresholds for approval of purchases, acquisitions, projects, and issuance of debt. No later than July 1, 2019, the transfer of a state appropriation by the BOT to any DSO may only include funds pledged for capital projects. Beginning July 1, 2019, and annually thereafter, each university BOT must report to the Legislature the amount of state appropriations transferred to any DSO during the previous fiscal year, the purpose for which the funds were transferred, and the remaining balance of any funds transferred.<sup>29</sup>

### ***University of Florida – Shands Teaching Hospital and Clinics, Inc., Shands Jacksonville Medical Center, Inc., and Shands Jacksonville HealthCare, Inc.***

Shands Teaching Hospital and Clinics, Inc., Shands Jacksonville Medical Center, Inc., and its parent, Shands Jacksonville HealthCare, Inc., are private not-for-profit corporations organized for the primary purpose of supporting the University of Florida BOT’s health affairs mission of community service and patient care, education and training of health professionals, and clinical research.<sup>30</sup>

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<sup>26</sup> Section 1001.7065(3)(b), F.S.

<sup>27</sup> Board of Governors, *2018 System Accountability Plan* (June 28, 2018), available at [https://www.flbog.edu/board/doc/accountabilityplan/ap\\_2018/2018\\_System\\_Accountability\\_Plan\\_FINAL\\_2018-06-28.pdf](https://www.flbog.edu/board/doc/accountabilityplan/ap_2018/2018_System_Accountability_Plan_FINAL_2018-06-28.pdf), at 9.

<sup>28</sup> Section 1004.28(1)(a), F.S. Each of the 12 state universities has at least one direct-support organization (DSO). State University System of Florida, *University Direct-Support Organizations*, July 2016, available at [http://www.flbog.edu/pressroom/doc/DSO\\_Info\\_Brief\\_with\\_Attachments.pdf](http://www.flbog.edu/pressroom/doc/DSO_Info_Brief_with_Attachments.pdf).

<sup>29</sup> Section 1004.28(2)(b), F.S.

<sup>30</sup> Section 1004.41(4)(a) and (5)(a), F.S.

## Statewide Articulation Agreement – Reverse Transfer

In fall, 2017, 16,312 FCS students transferred to a state university, but 4,589 transferred without a degree.<sup>31</sup>

### Statewide Articulation Agreement

The SBE and the BOG are required to enter into a statewide articulation agreement. The agreement must preserve Florida’s “2+2” system of articulation and facilitate the seamless articulation of student credit across and among Florida’s educational entities.<sup>32</sup> The agreement requires state university boards of trustees, Florida College System (FCS) BOT, and district school boards to adopt policies and procedures to provide articulated programs so that students can proceed toward their educational objectives as rapidly as their circumstances permit.<sup>33</sup>

### Reverse Transfer

Reverse transfer is the process of retroactively granting associate degrees to students who complete the requirements of an associate degree after they transferred from a two- to a four-year institution. Once the student reaches the designated credits and requirements, they are retroactively awarded an associate degree from their two-year institution of origin.<sup>34</sup>

In 2012, Florida and 15 states joined the Credit When It’s Due<sup>35</sup> initiative and developed policies to implement reverse transfer agreements between public colleges and universities. From 2013 to 2016, FCS institution and state university participation in the program resulted in the award of 316 reverse transfer associate in arts (AA) degrees.<sup>36</sup>

## University of South Florida Consolidation

Currently, the University of South Florida St. Petersburg (USFSP) and the University of South Florida Sarasota/Manatee (USFSM) are maintained as separate organizational and budget entities, with separate accreditation, from the University of South Florida (USF).<sup>37</sup>

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<sup>31</sup> Florida Board of Governors, *Florida College System Students Transferring into the State University System, Fall 2017* (Table 9), available at [https://www.flbog.edu/resources/factbooks/2017-2018/xls/t09\\_00\\_1718\\_F.xlsx](https://www.flbog.edu/resources/factbooks/2017-2018/xls/t09_00_1718_F.xlsx).

<sup>32</sup> Section 1007.23(1), F.S.

<sup>33</sup> Rule 6A-10.024(1), F.A.C.

