

**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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: CS/SB 190

INTRODUCER: Appropriations Committee and Senator Stargel

SUBJECT: Higher Education

DATE: April 22, 2019

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Graf</u>	<u>Sikes</u>	<u>ED</u>	<b>Favorable</b>
2.	<u>Underhill</u>	<u>Elwell</u>	<u>AED</u>	<b>Recommend: Favorable</b>
3.	<u>Underhill</u>	<u>Kynoch</u>	<u>AP</u>	<b>Fav/CS</b>

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 190 modifies the requirements associated with the Florida Bright Futures Scholarship Program (Bright Futures program), and removes restrictions in current law regarding funding for the operation of schools and performance funding for industry certifications. Specifically:

- Regarding the Bright Futures program, the bill:
  - Removes the requirement that students enroll in a Florida postsecondary education institution within 2 years of graduation from high school.
  - Eliminates the 45-credit hour annual restriction in the award of a scholarship.
  - Specifies the eligibility of a student, who enrolls in the pilot program at the University of Florida, to receive an award during the fall term.
  - Codifies the existing State Board of Education rule that allows Florida private school graduates to meet the high school credential-specific eligibility criterion.
  - Extends the annual deadline, from August 31 to December 31, for when a student who graduates from high school midyear must apply for the scholarship.
  - Revises the examination score requirements for award eligibility to align the SAT and ACT examination scores with the SAT national percentile rank specified in law; and requires the Florida Department of Education (DOE) to publish ongoing updates to the examination scores.
- Regarding industry certification performance funding, the bill removes the \$15 million annual cap for both Florida College System institutions and school district workforce education programs.

- Creates the Florida Apprenticeship Grant Program to provide competitive grants to expand and enhance apprenticeship and preapprenticeship programs.
- Expands access to associate in arts (AA) degrees by requiring:
  - A reverse transfer agreement for an FCS institution to award AA degrees to students who transferred to a state university from an FCS institution before earning the AA degree, but who have since completed requirements for the degree.
  - State universities to award an AA degree to students who meet specified requirements and who request the degree.
- Establishes the “2+2” targeted pathway program to provide students guaranteed access to baccalaureate degree programs at state universities.
- Regarding higher education funding, the bill authorizes FCS institutions and state universities to use their carry forward funds each year for operations, for maintenance, or to finish previously funded PECO projects as specified in the bill. Requires approval of each carry forward spending plan by each local board of trustees and the SBE or Board of Governors (BOG), as appropriate.
- Regarding Public Education Capital Outlay (PECO), the bill:
  - Modifies standards for calculation of space needs by FCS institutions and universities including changing utilization rates for classrooms considered fully utilized to 80 percent utilized for 60 hours per week and for teaching lab space to 85 percent utilized for 40 hours a week.
- Requires the SBE and BOG to develop a points-based methodology to rank projects for recommendation for funding, and specifies requirements for colleges and universities based on institution size.
- Requires the Office of Economic & Demographic Research to adopt a PECO appropriation estimate that incorporates an averaged bonding capacity through Fiscal Year 2022-23.
- Authorizes FCS institutions that meet established criteria to construct dormitories using bonds issued by nonpublic entities as part of a public-private partnership between the college and a nonpublic entity.
- Requires the BOG to develop and annually deliver a training program for trustees, which must be completed within 1 year of appointment and reappointment.
- Establishes reporting requirements regarding district and institution compliance with law, to require:
  - The Commissioner of Education to report to the SBE any findings by the Auditor General that a district school board or FCS institution is acting without statutory authority or contrary to state law.
  - The Chancellor of the State University System to report to the BOG any findings by the Auditor General that a state university is acting without statutory authority or contrary to state law.
- Prohibits a FCS institution direct-support organization from giving to a political committee, without exception.

The bill revises a number of different funding processes, limitations, criteria and methodologies; as such, the fiscal impact on state expenditures is indeterminate. See Section V.

The bill takes effect July 1, 2019.

## II. Present Situation:

The present situation for the relevant portions of the bill is discussed under the Effect of Proposed Changes of this bill analysis.

## III. Effect of Proposed Changes:

The Florida Legislature has established mechanisms to fund the operation of schools and programs such as workforce education, and student financial assistance.

### Florida Bright Futures Scholarship Program

#### *Awards and General Conditions*

##### Present Situation

The Florida Bright Futures Scholarship Program (Bright Futures program) was established in 1997<sup>1</sup> as a lottery-funded scholarship program to reward a Florida high school graduate who merits recognition for high academic achievement and who enrolls in a degree program, certificate program, or applied technology program at an eligible Florida public or private<sup>2</sup> postsecondary education institution within three years of graduation from high school.<sup>3</sup> However, this 3-year timeframe is inconsistent with the 2-year timeframe specified in law regarding student eligibility requirements for initial awards.<sup>4</sup> The Bright Futures program consists of three awards:<sup>5</sup>

- Florida Academic Scholarship (FAS);<sup>6</sup>
- Florida Medallion Scholarship (FMS);<sup>7</sup> and
- Florida Gold Seal Vocational Scholarship (FGSV) and Florida Gold Seal CAPE Scholarship.<sup>8</sup>

The DOE is responsible for issuing awards from the Bright Futures program annually.<sup>9</sup> Annual awards may be for up to 45 semester credit hours or the equivalent.<sup>10</sup>

An institution that receives funds from the Bright Futures program must certify to the DOE the amount of funds disbursed to each student and must remit to the department any undisbursed advances within 60 days after the end of regular registration.<sup>11</sup>

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<sup>1</sup> Section 2, ch. 1997-77, L.O.F.

<sup>2</sup> A student who receives any award under the Bright Futures program and is enrolled in a nonpublic postsecondary education institution receives a fixed award calculated by using the average tuition and fee calculation as prescribed by the Department of Education for full-time attendance at a public postsecondary education institution at the comparable level. Section 1009.538, F.S.

<sup>3</sup> Section 1009.53(1), F.S.

<sup>4</sup> Section 1002.531(2)(c), F.S.

<sup>5</sup> Section 1009.53(2), F.S.

<sup>6</sup> Section 1009.534, F.S.

<sup>7</sup> Section 1009.535, F.S.

<sup>8</sup> Section 1009.536, F.S.

<sup>9</sup> Section 1009.53(5), F.S.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*, at (b).

### Effect of Proposed Changes

The bill updates Florida law to indicate FGSV and Florida Gold Seal CAPE scholarships as two distinct Bright Futures program scholarships. Accordingly, the bill reflects four Bright Futures program awards:

- FAS;
- FMS;
- FGSV; and
- Florida Gold Seal CAPE Scholarship (FGSC).

The bill also removes obsolete provisions that applied to students who were initially eligible for an FGSV award before the 2012-2013 academic year.

The bill also eliminates the 45-credit hour annual restriction in the award of Bright Futures program scholarships. As a result, eligible students would receive Bright Futures funding for all credit hours enrolled during the academic year, which may reduce the total time for such students to earn a degree or credential.

Finally, the bill specifies that the 60-day timeframe for the institutions to remit to the DOE any undisbursed advances applies only to the fall and spring terms. For the summer term, the bill specifies a 30-day timeframe after the end of the term for the institutions to remit any undisbursed advances to the department.

### ***Summer Term Award***

#### Present Situation

A student may use a Bright Futures Program FAS award for summer term enrollment beginning in the 2018 summer term, as funded by the Legislature.<sup>12</sup> A student may use a Bright Futures Program FMS award for summer term enrollment beginning in the 2019 summer term, as funded by the Legislature.<sup>13</sup> A student may use other Bright Futures program awards for summer term enrollment, if funded by the Legislature.<sup>14</sup> In the 2018-2019 fiscal year, the Legislature appropriated \$41,202,767 for 2019 summer term Bright Futures Program FAS awards at an amount equal to 100 percent of tuition and applicable fees.<sup>15</sup> Additionally, the Legislature appropriated \$28,416,515 for 2019 summer term Bright Futures Program awards for FMS.<sup>16</sup>

Subject to approval by the Board of Governors of the State University System of Florida (BOG), the University of Florida may plan and implement a student enrollment pilot program for the spring and summer terms for the purpose of aligning on-campus student enrollment and the availability of instructional facilities.<sup>17</sup> In 2018, the Legislature clarified in the Implementing Bill<sup>18</sup> that students who are enrolled in the pilot program and who are eligible to receive Bright

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<sup>12</sup> Section 1009.53(9), F.S.

<sup>13</sup> *Id.*

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

<sup>15</sup> Specific Appropriation 4, 2018-9, L.O.F. and s. 27, ch. 2018-4, L.O.F.

<sup>16</sup> Section 27, ch. 2018-4, L.O.F.

<sup>17</sup> Section 1009.215(1), F.S.

<sup>18</sup> Section 12, ch. 2018-10, L.O.F. The Implementing Bill is effective for one fiscal year only. The Florida Senate, *Glossary*, <https://www.flsenate.gov/Reference/Glossary> (last visited March 2, 2019).

Futures program awards must be eligible to receive the scholarship award for attendance during the spring and summer terms.<sup>19</sup> This student cohort must also be eligible to receive Bright Futures program awards for the fall semester term to be used for off-campus or online coursework, if Bright Futures program funding is provided by the Legislature for three terms for that academic year for other eligible students.<sup>20</sup> In the 2018-2019 fiscal year, the Legislature appropriated \$636,712 for these students.<sup>21</sup>

### Effect of Proposed Changes

The bill codifies the 2018 Implementing Bill provision to specify that a Bright Futures recipient who enrolls in the pilot program at the University of Florida is eligible to receive a Bright Futures award during the fall term for expenses associated with off-campus or online coursework, in addition to the spring and summer terms, if funding is provided by the Legislature for three terms for other eligible students during that academic year. Accordingly, subject to funding by the Legislature, the bill allows students who enroll in the pilot program at the University of Florida to receive Bright Futures program awards during the three academic terms, similar to other students eligible for such awards.

