

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS  
FINAL BILL ANALYSIS**

**BILL #:** CS/SB 190 Higher Education  
**SPONSOR(S):** Appropriations, Stargel  
**TIED BILLS:** None **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
<b>FINAL HOUSE FLOOR ACTION:</b>			
109	Y's 0	N's	<b>GOVERNOR'S ACTION:</b> Approved

**SUMMARY ANALYSIS**

CS/SB 190 passed the Senate on April 25, 2019. The bill was amended in the House on April 30, 2019, and was returned to the Senate. The Senate refused to concur with the House amendment on May 2, 2019, and returned the bill to the House. The Senate requested the House return the bill whereupon the bill was reconsidered and further amended in the Senate on May 3, 2019, and returned to the House. The House concurred in the Senate amendments and subsequently passed the bill as amended on May 3, 2019. The bill includes portions of CS/CS/CS/HB 839, HB 5501, CS/HB 7051 and CS/HB 257.

The bill increases transparency and accountability and revises higher education funding as follows:

- Requires Florida College System (FCS) institution employees be included in the Department of Management Services' website that provides salary information.
- Requires the Commissioner of Education and Chancellor of the State University System to report respectively to the SBE and BOG any findings by the Auditor General that a district school board, FCS institution, or state university is acting without statutory authority or contrary to state law.
- Requires the BOG to develop and annually deliver a training program for trustees.
- Requires the BOG to enter into an agreement with the Department of Economic Opportunity for access to wage reports to use for purposes of auditing and evaluation.
- Requires the BOG to define the data and methodology used in performance and preeminence funding and each university to submit an audit to the BOG's Office of Inspector General.
- Deletes an exemption to the prohibition against the giving of any gift, either directly or indirectly, to a political committee by a FCS institution DSO.
- Establishes the "2+2" targeted pathway program to improve student retention and graduation.
- Increases the excess credit hours surcharge threshold from 110 percent to 120 percent of the number of credits required to complete the baccalaureate degree program.
- Removes the \$15 million annual cap for industry certification performance funding.
- Authorizes FCS institutions that meet established criteria to construct dormitories using bonds issued by nonpublic entities as part of a public-private partnership.
- Authorizes universities and colleges to use carry forward funds for operations, maintenance, or to fund PECO projects that meet certain requirements. Each institution must develop a spending plan for approval by the board of trustees. State universities must also obtain Board of Governors (BOG) approval.
- Requires the BOG and State Board of Education (SBE) to develop a points-based methodology to rank PECO projects for purposes of making funding recommendations.
- 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.

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

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- 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.
- 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 examination score requirements for award eligibility to align the SAT and ACT examination scores with the SAT national percentile rank.

The bill conforms statute to funding decisions included in the 2019-2020 General Appropriations Act.

The bill was approved by the Governor on June 18, 2019, ch. 2019-103, L.O.F., and will become effective on July 1, 2019.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### **Auditor General Audit Findings**

##### Present Situation

The Auditor General is required to annually conduct a financial audit of each state university and FCS institution.<sup>1</sup> Financial audit objectives<sup>2</sup> are to determine whether the universities and FCS institutions and their officers with administrative stewardship responsibilities:

- present financial statements in accordance with generally accepted accounting principles; and
- comply with various provisions of law, rules, regulations, contracts, and grant agreements that are material to the financial statements.

Operational audits are required of each state university and FCS institution at least once every three years.<sup>3</sup> Operational audit objectives<sup>4</sup> include:

- Evaluating management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities in accordance with applicable laws, rules, regulations, contracts, grant agreements, and other guidelines;
- Examining internal controls designed and placed in operation to promote and encourage the achievement of management's control objectives in the categories of compliance, economic and efficient operations, reliability of records and reports, and safeguarding of assets, and identifying weaknesses in those controls;
- Determining whether management had taken corrective actions for applicable prior audit findings; and
- Identifying statutory and fiscal changes that may be recommended to the Legislature pursuant to s. 11.45(7)(h), F.S.

Although audit findings are reported by the Auditor General and corrective actions are suggested, there is currently no oversight function in law that requires a state university or FCS institution to rectify noncompliance.