<sup>34</sup> Education Commission of the States, *Reverse Transfer: What is the Best Route to Take?* (Sept. 2015), available at <https://www.ecs.org/wp-content/uploads/12112.pdf>. Florida law also authorizes students at state universities to request an AA degree if they have successfully completed the minimum requirements for an AA degree. The state university must award the student an AA degree if the student has successfully completed specified requirements. Section 1007.25(11), F.S.

<sup>35</sup> The Credit When It’s Due (CWID) initiative is a national grant program designed to facilitate the implementation and improve the process of “reverse transfer” degree programs. As explained in the CWID grant announcement, “The initiative is designed to encourage partnerships of community colleges and universities to significantly expand programs that award associate degrees to transfer students when students complete the requirements for the associate degree while pursuing a bachelor’s degree.”

<sup>36</sup> Jason L. Taylor & Eden Cortes-Lopez, *Reverse Credit Transfer: Increasing State Associate’s Degree Attainment* (April 2017), available at <https://degreeswhendue.com/wp-content/uploads/2018/09/Taylor-Cortes-Lopez-2017.pdf>.

<sup>37</sup> Sections 1004.33 and 1004.34, F.S.

In 2018,<sup>38</sup> legislation established a process for the termination of separate accreditation for USFSP and USFSM. The USFSP and USFSM campuses were required to have a campus board and a regional chancellor, each with specified duties. A USF Consolidation Planning Study and Implementation Task Force (task force) was created to develop recommendations to improve service to students by phasing out separate accreditation for the USFSP and USFSM campuses. The task force was required to submit by February 15, 2019, a report to the USF BOT with recommendations on specified issues. The USF was required to adopt and submit a plan, by March 15, 2019, to the BOG that establishes a timeline to terminate the separate accreditation for the USFSP and USFSM campuses by June 30, 2020.<sup>39</sup>

### **University of Florida Student Enrollment Pilot Program**

In 2011,<sup>40</sup> the University of Florida was authorized to develop and implement a student enrollment plan for the spring and summer terms to align on-campus student enrollment with the availability of instructional facilities. The pilot provides for a student cohort limited to on-campus enrollment during only the spring and summer terms. Students participating in the pilot program who are eligible to receive Bright Futures Scholarships are eligible to receive such scholarships during the spring and summer terms.

The Implementing Bill for the 2018-2019 fiscal year<sup>41</sup> amended s. 1009.215, F.S., to extend eligibility for this student cohort to receive Bright Futures Scholarships for the fall semester term to be used for off-campus or online coursework, if Bright Futures Scholarship funding is provided by the Legislature for three terms for that academic year for other eligible students.<sup>42</sup>

### **State University Ratios of Students to Faculty and Administration**

The BOG is required to report as part of its legislative budget request the actual expenditures for each state university for the fiscal year ending the previous June 30 as a part of its legislative budget request (LBR).<sup>43</sup>

From 2010 to 2016, the number of state university staff with administrative duties increased at a faster rate than that of students and faculty.<sup>44</sup> During that same period the ratio of students to faculty rose from 28:1 to 29:1. The number of students to administrators decreased from 2010-2014 (meaning the number of administrators was growing faster than the number of students,

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<sup>38</sup> Section, ch. 2018-4, L.O.F., *codified as* s. 1004.335, F.S.

<sup>39</sup> Section 1004.335, F.S. By July 1, 2020, the entirety of the USF, including all campuses and other component units of the university, will operate under a single institutional accreditation from the Southern Association of Colleges and Schools Commission on Colleges (SACSCOC). *Id.* at (5)(c).

<sup>40</sup> Section 10, 2011-63, L.O.F.

<sup>41</sup> Section 12, ch. 2018-10, L.O.F.

<sup>42</sup> Section 1009.215, F.S. The text of s. 1009.215(3), F.S., expires July 1, 2019, and the text of that subsection reverts to that in existence on June 30, 2018, unless acted upon by the Legislature. Section 13, ch. 2018-10, L.O.F.

<sup>43</sup> Section 1011.90(4), F.S.