### ***Initial Award Eligibility Criteria***

#### Present Situation

To be eligible for an initial Bright Futures award, a student must:<sup>22</sup>

- Be a Florida resident in accordance with the law<sup>23</sup> and rules of the State Board of Education (SBE).
- Earn a standard Florida high school diploma<sup>24</sup> or a high school equivalency diploma<sup>25</sup> unless:
  - The student completes a home education program;<sup>26</sup> or
  - The student earns a high school diploma from a non-Florida school while living with a parent or guardian who is on military or public service assignment away from Florida.
- Be accepted by and enroll in an eligible Florida public or independent postsecondary education institution.
- Be enrolled for at least 6 semester credit hours or the equivalent in quarter hours or clock hours.
- Not have been found guilty of, or entered a plea of nolo contendere to, a felony charge, unless the student has been granted clemency by the Governor and Cabinet sitting as the Executive Office of Clemency.
- Apply for a scholarship from the program by high school graduation. However, a student who graduates from high school midyear must apply no later than August 31 of the student's graduation year in order to be evaluated for and, if eligible, receive an award for the current academic year.

<sup>19</sup> Section 1009.215(3), F.S., as amended by s.12, ch. 2018-10, L.O.F.

<sup>20</sup> *Id.*

<sup>21</sup> Specific Appropriation 66D, ch. 2018-9, L.O.F.

<sup>22</sup> Section 1009.531(1), F.S.

<sup>23</sup> Sections 1009.531(1)(a) and 1009.40, F.S.

<sup>24</sup> The standard high school diploma must be earned pursuant to ss. 1002.3105(5), 1003.4281, or 1003.4282, F.S. Section 1009.531(1)(b), F.S.

<sup>25</sup> The high school equivalency diploma must be earned pursuant to s. 1003.435, F.S. Section 1009.531(1)(b), F.S.

<sup>26</sup> The home education program must be completed in accordance with s. 1002.41, F.S. Section 1009.531(1)(b)1., F.S.

### Effect of Proposed Changes

The bill codifies the existing SBE rule<sup>27</sup> that allows students who earn a high school diploma from a Florida private high school, operating in accordance with the law,<sup>28</sup> to meet the high school credential-specific eligibility criterion.

In addition, the bill extends the annual deadline, from August 31 to December 31, for when a student who graduates from high school midyear must apply for the Bright Futures program scholarships. A midyear graduate is a student who graduates September 1 through January 31 of an academic year and seeks a Bright Futures Program scholarship disbursement for the spring academic term after graduation.<sup>29</sup> Accordingly, the bill provides more time for midyear graduates to apply for the Bright Futures program award.

The bill also removes obsolete provisions that applied to students who graduated from high school before the 2010-2011 academic year and students who graduated from high school during the 2010-2011 and 2011-2012 academic years.

### ***Initial Award Term***

#### Present Situation

A student graduating from high school in the 2012-2013 academic year and thereafter is eligible to accept an initial award for two years following high school graduation and to accept a renewal award for five years following high school graduation.<sup>30</sup> A student who applies for an award by high school graduation and who meets all other eligibility requirements, but who does not accept his or her award, may reapply during subsequent application periods up to two years after high school graduation.<sup>31</sup>

Additionally, Florida law specifies that:<sup>32</sup>

- For a student who enlists in the U.S. Armed Forces immediately after completion of high school, the 2-year eligibility period for his or her initial award and the 5-year renewal period must begin upon the date of separation from active duty.
- For a student who is receiving a Bright Futures program award and discontinues his or her education to enlist in the U.S. Armed Forces, the remainder of his or her 5-year renewal period must commence upon the date of separation from active duty.
- For a student who is unable to accept an initial award immediately after completion of high school due to a full-time religious or service obligation lasting at least 18 months, the 2-year eligibility period for his or her initial award and the 5-year renewal period begin upon the completion of his or her religious or service obligation.

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<sup>27</sup> Rule 6A-20.028, F.A.C

<sup>28</sup> Section 1002.42, F.S.

<sup>29</sup> Florida Department of Education, *2018-19 Bright Futures Student Handbook* (Nov. 5, 2018), available at <https://www.floridastudentfinancialaidsg.org/PDF/BFHandbookChapter1.pdf>, at 11.

<sup>30</sup> Section 1009.531(2)(c), F.S.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

A student who wishes to qualify for a Bright Futures program award, but who does not meet all of the requirements for that level of award, may, nevertheless, receive the award if the student's school principal or the district school superintendent verifies that the deficiency is caused by the fact that school district personnel provided inaccurate or incomplete information to the student.<sup>33</sup>

### Effect of Proposed Changes

The bill changes the 2-year timeframe for the eligibility to receive a Bright Futures program initial award to specify student eligibility to receive an award for five years following high school graduation. Specifically, the bill:

- Specifies that a student who earns the award may accept funding at any time during the five year eligibility period.
- Maintains current law for a student who enlists in the U.S. Armed Forces immediately after completion of high school, the 5-year timeframe for the eligibility to receive a Bright Futures program award must begin after the date of separation from active duty.
- Specifies that for a student who is unable to accept an initial award owing to a full-time religious or service obligation lasting at least 18 months, the obligation must begin within one year after completion of high school. The bill maintains current law that specifies that the 5-year timeframe for the eligibility to receive a Bright Futures program award must begin after the completion of the student's religious or service obligation.

The bill clarifies that a student who is permitted additional time to meet eligibility criteria may receive funding for the full academic year, including the fall term, only after the student completes the requirements.

### ***Renewal Award Eligibility Criteria***

#### Present Situation

To be eligible to renew a Bright Futures program award, a student must:<sup>34</sup>

- Earn at least 24 semester credit hours or the equivalent in the last academic year in which the student earned a scholarship if the student was enrolled full time, or a prorated number of credit hours as determined by the Department of Education (DOE or department) if the student was enrolled less than full time for any part of the academic year.
- Maintain the cumulative grade point average required by the scholarship program, with some exceptions.<sup>35</sup>
- Reimburse or make satisfactory arrangements to reimburse the institution for the award amount received for courses dropped after the end of the drop and add period or courses from which the student withdraws after the end of the drop and add period, unless the student has received an exception pursuant to Florida law.<sup>36</sup>

A student who receives an initial award during the spring term must be evaluated for scholarship renewal after the completion of a full academic year, which begins with the fall term.<sup>37</sup> A student

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<sup>33</sup> Section 1009.531(5), F.S.

<sup>34</sup> Section 1009.532(1), F.S.

<sup>35</sup> *Id.*, at (b), F.S.

<sup>36</sup> Section 1009.53(11), F.S.

<sup>37</sup> Section 1009.532(4), F.S.

who lost eligibility for the Bright Futures program award but earned the requirements in a subsequent academic year may restore the award.<sup>38</sup>

#### Effect of Proposed Changes

The bill modifies the eligibility criteria for renewing a Bright Futures program award by:

- Specifying for the Florida Gold Seal CAPE award, a student must maintain the equivalent of a cumulative grade point average of 2.75 on a 4.0 scale with an opportunity for restoration one time pursuant to law. This provision is consistent with the Florida Gold Seal Vocational award.
- Adding a criterion that specifies that a student who receives an award and is subsequently determined ineligible due to updated grade or hour information, may not receive a disbursement for a subsequent term, unless the student successfully restores the award.

Additionally, the bill removes obsolete provisions that applied to students who were initially eligible for a Bright Futures program award before the 2010-2011 academic year.

#### ***School District Responsibility***

##### Present Situation

Each school district must annually provide to each high school student a complete and accurate Bright Futures program Evaluation Report and Key.<sup>39</sup> The report must be disseminated at the beginning of each school year.<sup>40</sup>

##### Effect of Proposed Changes

The bill modifies school districts' responsibilities to specify that the requirement associated with providing Bright Futures program Evaluation Report and Key to high school students applies only to students in grades 11 and 12. Typically, students entering grade 9 or 10 do not have SAT or ACT scores and sufficient volunteer service work hours. By focusing responsibilities regarding transcript evaluations for students in grades 11 and 12, the bill may reduce the administrative costs for school districts and the DOE.

#### ***State Board of Education Responsibility***

##### Present Situation

The SBE must publicize the examination score required for a student to be eligible for a Bright Futures Program FAS and FMS award. The required scores are specified in Florida statute as follows.<sup>41</sup>

- For an FAS award, high school students must earn an SAT score of 1290 which corresponds to the 89th SAT percentile rank or a concordant ACT score of 29.
- For an FMS award, high school students must earn an SAT score of 1170 which corresponds to the 75th SAT percentile rank or a concordant ACT score of 26.

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<sup>38</sup> Rule 6A-20.028(5), F.A.C.

<sup>39</sup> Section 1009.531(4), F.S.

<sup>40</sup> *Id.*

<sup>41</sup> Section 1009.531(6)(a)-(b), F.S.

Florida law specifies that the SAT percentile ranks and corresponding SAT scores specified in law are based on the SAT percentile ranks for 2010 college-bound seniors in critical reading and mathematics as reported by the College Board.<sup>42</sup> The next highest SAT score is used when the percentile ranks do not directly correspond.<sup>43</sup>

The College Board redesigned the SAT in March 2016. The first administration of the redesigned SAT was in spring 2016.<sup>44</sup> The SAT scores specified in law no longer correspond to the SAT percentile ranks for the Bright Futures Program FAS and FMS awards, which were updated in 2010<sup>45</sup> and 2011,<sup>46</sup> respectively, and are not concordant to the ACT examination scores.