##### Effect of the Bill

The bill requires the Auditor General, as part of the annual financial audit for each university and FCS institution to verify the accuracy of the amount of funds that an institution has certified as carry forward balances.

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<sup>1</sup> Section 11.45(2)(c), F.S.

<sup>2</sup> Auditor General of Florida, Presentation to Joint meeting of House Public Integrity & Ethics Committee, Higher Education Appropriations Subcommittee, and Higher Education & Career Readiness Subcommittee. (January 9, 2019), available at [https://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2999&Session=2019&DocumentType=Meeting Packets&FileName=pie 1-9-19.pdf](https://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2999&Session=2019&DocumentType=Meeting%20Packets&FileName=pie%201-9-19.pdf).

<sup>3</sup> Section 11.45(2)(f), F.S.

<sup>4</sup> Auditor General of Florida, Presentation to Joint meeting of House Public Integrity & Ethics Committee, Higher Education Appropriations Subcommittee, and Higher Education & Career Readiness Subcommittee. (January 9, 2019), available at [https://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2999&Session=2019&DocumentType=Meeting Packets&FileName=pie 1-9-19.pdf](https://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2999&Session=2019&DocumentType=Meeting%20Packets&FileName=pie%201-9-19.pdf).

The bill also requires the Commissioner of Education to report to the State Board of Education (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. Similarly, the Chancellor of the SUS must report to the Board of Governors any findings by the Auditor General that a state university is acting without statutory authority or contrary to state law. If such a finding is reported, the SBE or BOG must require the district school board, FCS institution board of trustees, or state university board of trustees to document compliance with the law.

## **Florida College System Salary Transparency**

### Present Situation

Current law requires the Department of Management Services (DMS) to establish and maintain a website that provides current information relating to each employee or officer of a state agency, a state university, or the State Board of Administration (SBA), regardless of the appropriation category from which the person is paid.<sup>5</sup> At a minimum this information must include:<sup>6</sup>

- Name and salary or hourly rate of pay.
- Position number, class code, and class title.
- Employing agency and budget entity.

Additionally, the information must be searchable by state agency, state university, and the SBA, and by employee name, salary range, or class code and must be downloadable in a format that allows offline analysis.<sup>7</sup>

### Effect of the Bill

The bill requires employees or officers of an FCS institution to be included in DMS's website that provides current information relating to such employees or officers of a state agency, a state university, or the SBA, regardless of the appropriation category from which the person is paid.

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

### Present Situation

The Board of Governors (BOG) is required to develop a strategic plan specifying goals and objectives for the State University System (SUS) and each constituent university, including each university's contribution to overall system goals and objectives.<sup>8</sup>

The strategic plan must include criteria for designating baccalaureate degree and master's degree programs at specified universities as high-demand programs of emphasis.<sup>9</sup> Fifty percent of the criteria for designation as high-demand programs of emphasis must be based on achievement of performance outcome thresholds determined by the BOG, and 50 percent of the criteria must be based on achievement of performance outcome thresholds specifically linked to:<sup>10</sup>

- job placement in employment of 36 hours or more per week and average full-time wages of graduates of the degree programs 1 year and 5 years after graduation; and

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<sup>5</sup> Section 215.985(6), F.S.

<sup>6</sup> Section 215.985(6)(a), F.S.

<sup>7</sup> Section 215.985(6)(b), F.S.

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

<sup>9</sup> Section 1001.706(5)(b)4., F.S.

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

- data-driven gap analyses, conducted by the BOG, of the state's job market demands and the outlook for jobs that require a baccalaureate or higher degree.

The BOG is also required to develop an accountability plan for the SUS and each constituent university. The accountability plan must be submitted as part of the legislative budget request and address institutional and system achievement goals and objectives specified in the strategic plan.<sup>11</sup>

### Effect of the Bill

The bill requires the BOG to match individual student information with information from state and federal agencies that maintain educational and employment records. Additionally, the BOG must enter into an agreement with Department of Economic Opportunity (DEO) that allows access to reemployment assistance wage reports maintained by DEO. The agreement must protect individual privacy and provide that student information obtained through the agreement may be used only for the purposes of auditing and evaluating higher education programs offered by state universities. This access will decrease the BOG response time for legislative requests.