<sup>44</sup> Office of Program Policy and Government Accountability, *OPPAGA Research on State University System Administrative Positions and Salaries*, House Higher Education Appropriations Subcommittee, Mar. 14, 2017. During that time, the increase in students was 9 percent, faculty was 6 percent, and administrators was 12 percent. *Id.*



from a ratio of 28:1 in 2010 to 24:1 in 2014). However, because of a subsequent increase from 2014 to 2016, the overall ratio from 2010 to 2016 remained unchanged at 28:1.<sup>45</sup>

### III. Effect of Proposed Changes:

CS/SB 1296 modifies requirements relating to Board of Governors (BOG) oversight of the State University System (SUS) and to the operation of state universities. Specifically the bill:

- Requires each state university to annually assess the intellectual freedom and viewpoint diversity at that university using a survey designated by the BOG. The BOG must annually compile and publish the assessments by September 1, beginning in 2020.
- Requires the BOG to match individual student information with state, federal, and Department of Economic Opportunity data sources for auditing and evaluation purposes.
- Modifies data sources for certain metrics in the preeminent state research universities program to specify use of the BOG Accountability Plan.
- Modifies the SUS performance-based incentive to:
  - Establish metrics relating to 2+2 transfer students, students with excess hours, and six-year graduation rates for Pell Grant students, beginning in 2020-2021.
  - Remove the access rate for Pell Grant students metric, effective June 30, 2020.
  - Specify that benchmarks and metrics may not be adjusted after the BOG receives university performance data.
- Requires the BOG Office of Inspector General to annually verify data in the performance-based incentive and preeminent state research university programs.
- Applies restrictions on the transfer of state appropriations to a state university direct-support organizations (DSO) to include the DSO not-for-profit subsidiaries and affiliates.
- Modifies requirements relating to University of Florida (UF) health DSOs by:
  - Applying requirements relating to board of trustees (BOT) appointments to DSO boards to include specified UF health DSOs.
  - Specifying allowable uses of funds transferred from the UF BOT to certain UF health DSOs.
- Requires a reverse transfer agreement for Florida College System institution students who transfer to a state university before earning an associate in arts degree.
- Requires the University of South Florida (USF) St. Petersburg and USF Sarasota/Manatee to maintain branch campus status after the consolidation of accreditation with USF.
- Provides that students in the UF student enrollment pilot program who are eligible for Bright Futures Scholarships may receive a scholarship in the fall term for off-campus and online coursework, subject to conditions.
- Requires the BOG legislative budget request to include 5-year trend information about the number of faculty and administrators as each university, and specifies that the growth rate of administrators may not exceed the growth rate of faculty.

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<sup>45</sup> Office of Program Policy and Government Accountability, *OPPAGA Research on State University System Administrative Positions and Salaries*, House Higher Education Appropriations Subcommittee, Mar. 14, 2017.

## **Powers and Duties of the Board of Governors**

### ***Board of Governors Powers and Duties Relating to Organization and Operation of State Universities***

The bill amends s. 1001.706, F.S., to specify that the BOG must require each institution to conduct an annual assessment of the intellectual freedom and viewpoint diversity at that institution. The bill requires the BOG to select or create an objective, nonpartisan, and statistically valid survey, to be used by each institution, that considers the extent to which competing ideas and perspectives are presented and members of the university community feel safe to express their beliefs and viewpoints on campus and in the classroom. The BOG must annually compile and publish the assessments by September 1, beginning in 2020.

### ***Board of Governors Powers and Duties Relating to Accountability***

The bill amends s. 1001.706, F.S., to also require the BOG to match individual student information with information from state and federal agencies that maintain educational and employment records and to enter into an agreement with the Department of Economic Opportunity (DEO) that allows access to individual reemployment assistance wage reports maintained by the DEO. The agreement must protect individual privacy and provide that student information obtained through the agreement may be used only for the purposes of auditing and evaluating higher education programs offered by state universities.