### Effect of Proposed Changes

The bill maintains the SBE responsibilities regarding publicizing the examination scores required for a student to be eligible for a Bright Futures Program FAS and FMS award. However, the bill revises the examination scores to align the new redesigned SAT examination scores with the statutory percentile ranks and the ACT examination scores. The bill specifies that:

- To be eligible for an FAS award, a high school student who graduates:
  - In the 2018-2019 academic year or in the 2019-2020 academic year, must achieve an SAT combined score of 1290 or an ACT composite score of 29.
  - In the 2020-2021 academic year and thereafter, must achieve the required examination scores published by the DOE, which must not be set lower than the 89<sup>th</sup> national percentile on the SAT.
- To be eligible for an FMS award, a high school student who graduates:
  - In the 2018-2019 academic year or in the 2019-2020 academic year, must achieve an SAT combined score of 1170 or an ACT composite score of 26.
  - In the 2020-2021 academic year and thereafter, must achieve the required examination scores published by the DOE, which must not be set lower than the 75<sup>th</sup> national percentile on the SAT.

### ***Department of Education Responsibility***

#### Present Situation

Florida law currently specifies the required SAT and ACT scores and the corresponding SAT percentile ranks for Bright Futures Program FAS and FMS eligibility. The DOE must administer the Bright Futures program in accordance with the SBE rules and procedures.<sup>47</sup> However, such responsibilities do not include adjusting the alignment with the minimum SAT and ACT scores and the corresponding SAT percentile ranks specified in law.

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<sup>42</sup> Section 1009.531(6)(c), F.S.

<sup>43</sup> *Id.*

<sup>44</sup> College Board. *The Redesigned SAT*, available at <https://www.collegeboard.org/pdf/redesigned-sat/sat-presentation-campus-colleagues>, at 2.

<sup>45</sup> Section 13, ch. 2010-155, L.O.F.

<sup>46</sup> Section 17, ch. 2011-63, L.O.F.

<sup>47</sup> Section 1009.53(3), F.S.

### Effect of Proposed Changes

SAT percentile ranks may change from one year to another based on student performance. Accordingly, the bill adds to the DOE's responsibilities regarding initial eligibility determination for a Florida Bright Futures Scholarship to require the department to develop a method for determining the required examination scores which incorporates all of the following:

- The minimum required SAT score for the FAS must be set no lower than the 89th national percentile on the SAT. The DOE may adjust the required SAT score only if the required score drops below the 89th national percentile, and any such adjustment must be applied to the bottom of the SAT score range that is concordant to the ACT.
- The minimum required SAT score for the FMS must be set no lower than the 75th national percentile on the SAT. The DOE may adjust the required SAT score only if the required score drops below the 75th national percentile, and any such adjustment must be made to the bottom of the SAT score range that is concordant to the ACT.
- The required ACT scores must be made concordant to the required SAT scores, using the latest published national concordance table developed jointly by the College Board and ACT, Inc.

Additionally, the bill requires the DOE to publish, before the beginning of each school year, any changes to the examination score requirements that apply to students graduating in the next two years.

The ongoing updates to the SAT and ACT examination scores may assist with aligning:

- The SAT examination score with the ACT examination score; and
- The SAT and ACT examination score with the SAT national percentile ranks specified in Florida law.

The alignment of the examination scores with the percentile ranks may help with avoiding confusion about any inconsistency between examination scores and percentile ranks.

### **Funds for Workforce Education**

#### Present Situation

Florida law provides performance funding for industry certifications to Florida College System (FCS) institutions and school district workforce education programs.<sup>48</sup> Specifically, each FCS institution and each school district must be provided \$1,000 for each industry certification earned by a student.<sup>49</sup>

The maximum amount of performance funding which may be appropriated annually to FCS institutions and school district workforce education programs is limited to \$15 million each.<sup>50</sup>

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<sup>48</sup> Section 1011.80((6)(b) and 1011.81(2)(c), F.S.

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

### Effect of Proposed Changes

The bill removes the cap on the maximum amount of performance funding for industry certifications to FCS institutions and school district workforce education programs. As a result, FCS institutions and school districts may be fully funded for earned certifications, subject to legislative appropriation.

### **Apprenticeship and Preapprenticeship Programs**

The Florida Legislature has established educational opportunities for young people in the state to be trained for trades, occupations, and professions suited to their abilities.<sup>51</sup>

#### ***Present Situation***

The National Apprenticeship Act (Act) of 1937 authorized the Department of Labor to formulate and promote the furtherance of labor standards necessary to safeguard the welfare of apprentices, to extend the application of such standards by encouraging their inclusion in contracts of apprenticeship, to bring together employers and labor for the formulation of programs of apprenticeship, and to cooperate with state agencies engaged in the formulation and promotion of standards of apprenticeship.<sup>52</sup>

Nationally, registered apprenticeship programs increased by 56 percent between 2013 and 2018.<sup>53</sup> There are over 585,000 apprentices currently obtaining the skills they need to succeed while earning the wages they need to build financial security.<sup>54</sup> Over 71,000 participants graduated from apprenticeship programs in fiscal year 2018, and over 47,000 veterans nationwide are participating in an apprenticeship program.<sup>55</sup>

#### Apprenticeship Programs

An apprenticeship program is an organized course of instruction, registered and approved by the DOE,<sup>56</sup> which contains all terms and conditions for the qualifications, recruitment, selection, employment, and training of apprentices<sup>57</sup> including such matters as the requirements for a

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<sup>51</sup> Chapter 446, F.S.

<sup>52</sup> United States Department of Labor, *Apprenticeship Programs, Labor Standards for Registration, Amendment of Regulations*, Federal Register, Vol. 73, No. 210, amending 29 CFR Part 29, available at <https://doleta.gov/OA/pdf/FinalRule29CFRPart29.pdf> (Last visited Mar. 27, 2019). See also 29 U.S.C. s. 50 (1937), as amended.

<sup>53</sup> United States Department of Labor, *Apprenticeship: Data and Statistics*, [https://www.doleta.gov/oa/data\\_statistics.cfm](https://www.doleta.gov/oa/data_statistics.cfm) (last visited March 27, 2019).

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> Registration of an apprenticeship program means acceptance and recording of such program by the Department as meeting the basic standards and requirements of the Department for approval of such program. Approval is evidenced by a certificate or other written indicia. Fla. Admin. Code R. 6A-23.002(18) (2019) Eligibility and requirements for registration are established in State Board of Education rule. Fla. Admin. Code R. 6A-23.003 (2019).

<sup>57</sup> An “apprentice” means “a person at least 16 years of age who is engaged in learning a recognized skilled trade through actual work experience under the supervision of journeyman craftsmen, which training should be combined with properly coordinated studies of technical and supplementary subjects, and who has entered into a written agreement, which may be cited as an apprentice agreement, with a registered apprenticeship sponsor who may be either an employer, an association of employers, or a local joint apprenticeship committee.” Section 446.021(2), F.S. A “journeyman means” “a person working in

written apprenticeship agreement.<sup>58</sup> The DOE is responsible for administering, facilitating, and supervising registered apprenticeship programs.<sup>59</sup> Florida law specifies general duties of the DOE for apprenticeship training.<sup>60</sup> Presently, there are 223 registered apprenticeship programs and 11,879 active registered apprentices located statewide.<sup>61</sup>

### Preapprenticeship Programs

A preapprenticeship program is an organized course of instruction in the public school system or elsewhere, which is designed to prepare a person 16 years of age or older to become an apprentice<sup>62</sup> and is approved by and registered with the DOE and sponsored by a registered apprenticeship program.<sup>63</sup> The DOE, under regulations established by the state board, may administer the provisions in law<sup>64</sup> that relate to preapprenticeship programs in cooperation with district school boards and community college district boards of trustees.<sup>65</sup> Additionally, Florida law requires cooperation between district school boards, community college district boards of trustees, and registered program sponsors, and specifies responsibilities for such entities regarding apprenticeship and preapprenticeship programs.<sup>66</sup> Presently, there are 29 preapprenticeship programs and 647 preapprentices located statewide.<sup>67</sup>

### *Effect of Proposed Changes*

Subject to appropriation, the bill creates the Florida Apprenticeship Grant (FLAG) Program to provide grants to high schools, career centers, charter technical career centers, FCS institutions, and other entities authorized to sponsor apprenticeship or preapprenticeship programs for the purpose of expanding existing programs and establishing new apprenticeship or preapprenticeship programs. The bill:

- Requires program applications to contain projected enrollment and cost data for new and expanded apprenticeship program.
- Requires the DOE to give priority to apprenticeship programs with demonstrated regional demand.
- Specifies that grant funds:
  - May be used for instructional equipment, supplies, personnel, student services, and other expenses associated with the creation or expansion of an apprenticeship program.
  - May not be used for recurring instructional costs or indirect costs.
- Requires grant recipients to submit quarterly reports in a format prescribed by the DOE.

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an apprenticeable occupation who has successfully completed a registered apprenticeship program or who has worked the number of years required by established industry practices for the particular trade or occupation.” Section 446.021(4), F.S.

<sup>58</sup> Section 446.021(6), F.S. An apprenticeship agreement may not operate to invalidate any apprenticeship provision in a collective agreement between employers and employees which establishes higher apprenticeship standards. Section 446.081(1), F.S.

<sup>59</sup> Section 446.041, F.S.

<sup>60</sup> Section 446.032, F.S.

<sup>61</sup> Email, Florida Department of Education (March 15, 2019).

<sup>62</sup> A “preapprentice” means any person 16 years of age or over engaged in any course of instruction in the public school system or elsewhere, which course is registered as a preapprenticeship program with the department. Section 446.021(1), F.S.

<sup>63</sup> Section 446.021(5), F.S.