Additionally, to ensure consistency, the bill requires the BOG to define the data components and methodology used to implement the preeminent state research universities program and the SUS Performance-Based Incentive. Each institution must conduct an annual audit to verify that the data submitted complies with the data definitions established by the BOG and submit the audits to the BOG's Office of Inspector General as part of the annual certification process required by the BOG.

## **State University Boards of Trustees**

### Present Situation

Each SUS institution has a 13-member Board of Trustees, which include the following:<sup>12</sup>

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

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>13</sup>

The powers and duties of state university boards of trustees are outlined in BOG Regulation.<sup>14</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 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>15</sup> In addition, the BOG

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<sup>11</sup> Section 1001.706(5)(c), F.S.

<sup>12</sup> Section 1001.71(1), F.S.

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

<sup>14</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>15</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).

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>16</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>17</sup>

### Effect of the Bill

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.

## **Direct Support Organizations**

### 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>18</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>19</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>20</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>21</sup>

### Effect of the Bill

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.

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<sup>16</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>17</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/>

<sup>18</sup> Section 1004.70(1)(a)1., F.S.

<sup>19</sup> Section 1004.70(1)(a)2., F.S.

<sup>20</sup> Section 1004.70(1)(a)3., F.S.

<sup>21</sup> Section 1004.70(3)(c), F.S.

## “2+2” System of Articulation

### 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>22</sup> specified in law.<sup>23</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>24</sup> Additionally, the articulation agreement must provide that every AA graduate of a FCS institution has met all general education requirements and must be granted admission to the upper division, with certain exceptions,<sup>25</sup> of a state university or an FCS institution that offers a baccalaureate degree.<sup>26</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>27</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.<sup>28</sup> 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>29</sup>

### Effect of the Bill

The bill requires that the statewide articulation agreement between the SBE and BOG provide for a reverse transfer agreement for FCS AA degree-seeking students who transfer to a state university prior to earning their AA degree. If a student earned a majority of the credit hours toward an AA degree from an FCS institution, then the student must be awarded an AA degree by that FCS institution upon completion of the degree requirements at the state university. State universities must identify the FCS institution students who have completed the requirements for an AA degree and transfer credits earned at the state university so that the AA degree may be awarded by that FCS institution.

The bill establishes 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 the following by the 2019-2020 academic year:

- 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.

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<sup>22</sup> See Chapter 1007, F.S.

<sup>23</sup> Section 1007.23(1), F.S.

<sup>24</sup> Section 1007.23(3), F.S.

<sup>25</sup> Section 1007.23(2)(a), F.S., exceptions include limited access programs, teacher certification programs, and those requiring an audition.

<sup>26</sup> *Id.*

<sup>27</sup> Florida Board of Governors Regulation 6.004(2)(b).

<sup>28</sup> Florida 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).

<sup>29</sup> *Id.*

The bill requires the “2+2” targeted pathway articulation agreement to provide students who graduate with an 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 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.

Additionally, the bill requires each district school board to notify students who enroll in articulated acceleration mechanism courses or who take postsecondary examinations of the credit-by-examination equivalency list adopted in rule by the SBE and the dual enrollment course and high school subject area equivalencies approved by the SBE.

## **Excess Credit Hours Surcharge**

### Present Situation

Currently, state university students must pay an excess hour surcharge for credit hours exceeding baccalaureate degree program completion requirements.<sup>30</sup> The Legislature’s intent is to encourage each undergraduate student who enrolls in a state university to complete the student’s respective baccalaureate degree program in the most efficient way possible while providing for access to additional college coursework. Therefore, a policy was enacted that provides incentives for efficient baccalaureate degree completion.<sup>31</sup>

Specifically, the excess hour surcharge is effective for students who enter a state university for the first time and maintain continuous enrollment as follows:<sup>32</sup>

- For the 2009-2010 and 2010-2011 academic years, an excess hour surcharge equal to 50 percent of the tuition rate for each credit hour in excess of 120 percent.<sup>33</sup>
- For the 2011-2012 academic year, an excess hour surcharge equal to 100 percent of the tuition rate for each credit hour in excess of 115 percent.<sup>34</sup>

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<sup>30</sup> Section 1009.286, F.S.