Currently, to match student data with employment data, the BOG supplies data sets to the Florida Education and Training Placement Information Program (FETPIP)<sup>46</sup> and requests that data be matched with employment information provided by the Florida Department of Economic Opportunity (DEO) at the student level. BOG staff have indicated that the process for requests and negotiation of data sharing agreements can be very time-intensive.<sup>47</sup> The proposed change would require and allow the BOG to independently access DEO employment data and perform student-level matching analyses on demand and as-needed. This would provide BOG staff with more control over the timing and quality of data availability to stakeholders and interested parties as well as an enhanced ability to actively monitor and analyze the relevant data as it applies to student and university performance.<sup>48</sup>

## **Performance Funding**

### ***SUS Performance-Based Incentive***

The bill amends s. 1001.92, to modify the performance-based metrics that determine each university's performance rating and distribution of the annual appropriation by:

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<sup>46</sup> The Florida Education and Training Placement Information Program (FETPIP) is a data collection and consumer reporting system established to provide follow-up data on former students and program participants who have graduated, exited or completed a public education or training program within the State of Florida. Section 1008.39, F.S.

<sup>47</sup> Florida Board of Governors, *2019 Agency Analysis for SB 1926* (Mar. 14, 2019), at 3. Two of the Board's ten Performance Based Funding Metrics (Percent of Bachelor's Graduates Employed (Earning \$25,000+) or Continuing their Education and Median Wages of Bachelor's Graduates Employed Full-time) utilize post-graduation data and currently rely on this external matching process to calculate the distribution of funding. *Id.*

<sup>48</sup> Florida Board of Governors, *2019 Agency Analysis for SB 1926* (Mar. 14, 2019), at 4-5.

- Beginning in fiscal year 2020-2021, adding a 2-year graduation rate for full-time 2+2 associate degree transfer students from FCS institutions, with points deducted for decreases in the enrollment of association in arts degree transfer students.
- Removing the current metric relating to the access rate for Pell Grant students, effective June 30, 2020.
- Beginning in fiscal year 2020-2021, adding a 6-year graduation rate for students eligible for a Pell Grant compared with students not eligible for a Pell Grant, with points deducted for decreases in the enrollment of students who are eligible for a Pell Grant.
- Beginning in fiscal year 2020-2021, adding a percentage of students graduating without excess hours.
- Specifying that benchmarks and data may not be adjusted after the BOG receives university performance data.

Currently the BOG has specified eight performance metrics, with the remaining two metrics a BOG choice and university BOT choice. Beginning in fiscal year 2020-2021, the bill specifies nine performance metrics. Therefore, if the BOG were to maintain a BOG-choice metric, and a university BOT-approved metric in addition to the specified metrics in the bill, this would result in 11 metrics. Maintaining the 100-point scale may require removal of one currently-approved metric, or lowering the maximum score for each metric.<sup>49</sup>

Such changes to the performance metrics may prompt state universities to increase their focus on encouraging FCS transfer students to complete their degree programs in two years. Universities may also increase their focus on encouraging Pell Grant students to complete their degree programs in six years.<sup>50</sup>

Additionally, the bill amends s. 1001.706, F.S., to require the OIG of the BOG to annually verify the accuracy of the data used to implement the SUS Performance-Based Incentive and the preeminent state research universities program. This may help to ensure that data collected for use in performance funding programs is timely and accurate.

### ***Preeminent State Research Universities Program***

The bill amends s. 1001.7065, F.S., to change the sources for data in specified metrics to the BOG Accountability Plan<sup>51</sup> from the BOG Annual Accountability Report, the Integrated Postsecondary Education Data System (IPEDS), or the Top American Research Universities (TARU) report.

The bill also requires the BOG to use its 2019 Accountability Plan for determining a state university's preeminence designation and distributing awards for the 2019-2020 fiscal year appropriations, and specifies that this provision expires July 1, 2020.

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<sup>49</sup> Florida Board of Governors, *2019 Agency Analysis for SB 1296* (Mar. 14, 2019), at 5.

<sup>50</sup> *Id.*, at 7.

<sup>51</sup> Board of Governors, *2018 System Accountability Plan* (June 28, 2018), available at [https://www.flbog.edu/board/doc/accountabilityplan/ap\\_2018/2018\\_System\\_Accountability\\_Plan\\_FINAL\\_2018-06-28.pdf](https://www.flbog.edu/board/doc/accountabilityplan/ap_2018/2018_System_Accountability_Plan_FINAL_2018-06-28.pdf).

### **State University Direct-Support Organizations**

The bill amends s. 1004.28, F.S., to extend the restriction on the transfer of a state appropriation by the board of trustees to any direct-support organization to also include the DSO's not-for-profit subsidiaries and affiliates.