<sup>64</sup> Sections 446.011-446.092, F.S.

<sup>65</sup> Section 446.052(2), F.S.

<sup>66</sup> Section 446.052, F.S.

<sup>67</sup> Email, Florida Department of Education (March 19, 2019).

- Authorizes the SBE to adopt rules to administer the FLAG Program.

The FLAG program may expand apprenticeship and preapprenticeship opportunities for students and expand the available workforce in regions with high demand for specified industries.

## **Reverse Transfer**

### ***Present Situation***

In Fall 2017, 16,312 FCS students transferred to a state university with an AA degree, and 4,589 transferred with no degree.<sup>68</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>69</sup> The agreement requires state university boards of trustees, FCS boards of trustees, 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>70</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>71</sup>

In 2012, Florida and 15 states joined the Credit When It's Due<sup>72</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>73</sup>

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<sup>68</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>69</sup> Section 1007.23(1), F.S.

<sup>70</sup> Rule 6A-10.024(1), F.A.C.

<sup>71</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>.

<sup>72</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. CWID represents a joint venture of several foundations: Lumina Foundation, The Kresge Foundation, the Bill & Melinda Gates Foundation, USA Funds, The Helios Education Foundation, and Greater Texas Foundation. The following 15 states have been awarded CWID grants: Arkansas, Colorado, Florida, Georgia, Hawaii, Maryland, Michigan, Minnesota, Missouri, New York, North Carolina, Ohio, Oregon, Tennessee, and Texas. 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>73</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>.

### Associate in Arts Degrees at State Universities

Florida law 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.<sup>74</sup>

- The minimum requirements for college-level communication and computation skills adopted by the SBE;<sup>75</sup>
- Sixty academic semester hours or the equivalent within a degree program area; and
- Thirty-six semester hours in general education courses in the subject areas of communication, mathematics, social sciences, humanities, and natural sciences, consistent with the general education requirements specified in the articulation agreement.<sup>76</sup>

### *Effect of Proposed Changes*

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 AA degree-seeking students who transfer to a state university before earning an AA degree. The bill establishes requirements for the student and state university as follows:

- The student must have earned more than 30 credit hours from an FCS institution.
- The state university must identify students who have met the requirements for an AA degree, and, upon student consent, transfer credits earned at the state university to the FCS institution so that the FCS institution may award the AA degree.

In addition, the bill establishes requirements for state universities to notify students of the option for the state university to award an AA degree. The university must:

- During orientation, notify students of the criteria and process for requesting an AA degree.
- Notify students upon their completion of AA degree requirements.
- Beginning with students enrolled at a university in the 2018-2019 academic year and thereafter, notify any student who has not graduated from the university and who has met the AA degree requirements, but has not reenrolled in the subsequent fall semester and thereafter, of the option to request an AA degree.

The bill provides a program similar to that of Executive Order 19-31,<sup>77</sup> in which Governor DeSantis directed the 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 be accomplished by having the university transfer back any credits completed by the student

<sup>74</sup> Section 1007.25(11), F.S.

<sup>75</sup> Rule 6A-10.0316, F.A.C. The State Board of Education is directed to adopt, in consultation with the Board of Governors, and from time to time modify, minimum and uniform standards of college-level communication and computation skills generally associated with successful performance and progression through the baccalaureate level and to identify college-preparatory high school coursework and postsecondary-level coursework that prepares students with the academic skills necessary to succeed in postsecondary education. Section 1001.02(2)(d), F.S.

<sup>76</sup> Section 1007.23(1)(f), F.S.

<sup>77</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.

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.

## **2+2 Targeted Pathway Articulation Agreements**

### ***Present Situation***

The SBE and the BOG are required to enter into a statewide articulation agreement to preserve Florida's "2+2" system of articulation, facilitate the seamless articulation of student credit across and among Florida's education entities, and reinforce the articulation and access provisions<sup>78</sup> specified in law.<sup>79</sup>

The articulation agreement must require each student who is seeking an associate in arts (AA) degree to indicate a baccalaureate degree program offered by an institution of interest by the time the student earns 30 semester hours.<sup>80</sup> Additionally, the articulation agreement must provide that every AA graduate of a Florida College System (FCS) institution has met all general education requirements and must be granted admission to the upper division, with certain exceptions,<sup>81</sup> of a state university or an FCS institution that offers a baccalaureate degree.<sup>82</sup> However, eligibility for admission to a state university does not guarantee a transfer student admission to the specific university or degree program that the student chooses.<sup>83</sup>

Of the 57,864 FCS students who graduated with an AA degree in 2016-2017, 35,441 (61 percent) applied as a transfer student to the SUS. Of those that applied as a transfer student to the SUS, 30,491 (86 percent) students were admitted, and 25,181 (71 percent) students enrolled at a state university.<sup>84</sup>

### ***Effect of Proposed Changes***

The bill amends s. 1007.23, F.S., to establish the "2+2" targeted pathway program to strengthen Florida's "2+2" system of articulation and improve student retention and on-time graduation. Specifically, the bill requires that by the 2019-2020 academic year:

<sup>78</sup> See Chapter 1007, F.S.

<sup>79</sup> Section 1007.23(1), F.S.

<sup>80</sup> Section 1007.23(3), F.S.

<sup>81</sup> Section 1007.23(2)(a), F.S., exceptions include limited access programs, teacher certification programs, and those requiring an audition.

<sup>82</sup> *Id.*

<sup>83</sup> Board of Governors Regulation 6.004(2)(b).

<sup>84</sup> Board of Governors, *Overview of 2+2 Transfer Students in the State University System* (June 28, 2018), available at [https://www.flbog.edu/documents\\_meetings/0272\\_1142\\_8634\\_12.6.2%20TWO%20+2\\_06b\\_Transfer%20Student%20Data\\_narrative.pdf](https://www.flbog.edu/documents_meetings/0272_1142_8634_12.6.2%20TWO%20+2_06b_Transfer%20Student%20Data_narrative.pdf)

- Each college must execute at least one “2+2” targeted pathway articulation agreement with one or more state universities.
- Each state university must execute at least one “2+2” targeted pathway articulation agreement with one or more colleges.

The bill requires the “2+2” targeted pathway articulation agreement to provide students who graduate with an associate in arts (AA) degree and who meet specified requirements guaranteed access to the state university and a baccalaureate degree program at that university, in accordance with the terms of the agreement. The bill also specifies related requirements for students, state universities, and the governing boards for colleges and state universities.

Specifically, the bill:

- Establishes student eligibility criteria to participate in a “2+2” targeted pathway program to require that a student:
  - Enroll in the program before completing 30 credit hours;
  - Complete an AA degree; and
  - Meet the state university’s transfer requirements.
- Establishes requirements for state universities that execute “2+2” targeted pathway articulation agreements with their partner college to require a state university to:
  - Establish a 4-year on-time graduation plan for a baccalaureate degree program, including a plan for students to complete AA degree programs, general education courses, common prerequisite courses, and elective courses;
  - Advise students enrolled in the program about the university’s transfer and degree program requirements; and
  - Provide students access to academic advisors and campus events, and guarantee admittance to the state university and degree program of the state university, in accordance with the terms of the agreement.
- Requires the SBE and the BOG to collaborate to eliminate barriers in executing “2+2” targeted pathway articulation agreements.

The “2+2” targeted pathway program is consistent with recent efforts by state universities to strengthen regional articulation. The statewide “2+2” articulation agreement established in law<sup>85</sup> does not require a 4-year graduation plan and does not guarantee access to a specific university or degree program. To provide students a path to on-time graduation in four years with a baccalaureate degree, all Florida College System institutions have partnered with at least one state university to provide an articulation pathway program.<sup>86</sup>

For instance, the University of South Florida (USF) “FUSE” program offers students guaranteed admission to a USF System institution and specified degree program.<sup>87</sup> The FUSE program creates an academic pathway that provides a map for taking required courses, advising at USF and the partner institution regarding university requirements, a specially-designed orientation

<sup>85</sup> Section 1007.23(2), F.S.

<sup>86</sup> Board of Governors, *Florida Statewide 2+2 Articulation Enhancement Programs & Partnerships at State Universities* (March 1, 2018), available at [https://www.flbog.edu/documents\\_meetings/0270\\_1121\\_8484\\_6.4.2%20TWO%20+2\\_04b\\_Enhancement%20Programs\\_March%202018\\_2\\_27\\_18\\_CE\\_JMI.pdf](https://www.flbog.edu/documents_meetings/0270_1121_8484_6.4.2%20TWO%20+2_04b_Enhancement%20Programs_March%202018_2_27_18_CE_JMI.pdf).

<sup>87</sup> University of South Florida, *Office of Admissions*, <http://www.usf.edu/admissions/transfer/fuse/index.aspx>, (last visited Mar. 9, 2019).

session for 2+2 students at the beginning of the program, and access to USF facilities and events.<sup>88</sup> The “DirectConnect to UCF” program guarantees admission to the University of Central Florida (UCF) with an associate degree from a partner institution, offers university advising to develop an academic plan, and provides access to UCF campuses for services and events.<sup>89</sup>

## **Higher Education Funding – Carry Forward Funds**

### ***Present Situation***

At the end of each fiscal year, state operational funds for state agencies and departments revert to the fund from which they were appropriated for reappropriation by the Legislature.<sup>90</sup> However, unexpended amounts in any fund in a university current year operating budget are carried forward and included as the balance forward for that fund in the approved operating budget for the following year.<sup>91</sup> Although not explicit in statute, standard practice has allowed fund balance retention by FCS institutions.