<sup>31</sup> Section 1009.286(1), F.S.

<sup>32</sup> Section 1009.286(2), F.S.

<sup>33</sup> Section 1009.286(2)(a), F.S.

<sup>34</sup> Section 1009.286(2)(b), F.S.

- For the 2012-2013 academic year and thereafter, an excess hour surcharge equal to 100 percent of the tuition rate for each credit hour in excess of 110 percent. Notwithstanding the requirements of this subsection, a state university shall refund the excess hour surcharge assessed pursuant to this paragraph for up to 12 credit hours to any first-time-in-college student who completes a baccalaureate degree program within 4 years after his or her initial enrollment in a state university.<sup>35</sup>

All credit hours taken at the state university from which the student is enrolled are included when calculating the number of hours taken by a student, including:<sup>36</sup>

- Failed courses.<sup>37</sup>
- Courses that are dropped after the university's advertised last day of the drop and add period.<sup>38</sup>
- Courses from which a student withdraws, except as provided in subsection (4).<sup>39</sup>
- Repeated courses, except repeated courses for which the student has paid the full cost of instruction as provided in s. 1009.285, F.S.<sup>40</sup>

In addition, all credit hours earned at another institution and accepted for transfer by the state university and applied toward the student's baccalaureate degree program are included in the calculation.<sup>41</sup>

Credit hours earned under the following circumstances are not calculated as hours required to earn a baccalaureate degree:<sup>42</sup>

- College credits earned through an articulated accelerated mechanism identified in s. 1007.27, F.S.<sup>43</sup>
- Credit hours earned through internship programs.<sup>44</sup>
- Credit hours required for certification, recertification, or certificate programs.<sup>45</sup>
- Credit hours in courses from which a student must withdraw due to reasons of medical or personal hardship.<sup>46</sup>
- Credit hours taken by active-duty military personnel.<sup>47</sup>
- Credit hours required to achieve a dual major taken while pursuing a baccalaureate degree.<sup>48</sup>
- Remedial and English as a Second Language credit hours.<sup>49</sup>
- Credit hours earned in military science courses that are part of the Reserve Officers' Training Corps (ROTC) program.<sup>50</sup>

Each state university and Florida College System institution must implement a process for notifying students regarding the excess credit hour surcharge, and the notice must be provided upon a student's initial enrollment in the institution. Additionally, the notice must be provided a second time by a state

<sup>35</sup> Section 1009.286(2)(c), F.S.

<sup>36</sup> Section 1009.286(3)(a), F.S.

<sup>37</sup> Section 1009.286(3)(a)1., F.S.

<sup>38</sup> Section 1009.286(3)(a)2., F.S.

<sup>39</sup> Section 1009.286(3)(a)3., F.S.

<sup>40</sup> Section 1009.286(3)(a)4., F.S.

<sup>41</sup> Section 1009.286(3)(b), F.S.

<sup>42</sup> Section 1009.286(4), F.S.

<sup>43</sup> Section 1009.286(4)(a), F.S.

<sup>44</sup> Section 1009.286(4)(b), F.S.

<sup>45</sup> Section 1009.286(4)(c), F.S.

<sup>46</sup> Section 1009.286(4)(d), F.S.

<sup>47</sup> Section 1009.286(4)(e), F.S.

<sup>48</sup> Section 1009.286(4)(f), F.S.

<sup>49</sup> Section 1009.286(4)(g), F.S.

<sup>50</sup> Section 1009.286(4)(h), F.S.

university when a student has earned the credit hours required to complete the baccalaureate degree program in which the student is enrolled. The notice must include a recommendation that each student who intends to earn credit hours at the institution in excess of the credit hours required for the baccalaureate degree program in which the student is enrolled meet with his or her academic advisor.<sup>51</sup>

### Effect of the Bill

The bill requires the excess credit hour surcharge threshold at each state university to be adjusted for any student who changes a degree program if the number of credit hours required to complete the new degree program exceeds that of the original degree program.