#### ***University of Florida – Shands Teaching Hospital and Clinics, Inc., Shands Jacksonville Medical Center, Inc., and Shands Jacksonville HealthCare, Inc.***

The bill amends s. 1004.41, F.S., to specify that the University of Florida (UF) board of trustees must approve all appointments to the board of directors for Shands Teaching Hospital and Clinics, Inc., Shands Jacksonville Medical Center, Inc., and Shands Jacksonville HealthCare, Inc., and each's not-for-profit subsidiaries, and affiliates. This is consistent with law that requires the state university BOT to approve all appointments to any DSO board of directors and executive committee.<sup>52</sup>

The bill also establishes a restriction on the transfer of state appropriations to specify that, beginning July 1, 2019, the transfer of state appropriations by the UF BOT to Shands Teaching Hospital and Clinics, Inc., Shands Jacksonville Medical Center, Inc., and Shands Jacksonville HealthCare, Inc., may include only funds pledged for capital projects, for the delivery of health care services, as matching dollars for intergovernmental services, or for funding graduate medical education.

### **Statewide Articulation Agreement – Reverse Transfer**

The bill amends s. 1007.23, F.S., to specify that the statewide articulation agreement must specifically provide for a reverse transfer agreement for FCS associate in arts (AA) degree-seeking students who transfer to a state university before earning an AA degree.<sup>53</sup> The bill requires that:

- Students must be awarded an AA degree by the FCS institution upon completion of degree requirements at the state university if the student earned a majority of the credit hours from the FCS institution; and
- State universities must identify students who have completed requirements for the AA degree and transfer credits earned at the state university back to the FCS institution so that the AA degree may be awarded by the FCS institution.

Similarly, in Executive Order 19-31,<sup>54</sup> Governor DeSantis directed the Commissioner of Education (commissioner) to ensure the DOE's 2019 legislative priorities included:

- Adopting a "reverse transfer" policy within universities and state colleges, whereby state colleges issue associates' degrees to students who began their higher education at a state college and transferred to a university prior to completing the necessary credits for an associate's degree, but did not complete their bachelors' degrees at the university. This would

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<sup>52</sup> Section 1004.28(3), F.S.

<sup>53</sup> The BOG reports that, since 2015, Florida Atlantic University, Florida International University, the University of North Florida, and the University of South Florida had all established reverse transfer agreements with feeder Florida College System institutions. Florida Board of Governors, *2019 Agency Analysis for SB 1296* (Mar. 14, 2019), at 4.

<sup>54</sup> Office of the Governor, *Executive Order Number 19-31* (Jan. 30, 2019), available at [https://www.flgov.com/wp-content/uploads/orders/2019/EO\\_19-31.pdf](https://www.flgov.com/wp-content/uploads/orders/2019/EO_19-31.pdf), at 2-3.

be accomplished by having the university transfer back any credits completed by the student to the state college where they started, allowing those who have completed the necessary credits across the system to be awarded an associate's degree from the state college at which they started.

- Requiring all four-year colleges to proactively offer associate's degrees to students who have completed the required 60 hours immediately upon completion of those hours.

A statewide reverse transfer policy may result in additional degrees awarded to students. Students who are not able to complete a bachelor's degree may still benefit from award of an AA degree. In addition, FCS institutions may benefit from additional degrees awarded for completion calculations under the FCS Performance-Based Incentive.

### **University of South Florida Consolidation**

The bill amends s. 1004.335, F.S., to require that the University of South Florida St. Petersburg and the University of South Florida Sarasota/Manatee maintain branch campus status<sup>55</sup> for both campuses after their accreditation is consolidated with the University of South Florida.

### **University of Florida Student Enrollment Pilot Program**

The bill amends s. 1009.215, F.S., to save from reversion<sup>56</sup> current law regarding the pilot program. If the statute reverts to language in existence prior to July 1, 2018, students will not be eligible to receive Bright Futures Scholarships in the fall semester for off-campus or online coursework, if funding is made available for three terms for that academic year for other eligible students. Therefore, students participating in the program may continue to receive this benefit.