Both FCS institutions and state universities must maintain a reserve equal to five percent of their operating budget. If at any time the reserve goes below five percent, the president of the FCS institution or state university must provide written notification to the SBE or BOG, respectively.<sup>92</sup> As of August 2018, the state universities had \$814 million in carryforward funds.<sup>93</sup> Of that amount, \$246 million was allocated to meet the five percent reserve requirement.<sup>94</sup>

Pursuant to s. 11.45, F.S., the Auditor General conducts annual financial audits<sup>95</sup> of the 12 state universities and 28 state colleges. The financial audits require an examination of financial statements in order to express an opinion on the fairness with which the financial statements are presented in conformity with generally accepted accounting principles and an examination to determine whether operations are properly conducted in accordance with legal and regulatory requirements.<sup>96</sup>

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<sup>88</sup> *Id.*

<sup>89</sup> University of Central Florida, *Direct Connect to UCF*, <http://directconnecttoucf.com/>, (last visited Mar. 9, 2019).

<sup>90</sup> Section 216.301(1)(a), F.S.

<sup>91</sup> Section 1011.45, F.S.

<sup>92</sup> Section 1011.84(3)(e), F.S. and Section 1011.40(2), F.S.

<sup>93</sup> Board of Governors, *Board of Governors Proposal, Strategic Deployment of University Carryforward* (Nov. 8, 2018), available at [https://www.flbog.edu/documents\\_meetings/0290\\_1177\\_8948\\_9.3.2.pdf](https://www.flbog.edu/documents_meetings/0290_1177_8948_9.3.2.pdf).

<sup>94</sup> *Id.*

<sup>95</sup> A financial audit is an examination of financial statements in order to express an opinion on the fairness with which they are presented in conformity with generally accepted accounting principles and an examination to determine whether operations are properly conducted in accordance with legal and regulatory requirements. Financial audits must be conducted in accordance with auditing standards generally accepted in the United States and government auditing standards as adopted by the Board of Accountancy. When applicable, the scope of financial audits must encompass the additional activities necessary to establish compliance applicable federal law. Section 11.45(1)(c), F.S.

<sup>96</sup> Section 11.45(2)(c), F.S.

### *Effect of Proposed Changes*

#### Florida College System Institution Carry Forward Funds

The bill creates s. 1013.841, F.S. to codify the current practice of allowing FCS institutions to carry forward funds. The bill requires minimum carry forward balances that must be maintained dependent on FCS institution size, as follows:

- Each FCS institution with a final FTE of less than 15,000 in the prior year must maintain a minimum carry forward balances of at least 5 percent of its state operating budget. If an FCS institution fails to maintain a 5 percent balance in state operating funds, the president must provide written notification to the SBE.
- Each FCS institution with a final FTE of 15,000 or greater for the prior year must maintain a minimum carry forward balance of at least 7 percent of its state operating budget. If an FCS institution fails to maintain a 7 percent balance in state operating funds, the president must provide written notification to the SBE.

In addition, the bill provides that FCS institutions retaining carry forward balances in excess of the minimum are required to submit spending plans for those excess balances. The spending plans for FCS institutions with less than 15,000 FTE are required to include all carry forward funds in excess of the five percent minimum and are required to be submitted to the institution's board of trustees for approval and publication by September 1, 2019, and each September 1 thereafter. The bill does not specify limitations on expenditures included in the carry forward spending plan for FCS institutions with less than 15,000 FTE.

Spending plans for FCS institutions with more than 15,000 FTE are required to include all carry forward funds in excess of the 7 percent minimum and are required to be submitted to the institution's board of trustees for approval and publication annually by September 1. Approved plans are also required to be submitted to the SBE for publication and review annually by October 1, 2019, and each October 1 thereafter. The bill requires the carry forward spending plan to include the estimated cost per planned expenditure and a timeline for completion of the expenditure. Authorized expenditures in a carry forward spending plan may include:

- Commitment of funds to a public education capital outlay project for which an appropriation was previously provided, which requires additional funds for completion, and which is included in the list required by s. 1001.03(18)(d);
- Completion of a renovation, repair, or maintenance project that is consistent with the provisions of s. 1013.64(1), up to \$5 million per project;
- Completion of a remodeling or infrastructure project, up to \$10 million per project, if such project is survey recommended pursuant to s. 1013.31;
- Completion of a repair or replacement project necessary due to damage caused by a natural disaster for buildings included in the inventory required pursuant to s. 1013.31; and
- Operating expenditures that support the Florida College System institution's mission which are nonrecurring.
- Any purpose approved by the state board or specified in the General Appropriations Act.

The bill requires the chief financial officer of each FCS institution to annually certify, by August 15, the unexpended amount of state funds remaining in the general fund of the institution as of June 30 of the previous fiscal year.

### State University Carry Forward Funds

The bill amends s. 1011.45, F.S. to require each university to maintain a minimum carry forward balance of at least seven percent of its state operating budget and when such a balance is not maintained, to submit a plan to the BOG to attain the seven percent balance within the next fiscal year.

The bill provides that universities retaining carry forward balances in excess of the seven percent minimum are required to submit spending plans for those excess balances. The spending plan must be submitted to the university's board of trustees for approval and publishing annually by September 1. Approved plans are also required to be submitted to the BOG for publication annually by October 1. The bill requires carry forward spending plans to include the estimated cost per planned expenditure and a timeline for completion of the expenditure, when appropriate. Authorized expenditures in a carry forward spending plan may include:

- Commitment of funds to a public education capital outlay project for which an appropriation has previously been provided that requires additional funds for completion, and which is included in the list required by s. 1001.706(12)(d), F.S.
- Completion of a renovation, repair or maintenance project that is consistent with the provisions of s. 1013.64(1), F.S., up to \$5 million per project.
- Completion of a remodeling or infrastructure project, up to \$10 million per project, if such project is survey recommended pursuant to s. 1013.31, F.S.
- Completion of a repair or replacement project necessary due to damage caused by a natural disaster for buildings included in the inventory required pursuant to s. 1013.31, F.S.
- Operating expenditures that support the college's mission that are nonrecurring.
- Any purpose specified by the BOG or specified in the General Appropriations Act.

The bill requires the chief financial officer of each university to annually certify, by August 15, the unexpended amount of funds appropriated to the university from the General Revenue Fund, the Educational Enhancement Trust Fund, and the Education/General Student and Other Fees Trust Fund as of June 30 of the previous fiscal year.

The bill amends s. 11.45, F.S., to require the Auditor General as part of its required annual financial audit for each university and college to specifically verify the accuracy of the amount of funds that an institution chief financial officer has certified as carry forward balances.

### **Public Education Capital Outlay**

The State's Public Education Capital Outlay (PECO) program provides funding for capital outlay projects for Florida's public education systems, including universities, colleges, public schools and other state owned educational facilities that have no other source for funding for capital outlay. As specified by the Florida Constitution<sup>97</sup>, the PECO program is funded by gross receipts taxes on utilities, including electricity and natural gas, and communication services (cable, wireless, landline, miscellaneous services and direct to home satellite tax bases).

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<sup>97</sup> Art. XII, s. 9, Fla. Const.

## *Space Needs Calculation*

### Present Situation

The SBE and the BOG are required to establish for the purpose of determining need, equitably uniform utilization standards for all types of like space, regardless of the level of education. These standards must also establish, for postsecondary education classrooms, a minimum room utilization rate of 40 hours per week and a minimum station utilization rate of 60 percent. These rates must be subject to increase based on national norms for utilization of postsecondary education classrooms.<sup>98</sup>

Classroom, teaching lab, research lab, and non-vocational laboratory space are considered instructional space categories. Classroom space is approximately 4 percent of all university space and 18 percent of college space. In universities, teaching lab space is 5 percent of total space while research labs represent 9 percent. For colleges non-vocational lab space is 10 percent of total space.<sup>99</sup>

In spring 2018, 43 percent of state university classrooms and 35 percent of FCS institution classrooms were in use between 8 a.m. and 8 p.m. Monday through Friday. During that same period, 22 percent of state university instructional labs and 27 percent of FCS institution lab spaces were in use all day Monday through Friday.<sup>100</sup>

For a university or college capital outlay project to receive PECO funding it must be survey recommended pursuant to the process established in s. 1013.31, F.S. Each FCS institution and state university survey must reflect the capacity of existing facilities as specified in the inventory maintained by each respective sector. Every five years a survey team verifies the inventory of existing buildings for each college and university institution by square foot, by space category and by condition. The institutions then use that data to compare existing space to a calculation of space needed based on projected student enrollment in five years.<sup>101</sup>

### Effect of Proposed Changes

The bill amends s. 1001.03(18), and 1001.706(12), F.S. to require the SBE and the BOG to review their space needs calculation methodologies for Florida College System institutions and state universities and present a summary of their work with draft recommendations to the chairs of the House of Representatives and Senate appropriations committees by January 15, 2020, and every three years thereafter.

The bill amends s. 1013.03(2), F.S., to expand the scope of space utilization standards to require the SBE and the BOG to establish such standards for post-secondary classroom and teaching laboratory space. In addition, the bill requires each board to adopt standards for use in each

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<sup>98</sup> Section 1013.03(2), F.S.

<sup>99</sup> Office of Program Policy Analysis and Government Accountability, *OPPAGA Research on Higher Education Space Utilization* (Feb. 20, 2019), available at <http://www.oppaga.state.fl.us/monitor/docs/Presentations/P19-06.pdf>.

<sup>100</sup> *Id.*

<sup>101</sup> Section 1013.31, F.S.

institution's educational plant<sup>102</sup> survey<sup>103</sup> completed pursuant to s. 1013.31, F.S. At a minimum, the SBE and BOG must define and apply the following space utilization metrics when calculating space need:

- For postsecondary education classroom space, a minimum room utilization rate and a minimum station utilization rate; and
- For postsecondary education non-vocational, teaching laboratory space, a minimum room utilization rate and a minimum station utilization rate.