The bill increases the excess credit hour surcharge threshold from 110 percent to 120 percent of the number of credit hours required to complete the baccalaureate program in which the student is enrolled, effective for the 2019 summer term and thereafter.

## **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>52</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>53</sup> postsecondary education institution within three years of graduation from high school.<sup>54</sup> However, this 3-year timeframe is inconsistent with the 2-year timeframe specified in law regarding student eligibility requirements for initial awards.<sup>55</sup> The Bright Futures program consists of three awards:<sup>56</sup>

- Florida Academic Scholarship (FAS);<sup>57</sup>
- Florida Medallion Scholarship (FMS);<sup>58</sup> and
- Florida Gold Seal Vocational Scholarship (FGSV) and Florida Gold Seal CAPE Scholarship.<sup>59</sup>

The DOE is responsible for issuing awards from the Bright Futures program annually.<sup>60</sup> Annual awards may be for up to 45 semester credit hours or the equivalent.<sup>61</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>62</sup>

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<sup>51</sup> Section 1009.286(5), F.S.

<sup>52</sup> Section 2, ch. 1997-77, L.O.F.

<sup>53</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>54</sup> Section 1009.53(1), F.S.

<sup>55</sup> Section 1002.531(2)(c), F.S.

<sup>56</sup> Section 1009.53(2), F.S.

<sup>57</sup> Section 1009.534, F.S.

<sup>58</sup> Section 1009.535, F.S.

<sup>59</sup> Section 1009.536, F.S.

<sup>60</sup> Section 1009.53(5), F.S.

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*, at (b).

## Effect of the Bill

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>63</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>64</sup> A student may use other Bright Futures program awards for summer term enrollment, if funded by the Legislature.<sup>65</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>66</sup> Additionally, the Legislature appropriated \$28,416,515 for 2019 summer term Bright Futures Program awards for FMS.<sup>67</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>68</sup> In 2018, the Legislature clarified in the Implementing Bill<sup>69</sup> that students who are enrolled in the pilot program and who are eligible to receive Bright Futures program awards must be eligible to receive the scholarship award for attendance during the spring and summer terms.<sup>70</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

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<sup>63</sup> Section 1009.53(9), F.S.

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> Specific Appropriation 4, 2018-9, L.O.F. and s. 27, ch. 2018-4, L.O.F.

<sup>67</sup> Section 27, ch. 2018-4, L.O.F.

<sup>68</sup> Section 1009.215(1), F.S.

<sup>69</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).

<sup>70</sup> Section 1009.215(3), F.S., as amended by s.12, ch. 2018-10, L.O.F.

academic year for other eligible students.<sup>71</sup> In the 2018-2019 fiscal year, the Legislature appropriated \$636,712 for these students.<sup>72</sup>

### Effect of the Bill

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>73</sup>

- Be a Florida resident in accordance with the law<sup>74</sup> and rules of the SBE.
- Earn a standard Florida high school diploma<sup>75</sup> or a high school equivalency diploma<sup>76</sup> unless:
  - The student completes a home education program;<sup>77</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.

### Effect of the Bill

The bill codifies the existing SBE rule<sup>78</sup> that allows students who earn a high school diploma from a Florida private high school, operating in accordance with the law,<sup>79</sup> to meet the high school credential-specific eligibility criterion.

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<sup>71</sup> *Id.*

<sup>72</sup> Specific Appropriation 66D, ch. 2018-9, L.O.F.

<sup>73</sup> Section 1009.531(1), F.S.

<sup>74</sup> Sections 1009.531(1)(a) and 1009.40, F.S.

<sup>75</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>76</sup> The high school equivalency diploma must be earned pursuant to s. 1003.435, F.S. Section 1009.531(1)(b), F.S.

<sup>77</sup> The home education program must be completed in accordance with s. 1002.41, F.S. Section 1009.531(1)(b)1., F.S.