### **State University Ratios of Students to Faculty and Administration**

The bill amends s. 1011.90, F.S., to require that the BOG legislative budget request (LBR) must also include 5-year trend information on the number of faculty and administrators at each state university. The BOG must, in regulation, define faculty and administrative personnel classifications and must also report the definitions in the LBR. The bill also specifies that the growth rate of administrators at any state university may not exceed the growth rate of faculty.

The bill takes effect July 1, 2019.

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<sup>55</sup> The Commission on Colleges of the Southern Association of Colleges and Schools defines a "branch campus" as an off-campus instructional site that is geographically apart and independent of the main campus of the institution. A location is independent of the main campus if the location is: permanent; offers courses in educational programs leading to a degree, certificate, or other recognized educational credential; has its own faculty and administrative or supervisory organization; and has its own budgetary and hiring authority. Southern Association of Colleges and Schools, *Merger/Consolidation, Acquisition, Change of Ownership, and Change of Governance, Control, Form, or Legal Status* (June 2010, updated June 2018), available at <http://www.sacscoc.org/subchg/policy/Mergers.pdf>, at 3.

<sup>56</sup> Section 1009.215, F.S., was amended by s. 12, ch. 2018-10, L.O.F. (HB 5003), implementing the 2018-2019 General Appropriations Act. The text of s. 1009.215(3), F.S., expires July 1, 2019, and the text of that subsection reverts to that in existence on June 30, 2018. Section 12, ch. 2018-10, L.O.F.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

## D. State Tax or Fee Increases:

None.

## E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

The modifications to the performance-based incentive metrics may affect the distribution of performance funds to state universities. The impact of these changes is not known.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 1001.706, 1001.7065, 1001.92, 1004.28, 1004.335, 1004.41, 1007.23, 1009.215, 1009.24, and 1011.90. This bill creates one unnumbered section of law.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Education on April 2, 2019:**

The committee substitute:

- Modifies the requirement relating to an assessment of intellectual freedom and viewpoint diversity to require each institution to conduct an annual assessment using a survey created by the Board of Governors (BOG); the BOG must compile assessments and publish annually by September 1, starting in 2020.
- Adds a provision modifying the preeminent state research universities program to
  - Replace data reporting sources to the BOG Accountability Plan from the BOG Annual Accountability Report, Integrated Postsecondary Education Data System (IPEDS), or Top American Research Universities (TARU) report;
  - Remove outdated language regarding the 2018 determination; and
  - Require the BOG to use its 2019 Accountability Plan for the 2019-2020 distribution of performance funds.
- Modifies the State University System Performance-Based Incentive to:
  - Delay the metric regarding 2-year graduation rates for Florida College System (FCS) transfers to fiscal year 2020-2021;
  - Restore the access rate metric, with a repeal date of June 30, 2020;
  - Delay the metric regarding a 6-year graduation rate for Pell students to 2020-2021; and
  - Remove the provision in the bill regarding the 100-point scale and associated methodology for distribution of the state investment.
- Restores the February 15, 2019, deadline for the University of South Florida (USF) accreditation consolidation task force to report to the USF board of trustees (BOT), and the March 15, 2019 deadline for the USF BOT to report to the BOG.
- Expands the allowable transfer of state appropriations by the University of Florida (UF) BOT to Shands Teaching Hospital and Clinic, Shands Jacksonville Medical Center and Shands Jacksonville Healthcare to specify that funds previously restricted to capital projects may also be for the delivery of health care services, as matching dollars for intergovernmental services, or funding graduate medical education.
- Saves from reversion a provision in the UF student enrollment pilot program that authorizes students eligible for a Bright Futures Scholarship to receive a fall award for off-campus and online coursework, subject to conditions.
- Conforms a cross reference relating to preeminent state universities in the authorization for a tuition differential.
- Modifies the state university legislative budget request (LBR) provision in the bill that required 5-year trend information on the ratio of student enrollment to faculty, and instead requires the LBR to include 5-year trend information on the number of faculty and administrators at each university. In addition, the BOG is required to define faculty and administrative personnel classifications for reporting in the LBR. Finally, the committee substitute specifies that the growth rate of administrators may not exceed the growth rate of faculty.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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