The bill further requires FCS institutions and state universities to adjust full-time equivalent enrollment for the purpose of determining space needs for online students, and requires the SBE and BOG to post on their websites in a consistent format the summary results each institution's education plant survey that shows space needs met for each campus by type of space.

The bill amends s. 1013.31, F.S. to require the educational plant surveys completed by FCS institutions and state universities incorporate the results of each board's review and update of space utilization metrics and standards. The bill also requires that all survey recommended projects be updated with the new space need calculation requirements by December 1, 2020.

### ***PECO Recommended List***

#### Present Situation

The Commissioner of Education (commissioner) is required to develop an appropriate procedure to arrive at amounts required to fund capital outlay projects. Estimates for PECO funds by the Revenue Estimating Conference must be used in determining the budget request. The commissioner, in consultation with the appropriations committees of the Legislature, must provide annually an estimate of funds for FCS institutions and state universities in developing their required 3-year priority lists required in law.<sup>104</sup>

The commissioner must submit to the Governor and to the Legislature an integrated, comprehensive budget request for educational facilities construction and fixed capital outlay needs for school districts, FCS institutions, and universities, subject to provisions in law.<sup>105</sup> Each FCS institution board of trustees and each university board of trustees must submit to the commissioner a 3-year plan and data required in the development of the annual capital outlay budget. The information that is approved by the BOG must be submitted to the commissioner for inclusion in the comprehensive budget request for educational facilities.<sup>106</sup>

The integrated, comprehensive budget request to the Governor and to the Legislature must include:

<sup>102</sup> An "Educational plant" comprises the educational facilities, site, and site improvements necessary to accommodate students, faculty, administrators, staff, and the activities of the educational program of each plant. Section 1013.01(7), F.S.

<sup>103</sup> The "Educational plant survey" means a systematic study of present educational and ancillary plants and the determination of future needs to provide an appropriate educational program and services for each student based on projected capital outlay FTE's approved by the Department of Education. Section 1013.01(8), F.S.

<sup>104</sup> Section 1013.60(1), F.S.

<sup>105</sup> Section 1013.64, F.S., and applicable provisions of ch. 216.

<sup>106</sup> Section 1013.60(2), F.S.

- Recommendations for the priority of expenditure of funds in the state system of public education, with reasons for the recommended priorities, and other recommendations which relate to the effectiveness of the educational facilities construction program.
- All items in specified in s. 1013.64, F.S.

Section 1013.64, F.S., determines the process for allocations from the Public Education Capital Outlay and Debt Service Trust Fund to the SBE and BOG for capital outlay projects.

Funds for remodeling,<sup>107</sup> renovation,<sup>108</sup> maintenance and repairs,<sup>109</sup> and site improvement<sup>110</sup> for existing satisfactory facilities are given priority consideration by the Legislature for appropriations allocated to the SBE and BOG from the total amount of the Public Education Capital Outlay and Debt Service Trust Fund appropriated.

FCS institution and state university boards of trustees receive funds for projects based on a 3-year priority list, to be updated annually, which is submitted to the Legislature in the legislative budget request at least 90 days prior to the legislative session.<sup>111</sup> The SBE submits a 3-year priority list for FCS institutions, and the BOG submits a 3-year priority list for universities. The lists reflect decisions by the SBE and BOG concerning program priorities that implement the statewide plan for program growth and quality improvement in education. No remodeling or renovation project shall be included on the 3-year priority list unless the project has been recommended based on an educational plant survey<sup>112</sup> or is for the purpose of correcting health and safety deficiencies. No new construction project shall be included on the first year of the 3-year priority list unless the educational specifications have been approved by the commissioner for a FCS institution project or by the BOG for a university project, as applicable.<sup>113</sup>

Each board has a different process for selecting projects. The FCS establishes system-wide priorities by determining available funding and scoring each college's top two survey-

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<sup>107</sup> "Remodeling" means the changing of existing facilities by rearrangement of spaces and their use and includes, but is not limited to, the conversion of two classrooms to a science laboratory or the conversion of a closed plan arrangement to an open plan configuration. Section 1013.01(17), F.S.

<sup>108</sup> "Renovation" means the rejuvenating or upgrading of existing facilities by installation or replacement of materials and equipment and includes, but is not limited to, interior or exterior reconditioning of facilities and spaces; air-conditioning, heating, or ventilating equipment; fire alarm systems; emergency lighting; electrical systems; and complete roofing or roof replacement, including replacement of membrane or structure. As used in this subsection, the term "materials" does not include instructional materials. Section 1013.01(18), F.S.

<sup>109</sup> "Maintenance and repair" means the upkeep of educational and ancillary plants, including, but not limited to, roof or roofing replacement short of complete replacement of membrane or structure; repainting of interior or exterior surfaces; resurfacing of floors; repair or replacement of glass; repair of hardware, furniture, equipment, electrical fixtures, and plumbing fixtures; and repair or resurfacing of parking lots, roads, and walkways. The term "maintenance and repair" does not include custodial or groundskeeping functions, or renovation except for the replacement of equipment with new equipment of equal systems meeting current code requirements, provided that the replacement item neither places increased demand upon utilities services or structural supports nor adversely affects the function of safety to life systems. Section 1013.01(12), F.S.

<sup>110</sup> "Site improvement" means work that must be performed on an existing site to improve its utilization, correct health and safety deficiencies, meet special program needs, or provide additional service areas. Section 1013.01(22), F.S.

<sup>111</sup> Section 1013.64(4), F.S.

<sup>112</sup> Section 1013.31, F.S.

<sup>113</sup> Section 1013.64(4), F.S.

recommended projects.<sup>114</sup> Universities submit top priority projects to the BOG, which considers how each project fits into the BOG's overall system-wide strategic goals.<sup>115</sup> Neither process is established in statute.

#### Effect of Proposed Changes

The bill requires the SBE and the BOG to develop and submit the prioritized list required in law.<sup>116</sup> Projects considered for prioritization must be chosen from a preliminary selection group that includes the a list of projects funded but not yet completed, and up to the top five ranked priorities of each FCS institution or state university.

The bill requires the SBE and the BOG to develop a points-based prioritization method to rank projects for consideration from the preliminary selection group and award points for the degree to which a project meets specific criteria compared to other projects in the preliminary selection group.

The SBE and BOG are required to consider criteria that evaluates the degree to which:

- The project was previously funded by the Legislature and the amount of funds needed for completion constitute a relatively low percentage of total project costs;
- The project represents a building maintenance project or the repair of utility infrastructure which is necessary to preserve a safe environment for students and staff, or a project that is necessary to maintain the operation of a FCS institution or university site, respectively, and for which the each type of institution can demonstrate that it has no other funding source available to complete the project;
- The project addresses the greatest current or projected need for space as indicated by factors such as increased instructional capacity that enhances educational opportunities for students;
- The project reflects a ranked priority of the submitting FCS institution or university, respectively;
- The project represents the most practical and cost-effective replacement or renovation of an existing building; and
- The project is deemed by the state board to be integral to the mission of the system or the institution in serving the strategic needs of communities, regions, or the state.

The bill requires that the project scoring the highest for each criterion must be awarded the maximum points in the range of points within the points scale developed by the SBE or the BOG, as applicable. The SBE and BOG must weigh the value of criteria such that the maximum points awarded for each criterion represents a percent of the total maximum points.

The bill requires that for each FCS institution with a final FTE of 15,000 or greater for the prior year, a new construction, remodeling, or renovation project that has not received an appropriation in a previous year may not be considered for inclusion on the prioritized list unless:

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<sup>114</sup> Office of Program Policy Analysis and Government Accountability, *OPPAGA Research on Higher Education Space Utilization* (Feb. 20, 2019), available at <http://www.oppaga.state.fl.us/monitor/docs/Presentations/P19-06.pdf>.

<sup>115</sup> *Id.*

<sup>116</sup> Section 1012.64(4) F.S.

- The institution has allocated funding equal to at least 15 percent of the total project cost, the project is needed to preserve the safety of persons using the facility, or the project is consistent with a strategic legislative or state board initiative;
- A plan is provided to reserve funds equal to a minimum amount determined by the state board as adequate to cover annual costs for future maintenance of the facility;
- There are sufficient excess funds from the allocation within the 3-year planning period which are not needed to complete the projects listed; and
- The project has been recommended as specified in law.<sup>117</sup>

An FCS institution with a final FTE of less than 15,000 for the prior year is exempt from this requirement.

The bill requires that for universities with a final FTE of less than 2,000 in the prior year, a new construction, remodeling, or renovation project that has not received an appropriation in a previous year may not be considered for inclusion on the prioritized list unless:

- The institution has allocated funding equal to a minimum amount not to exceed 10 percent of the total project cost determined appropriate by the board based on the size and unique characteristics of the institution, the project is needed to preserve the safety of persons using the facility, or the project is consistent with a strategic legislative or board initiative;
- A plan is provided to reserve funds equal to a minimum amount determined by the board as adequate to cover annual costs for future maintenance of the facility;
- There are sufficient excess funds from the allocation provided pursuant to s. 1013.60 within the 3-year planning period which are not needed to complete the projects listed pursuant to paragraph (d); and
- The project has been recommended pursuant to s. 1013.31.

For universities with a final FTE of 2,000 or greater in the prior year, a new construction, remodeling, or renovation project that has not received an appropriation in a previous year may not be considered for inclusion on the prioritized list unless:

- The institution has allocated funding equal to no less than 15 percent of the total project cost, unless a smaller amount is approved by supermajority vote of the board based on university size or unique characteristics, the project is needed to preserve the safety of persons using the facility, or the project is consistent with a strategic legislative or board initiative;
- A plan is provided to reserve funds equal to a minimum amount determined by the board as adequate to cover annual costs for future maintenance of the facility;
- There are sufficient excess funds from the allocation provided pursuant to s. 1013.60 within the 3-year planning period which are not needed to complete the projects listed pursuant to paragraph (d); and
- The project has been recommended pursuant to s. 1013.31.