<sup>78</sup> Rule 6A-20.028, F.A.C.

<sup>79</sup> Section 1002.42, F.S.

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>80</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>81</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>82</sup>

Additionally, Florida law specifies that:<sup>83</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.

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>84</sup>

#### Effect of the Bill

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:

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<sup>80</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>81</sup> Section 1009.531(2)(c), F.S.

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

<sup>83</sup> *Id.*

<sup>84</sup> Section 1009.531(5), F.S.

- 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>85</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>86</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>87</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>88</sup> A student who lost eligibility for the Bright Futures program award but earned the requirements in a subsequent academic year may restore the award.<sup>89</sup>

#### **Effect of the Bill**

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.

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<sup>85</sup> Section 1009.532(1), F.S.

<sup>86</sup> *Id.*, at (b), F.S.

<sup>87</sup> Section 1009.53(11), F.S.

<sup>88</sup> Section 1009.532(4), F.S.

<sup>89</sup> Rule 6A-20.028(5), F.A.C.

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>90</sup> The report must be disseminated at the beginning of each school year.<sup>91</sup>

#### **Effect of the Bill**

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>92</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.

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>93</sup> The next highest SAT score is used when the percentile ranks do not directly correspond.<sup>94</sup>

The College Board redesigned the SAT in March 2016. The first administration of the redesigned SAT was in spring 2016.<sup>95</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>96</sup> and 2011,<sup>97</sup> respectively, and are not concordant to the ACT examination scores.

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<sup>90</sup> Section 1009.531(4), F.S.

<sup>91</sup> *Id.*

<sup>92</sup> Section 1009.531(6)(a)-(b), F.S.

<sup>93</sup> Section 1009.531(6)(c), F.S.

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

<sup>95</sup> College Board. *The Redesigned SAT*, available at <https://www.collegeboard.org/pdf/redesigned-sat/sat-presentation-campus-colleagues>, at 2.

<sup>96</sup> Section 13, ch. 2010-155, L.O.F.

<sup>97</sup> Section 17, ch. 2011-63, L.O.F.

## Effect of the Bill

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>98</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.

### Effect of the Bill

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 89<sup>th</sup> national percentile on the SAT. The DOE may adjust the required SAT score only if the required score drops below the 89<sup>th</sup> 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 75<sup>th</sup> national percentile on the SAT. The DOE may adjust the required SAT score only if the required score drops below the 75<sup>th</sup> 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.

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<sup>98</sup> Section 1009.53(3), F.S.

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 & Florida College System Institutions**

### Present Situation

Florida law provides performance funding for industry certifications to Florida College System (FCS) institutions and school district workforce education programs.<sup>99</sup> Specifically, each FCS institution and each school district must be provided \$1,000 for each industry certification earned by a student.<sup>100</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>101</sup>

### Effect of the Bill

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.

## **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>102</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>103</sup> However, Florida law authorizes an FCS institution campus within a municipality designated as an area of critical state concern,<sup>104</sup> which meets planning and development requirements, to construct dormitories for up to 300 beds for FCS institution students.<sup>105</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>106</sup>

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<sup>99</sup> Section 1011.80((6)(b) and 1011.81(2)(c), F.S.

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

<sup>101</sup> *Id.*

<sup>102</sup> Section 1013.40, F.S.

<sup>103</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>104</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>105</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>106</sup> Section 1013.40(4), F.S.

## Effect of the Bill

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.

## **Public Education Capital Outlay (PECO)**

### Present Situation

The State's Public Education Capital Outlay (PECO) program was established in 1963 by an amendment to the Florida Constitution. The program provides funding for capital outlay projects for Florida's public education systems, including universities, FCS institutions, public schools and other state owned educational facilities that have no other source for funding for capital outlay. As specified by the Florida Constitution, the PECO program is funded by gross receipts taxes (GRT) as provided in chapter 203, Florida Statutes. Chapter 203 establishes 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). The constitution authorizes bonding of GRT revenues, but limits the allowable level of debt service to no more than 90 percent of total revenues.