The bill requires the SBE and BOG to continually maintain a list of all public education capital outlay projects for which state funds were previously appropriated and have not been completed. The list shall include an estimate of the amount of state funding needed for the completion of each project.

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<sup>117</sup> Section 1013.31, F.S.

Finally, the bill requires the SBE and BOG to submit 3-year prioritized priority lists for FCS institutions and universities, respectively, no later than 60 days before each regular legislative session, which shall be updated upon request after subsequent estimating conferences. The sum of each year's project lists must consider the total amount to be distributed for construction and renovation provided for each year pursuant to the 3-year budget request allocation plan developed by the commissioner. The lists must reflect decisions by the SBE for FCS institutions and the BOG for state universities using processes specified in law.

### ***PECO Appropriation Estimate***

#### **Present Situation**

The Revenue Estimating Conference is required to develop official information with respect to anticipated state and local government revenues as the conference determines is needed for the state planning and budgeting system.<sup>118</sup>

PECO works to fund Florida's long-term need for education facilities with a portion of the gross receipts tax (GRT) on utilities, including electricity, telecommunications and cable. The GRT is utilized to borrow money by issuing tax-exempt PECO bond offerings.<sup>119</sup> The GRT is a relatively stable, if slow growing, tax source, making it an ideal revenue source for financing the sale of bonds. Most of the funding for PECO comes from the sale of bonds, and it is changes in the sizes of the bond sales, which are the primary reason for the fluctuation of the PECO appropriation. The PECO estimate is comprised of two kinds of funds, bond proceeds and cash proceeds.<sup>120</sup> The Office of Economic and Demographic Research (EDR) uses the GRT estimate to forecast amounts over the next seven years that can be appropriated in the state budget each year for education fixed capital outlay projects. EDR, in its estimate for the maximum possible PECO trust fund appropriations provided estimates with and without bonding.<sup>121</sup>

#### **Effect of Proposed Changes**

The bill amends s. 216.136, F.S. to codify the current EDR practice of estimating the maximum PECO appropriation by assuming the full utilization of available bonding capacity as limited by s. 215.61, F.S. and the full utilization of remaining available cash balances. In addition, the bill also requires EDR to prepare an annual estimate for fiscal years 2020-21 through 2022-23 that assumes the bonding capacity for each year is equal to the average of annual bonding capacities over the three year period.

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<sup>118</sup> Section 216.136(3), F.S.

<sup>119</sup> Board of Governors, *FACT SHEET: Public Education Capital Outlay (PECO)* (July 2012), available at <https://www.flbog.edu/pressroom/doc/7.2012-PECO-Fact-Sheet-Press-Room.pdf>.

<sup>120</sup> Office of Economic & Demographic Research, *How the Gross Receipts Tax Becomes a PECO Appropriation*, available at <http://edr.state.fl.us/Content/conferences/peco/pecoflo1.pdf>.

<sup>121</sup> Revenue Estimating Conference, *Public Education Capital Outlay Trust Fund*, <http://edr.state.fl.us/Content/conferences/peco/index.cfm> (last visited Apr. 18, 2019).

## Florida College System Dormitory Facilities

### *Present Situation*

An FCS institution or its direct-support organization has limited authority to plan and construct facilities and to acquire additional property.<sup>122</sup> Residency opportunities within the FCS are predominately off campus and provided through a third party, often for specific student populations such as international students, student athletes, or specific scholarship recipients.<sup>123</sup> However, Florida law authorizes an FCS institution campus within a municipality designated as an area of critical state concern,<sup>124</sup> which meets planning and development requirements, to construct dormitories for up to 300 beds for FCS institution students.<sup>125</sup> State funds and tuition and fee revenues may not be used for construction, debt service payments, maintenance, or operation of such dormitories. Additional dormitory beds constructed after July 1, 2016, may not be financed through the issuance of bonds.<sup>126</sup>

### *Effect of Proposed Changes*

The bill expands opportunities for eligible Florida College System institutions to finance the construction of dormitory facilities. The bill maintains the prohibition on Florida College System institutions issuing bonds to finance additional dormitory beds, but authorizes that bonds may be issued by nonpublic entities as part of a public-private partnership between the college and a nonpublic entity.

## State University Boards of Trustees – Annual Training

### *Present Situation*

Each state university is administered by a board of trustees (BOT) consisting of thirteen members dedicated to the purposes of the state university system.<sup>127</sup> Each state university BOT is composed of:<sup>128</sup>

- Six citizen members appointed by the Governor subject to confirmation by the Senate;
- Five citizen members appointed by the BOG subject to confirmation by the Senate;
- The chair of the faculty senate or the equivalent; and
- The president of the student body of the university.

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<sup>122</sup> Section 1013.40, F.S.

<sup>123</sup> Florida College System, *Student Housing in the Florida College System*, available at <http://www.fldoe.org/core/fileparse.php/7480/urlt/0082726-faqhousing.pdf>.

<sup>124</sup> Section 380.05, F.S. The Areas of Critical State Concern Program was created by the "Florida Environmental Land and Water Management Act of 1972." The program is intended to protect resources and public facilities of major statewide significance, within designated geographic areas, from uncontrolled development that would cause substantial deterioration of such resources. The designated Areas of Critical State Concern are the Apalachicola Bay Area, the Green Swamp Area, the Big Cypress Area, the Florida Keys Area, and the City of Key West Area.

<sup>125</sup> Section 1013.40(4), F.S. Currently, only Florida Keys Community College meets this requirement and is able to construct such dormitory facilities.

<sup>126</sup> Section 1013.40(4), F.S.

<sup>127</sup> Art. IX, s. 7(c), Fla. Const.

<sup>128</sup> Section 1001.71(1), F.S.

Appointed members serve staggered five-year terms. There is no state residency requirement for board members, but the Governor and BOG are required to consider diversity and regional representation when making appointments.<sup>129</sup>

The powers and duties of state university boards of trustees are outlined in BOG regulation.<sup>130</sup> Florida law does not specifically address training requirements for state university trustees. However, the BOG requires trustees to attend an orientation session held by the BOG. Trustee orientation serves to educate new trustees about the governance roles and responsibilities of the BOG and boards of trustees; the goals established in the BOG 2025 Strategic Plan for the State University System (SUS); the accountability measures implemented by the BOG, including performance-based funding; the mechanics of university funding; and an overview of Florida's Sunshine and ethics laws and the SUS audit and compliance functions.<sup>131</sup> In addition, the BOG hosts a Trustee Summit each November to address an array of topics relevant to effective board leadership.

Other states have been more prescriptive in outlining the fiduciary responsibilities of university trustees. The New York Board of Regents issued a Statement on the Governance Role of a Trustee or Board Member,<sup>132</sup> which provides certain fundamental information regarding the stewardship role that members fulfill. In 2014, the General Assembly of Virginia enacted legislation requiring formal training for governing boards and outlined specific elements that must be included in the training.<sup>133</sup>

### *Effect of Proposed Changes*

The bill requires the BOG to develop and annually deliver a training program for state university trustees. Trustees must complete the training within 1 year of their appointment to a university BOT. Training must include information on trustee responsibilities relating to:

- Statutory, regulatory, and fiduciary, obligations of the board.
- Establishment of internal process controls and accountability mechanisms.
- Oversight of planning, construction, maintenance, expansion and renovation projects.
- Establishment of policies to promote college affordability.
- Creation and implementation of institution-wide rules and regulations.
- Institutional ethics and conflicts of interest.
- Best practices for board governance.
- Current national and state issues in higher education.

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<sup>129</sup> *Id.*

<sup>130</sup> State University System of Florida Board of Governors, Regulation 1.001, *University Board of Trustees Powers and Duties*, available at [https://www.flbog.edu/documents\\_regulations/regulations/1\\_001%20PowersandDuties%20.pdf](https://www.flbog.edu/documents_regulations/regulations/1_001%20PowersandDuties%20.pdf)

<sup>131</sup> State University System of Florida Board of Governors, *Trustee Appointment and Development*, available at <https://www.flbog.edu/trustees/> (last visited February 20, 2019).

<sup>132</sup> New York Board of Regents and the State Education Department, *Statement on the Governance Role of a Trustee or Board Member* (February 2007) available at [http://www.regents.nysed.gov/about/statement\\_governance#D](http://www.regents.nysed.gov/about/statement_governance#D)

<sup>133</sup> Code of Virginia, Section 23.1-1304. *Governing boards; additional duties; educational programs*, available at <https://law.lis.virginia.gov/vacode/title23.1/chapter13/section23.1-1304/>

## Board Oversight

### *Present Situation*

#### State Board of Education

The SBE supervises and is the chief implementing and coordinating body of public education in Florida.<sup>134</sup> The SBE is required to oversee the performance of district school boards and FCS institution boards of trustees in enforcement of all laws and rules. District school boards and FCS institution boards of trustees are primarily responsible for compliance with law and SBE rule.<sup>135</sup> The Commissioner of Education is appointed by the SBE and serves as the Executive Director of the Department of Education.<sup>136</sup>

The Commissioner of Education (commissioner) may investigate allegations of noncompliance with law or SBE rule and determine probable cause. The commissioner must report determinations of probable cause to the SBE which must require the district school board or FCS institution board of trustees to document compliance with law or SBE rule.<sup>137</sup> If the district school board or FCS institution board of trustees cannot satisfactorily document compliance, the SBE may order compliance within a specified timeframe.<sup>138</sup>

#### 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 publically funded State University System (SUS).<sup>139</sup> The BOG must oversee the performance of state university boards of trustees in the enforcement of laws, rules, and regulations. State university boards of trustees are primarily responsible for compliance with laws and BOG rules and regulations. The BOG's constitutional authority to operate, regulate, control, and be fully responsible for the management of the entire SUS mandates that the state universities comply with all requests by the BOG for information, data, and reports. The state university presidents are responsible for the accuracy of the information and data reported to the BOG.<sup>140</sup>

The BOG may appoint a Chancellor to aid the board in the implementation of its responsibilities.<sup>141</sup> The Chancellor of the SUS (chancellor) may investigate allegations of noncompliance with any law or BOG rule or regulation and determine probable cause. The chancellor must report determinations of probable cause to the BOG, which may require the university board of trustees to document compliance with the law or BOG rule or regulation. If the university board of trustees cannot satisfactorily document compliance, the BOG may order compliance within a specified timeframe.<sup>142</sup>

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<sup>134</sup> Art. IX, s. 2, Fla. Const. *See also* s. 1001.02(1), F.S.

<sup>135</sup> Section 1008.32(1), F.S.

<sup>136</sup> Section 20.15(2), F.S.

<sup>137</sup> Section 1008.32(2), F.S.

<sup>138</sup> Section 1008.32(3), F.S.

<sup>139</sup> Art. IX, s. 7(d), F.S. *See also* 1001.705(2), F.S.

<sup>140</sup> Section 1008.322(1)-(2), F.S.

<sup>141</sup> Section 20.155(3), F.S.

<sup>142</sup> Section 1008.322(3)-(4), F.S.

In addition, if the BOG determines that a state university board of trustees is unwilling or unable to address substantiated allegations made by any person relating to waste, fraud, or financial mismanagement within the state university, the Office of the Inspector General must investigate the allegations.<sup>143</sup>

### *Effect of Proposed Changes*

The bill modifies the oversight authority of the SBE to require the commissioner to report to the SBE any findings by the Auditor General that a district school board or FCS institution is acting without statutory authority or contrary to general law. The SBE must require the district school board or FCS institution board of trustees to document compliance with law.

Similarly, for the SUS, the bill modifies the oversight by the BOG to require the chancellor to report to the BOG any findings by the Auditor General that a university is acting without statutory authority or contrary to general law. The BOG must require the university board of trustees to document compliance with law.

The bill allows the presiding officer of either house of the Legislature, the Chief Financial Officer, or a member of the board of trustees of the institution to initiate an investigation of a university by the state university Office of the Inspector General.

### **Direct Support Organization**

#### *Present Situation*

A Florida College System (FCS) institution direct-support organization (DSO) is a Florida corporation not for profit, incorporated under the provisions of chapter 617 and approved by the Department of State<sup>144</sup>. The DSOs are organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to, or for the benefit of, a FCS institution.<sup>145</sup> Each DSO must be reviewed and certified by the FCS institution's Board of Trustees to be operating in a manner consistent with the goals of the college and in the best interest of the state.<sup>146</sup> The FCS institutions' DSOs are currently prohibited from giving, either directly or indirectly, any gift to a political committee for any purpose other than those certified by a majority roll call vote of the governing board of the DSO at a regularly scheduled meeting as being directly related to the educational mission of the institution.<sup>147</sup>

#### *Effect of Proposed Changes*

The bill amends s. 1004.70, F.S. to prohibit FCS institutions' DSOs from giving, either directly or indirectly, any gift to a political committee.

The bill takes effect July 1, 2019.

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<sup>143</sup> Section 1001.706(5)(f), F.S.

<sup>144</sup> Section 1004.70(1)(a)1., F.S.

<sup>145</sup> Section 1004.70(1)(a)2., F.S.

<sup>146</sup> Section 1004.70(1)(a)3., F.S.

<sup>147</sup> Section 1004.70(3)(c), F.S.

**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 bill revises a number of different funding processes, limitations, criteria, and methodologies; as such, the overall the fiscal impact on state expenditures is indeterminate.

Regarding carry forward expenditures, universities will have greater flexibility to expend carry forward funds on previously funded PECO projects, as well as remodeling, repair and maintenance projects.

For PECO recommendations, the bill establishes a statutory process for use by the Board of Governors (for universities) and the Board of Education (for colleges) in making their recommendations for funding PECO projects. These changes may impact the specific projects that are recommended for funding which may impact the decisions of the legislature regarding specific project funding decisions.

The funding for the Florida Apprenticeship Grant (FLAG) Program is subject to a legislative appropriation. In addition, institutions may incur costs as they track students about meeting the requirements of AA degree, and the revised trustee training requirements may result in minimal costs to the Board of Governors.

The bill also removes the \$15 million cap for College and District Workforce CAPE incentive funds for postsecondary students who earn industry certifications.

Lastly, the bill removes the 2-year timeframe for the eligibility to receive a Bright Futures program initial award but maintains the 5-year timeframe for the eligibility to receive an award after graduation from high school. Accordingly, more eligible students may receive an award. Additionally, the realignment of SAT and ACT examination scores to SAT national percentile ranks for the FAS and FMS awards may impact the initial eligibility of students to receive such awards.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 11.45, 216.136, 1001.03, 1001.706, 1004.70, 1007.23, 1007.25, 1008.32, 1008.322, 1009.215, 1009.53, 1009.531, 1009.532, 1009.536, 1011.45, 1011.80, 1011.802, 1011.81, 1011.84, 1013.03, 1013.31, 1013.40, 1013.60, 1013.64, and 1013.841.

This bill creates the following sections of the Florida Statutes: 1011.802 and 1013.841.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Appropriations on April 18, 2019:**

The committee substitute:

- Removes from the bill the provisions relating to the Florida Education Finance Program (FEFP).
- Adds to the bill provisions relating to Florida College System (FCS) and state university carry forward funds and provides criteria for the State Board of Education (SBE) and Board of Governors (BOG) to consider when approving projects recommended for Public Education Capital Outlay (PECO) funding.
- Requires each state university to maintain a specified carry forward balance as follows:

- Each state university must maintain a minimum carry forward balance of at least 7 percent of its state operating budget. A university that fails to maintain the 7 percent balance must submit a plan to the BOG to attain the minimum balance.
- Each university with a carry forward balance in excess of 7 percent to submit a spending plan to the university board of trustees annually by September 1, which must include expenditures and timelines, and may include additional specified items.
- Authorizes unexpended amounts in any fund in any FCS institution current year state operating budget to be carried forward and included in the approved operating budget for the following year.
- Requires each FCS institution
  - With a final FTE of less than 15,000 to maintain a minimum carry forward balance of at least 5 percent of its state operating budget; and requires a spending plan for its carry forward funds in excess of 5% with specified requirements.
  - With a final FTE of 15,000 or greater to maintain a minimum carry forward balance of at least 7 percent of its state operating budget; and requires a spending plan for its carry forward funds in excess of 7% with specified requirements.
- Requires the Chief Financial Officer at each FCS institution and university to certify the carry forward fund amounts, and the Auditor General to verify the accuracy of such certifications during the annual financial audit.
- Requires the SBE and the BOG to develop a prioritized list of capital projects that include projects previously funded but not yet completed, and up to the top five ranked priorities at each FCS institution or university.
- Requires the SBE and BOG to develop a points-based methodology to rank projects for consideration based on specified criteria.
- Requires the SBE and the BOG to each maintain a list of capital outlay projects for which state funds have been appropriated but which have not been completed.
- Requires the Revenue Estimating Conference to provide a maximum appropriation estimate for PECO funds assuming full and average bonding capacities.
- Requires the SBE and the BOG to establish uniform space utilization standards that include standards for post-secondary classroom and teaching laboratory space and account for online students, and:
- Requires the SBE and BOG to adopt standards for use in each FCS institution's and state university's survey.
- Specifies that the SBE and BOG must define and apply specified space utilization metrics when calculating space needs.
- Requires FCS institution and university projections for facility space needs to comply with specified space needs utilization standards and metrics.
- Requires the SBE and BOG to review and submit to the House and Senate Appropriations committees the space need calculation methodology by January 15, 2020, and every 3 years thereafter.
- Requires the Commissioner of Education to develop a budget request allocation plan to include an assessment over the 3 years of the plan of the amount of state funding needed to complete previously funded projects.
- Establishes the "2+2" targeted pathway program to strengthen Florida's "2+2" system of articulation and improve student retention and on-time graduation.

- Requires a reverse transfer agreement for Florida College System students who transfer to a state university with more than 30 credits completed, but who did not earn an associate in arts (AA) degree before transfer, but who have since completed the requirements for the AA while at the university. The amendment requires that:
- Establishes the following accountability requirements:
  - The Commissioner of Education must report to the SBE any findings by the Auditor General that a district school board or college is acting without statutory authority or contrary to state law.
  - Similarly, the Chancellor of the SUS must report to the BOG any findings by the Auditor General that a state university is acting without statutory authority or contrary to state law.
- Creates, subject to appropriation, the Florida Apprenticeship Grant (FLAG) program to provide competitive grants to high schools, career centers, charter technical career centers, FCS institutions, and other entities authorized to sponsor apprenticeship or preapprenticeship programs to help expand programs or establish new programs.
- Requires the BOG to develop and annually deliver a training program for state university trustees regarding their role in governing institutional resources.
  - Trustees must complete the training within 1 year of their appointment or reappointment to a university BOT.
  - Training must include information on trustee responsibilities.
- Authorizes Florida College System institutions that meet established criteria to construct dormitories for up to 300 beds (currently FKCC) to also construct additional dormitory beds using bonds issued by nonpublic entities as part of a public-private partnership between the college and a nonpublic entity.

B. Amendments:

None.