### ***Allocation Procedure to Determine PECO Spending Categories for Legislative Budget Requests (LBRs)***

The PECO program cycle is based on a 3 year planning and funding process since most construction, renovation and remodeling projects are typically funded and completed over 3 years. A total amount for PECO spending including project categories (university, colleges, and special facilities) is provided by the allocation procedure developed by the Department of Education (DOE)<sup>107</sup>. The DOE must use a five year average of appropriations to limit the amount provided to each educational system (universities, colleges, and public schools).<sup>108</sup>

The amount of the total PECO appropriation allocated is based on one of the two EDR estimates for available appropriations derived from GRT revenues as determined by the Governor. Since 2012, the Governor has directed that the cash (no bonding) estimate be used.

The allocation procedure provides an amount for each funding category including maintenance for all systems (charter schools, public schools, colleges and universities), new construction, major renovation and remodeling of college and university facilities, special facilities construction and other small capital outlay categories). DOE is required, in consultation with the legislative appropriations committees, to develop the amounts provided for university and college construction, renovation and remodeling project lists.<sup>109</sup> The BOG (for universities) and BOE (for colleges) are required to provide 3 year prioritized project lists to the legislature 90 days before session.<sup>110</sup>

To the extent that the legislature adheres to the overall cumulative total for PECO funding, based on specific project lists developed with specific funding limits, then PECO spending remains balanced to the amount of PECO appropriation as provided by EDR. If the legislature deviates from the lists, and funds new projects with outyear costs that are not accommodated in the balanced 3 year lists, then PECO spending over the three year period is no longer balanced to funding available. For example, assuming the

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<sup>107</sup> Section 1013.60, F.S.

<sup>108</sup> Section 1013.03, F.S.

<sup>109</sup> Section 1013.64, F.S.

<sup>110</sup> Section 1013.64(4), F.S.

use of EDR's estimate of PECO appropriation without bonding, and assuming the legislature continues its current level of spending for maintenance funding (\$289 million in FY 2018-19) over the next three years, there is a need to supplement PECO appropriations by \$225 million from general revenue or other sources in each of the 3 years to fund all the projects that have been started by the legislature.

**State Board of Education and Board of Governor's Recommended Lists**

Each board (BOG and SBE) develops its 3 year priority list based on DOE's allocation plan amount. All board recommended projects must be survey recommended<sup>111</sup> and each board has a different process for selecting projects. Neither process is established in statute. Generally each board considers the top priorities from each institution, the need to complete previously funded projects, and whether the project is a cost effective solution for the needed space. The colleges have in recent years factored in a return on investment component in their project selection process. Previously funded projects are heavily favored in the criteria each board uses to develop its priority lists.

Prior to 2011, the legislature funded the majority of each list which was weighted towards finishing those projects started in earlier years. Subsequent to 2011, the legislature has not routinely followed the official board recommended lists, and instead has funded projects lower on the DOE and BOG priority lists.

**PECO Maintenance Expenditures**

The "Sum of the Digits" calculation<sup>112</sup> is used industry wide in construction as a proxy for maintenance expenditures necessary to maintain building value. The "Sum of the Digits" calculation is defined pursuant to s. 1013.64(1)(a), F.S. as: "the building value times the building age over the sum of the years' digits assuming a 50-year building life".

By comparison, OPPAGA in its report on Higher Education Space Utilization submitted to the Legislature in February 2019 cited the Association for Physical Plan Administrators maintenance amount recommendation of expending 2 to 4 percent of building value annually. Using PECO eligible building values provided by the colleges and universities, the following amount can be calculated for these recommended values of maintenance.

Historically, within the PECO allocation formula developed by DOE pursuant to s.1013.60, F.S. an amount has been calculated for the maintenance category for each education system (public schools, colleges, universities). It is allocated to each system dividing up the amount of non-bonded cash in the PECO appropriation by the relative percent of the total for of each system's total "sum of the digits" calculation.<sup>113</sup> See the "% of total" ratios in the Sum of the Digits Chart below:

**Sum of the Digits Chart**

Education System	"Sum of the Digits" Total	% of total
Colleges	326.4	10.8%
Universities	447.1	14.8%
Public Schools	2,240.0	74.3%
Total (millions)	3,013.5	100%

<sup>111</sup> Section 1013.31, F.S.

<sup>112</sup> Section 1013.64(1)(a), F.S.

<sup>113</sup> Section 1013.64 (1)(a), F.S.

For example, if non-bonded cash in the PECO allocation is \$100M then maintenance would be distributed as follows: universities (\$14.8 million), colleges (\$10.8 million) and public schools (\$74.3 million).

The amount of maintenance therefore, as determined by the allocation formula in 1013.60, F.S. is not determined by maintenance need but rather the level of cash in the specific EDR estimated PECO appropriation selected by the Governor which DOE flows through its allocation formula. The DOE maintains a policy of spending only non-bonded cash on maintenance as incorporated in their allocation formula.

In recent years, colleges and universities have funded an increasing amount of their maintenance expenditures from carry forward funds. The use of carry forward funds makes it difficult to determine what is actually being spent on maintenance from all sources, including GAA PECO maintenance appropriations.

Colleges and universities are authorized to spend the maintenance funds appropriated in the General Appropriations Act on “maintenance and repair”, “remodeling”, or “renovation projects”. These terms are defined as follows:<sup>114</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.
- “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.
- “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.

Below is a five-year history of total PECO appropriations by category included in the GAA.

Year	Maintenance				Construction, Remodeling, Renovation								TOTAL PECO ^
	Public School	College	University	Charter School	Lab School	Public School	College	University	Special Facilities	Florida School for the Deaf and Blind	Public Radio Stations	MISC	
FY 2014-15	53.0	15.0	37.6	75.0	4.8	1.0	107.5	179.6	59.7	1.1	2.2	3.0	539.6
FY 2015-16	50.0	20.0	35.0	50.0	5.1	0.0	84.8	126.9	89.8	5.4	3.1	1.0	471.2
FY 2016-17	75.0	36.2	61.8	75.0	5.3	0.0	176.0	168.6	75.4	9.1	3.1	8.1	693.5
FY 2017-18	50.0	38.1	45.6	50.0	5.8	0.0	83.5	160.7	57.0	2.2	3.2	10.3	506.4
FY 2018-19	50.0	35.4	47.2	150.3	6.2	0.0	43.1	112.6	33.4	3.4	2.4	3.2	487.2

<sup>^</sup> Total Appropriated for PECO in the General Appropriations Act before vetoes

For both colleges and universities, any “remodeling” project must be survey recommended.<sup>115</sup> The only limit on the project amount is the amount of funding in the maintenance appropriation. Also, the amount per project that universities and colleges may spend from the GAA maintenance category on each

<sup>114</sup> Section 1013.01, F.S.

<sup>115</sup> Section 1013.31, F.S.

“maintenance and repair” or “renovation” project, is only limited to the amount appropriated to the institution. There is no requirement that such projects be survey recommended.

Generally, new buildings may not be constructed from maintenance funds. However, pursuant to universities may expend up to \$1 million to construct minor facilities.<sup>116</sup>

#### Effect of the Bill:

This bill requires the State Board of Education to develop and submit a prioritized list of projects and a points-based prioritization method to rank projects for consideration. The bill sets forth considerations for establishing criteria and weights, including the degree to which:

- The project was funded previously 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 Florida College System institution site, and for which the institution can demonstrate that it has no other funding source available to complete the project
- The project addresses the greatest current year need for space as indicated by increased instructional capacity that enhances educational opportunities for the greatest number of students
- The project reflects a ranked priority of the submitting Florida College System institution
- The project represents the most practical and cost effective replacement or renovation of an existing building
- For a new construction, remodeling, or renovation project that has not received a prior appropriation, the project has received, or has commitments to receive, funding from sources other than a project-specific state appropriation to assist with completion of the project; 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

The bill requires that projects that have not received funding in the previous year are not eligible for the prioritization list unless:

- A plan is provided to reserve funds in an escrow account, specific to the project, into which shall be deposited each year an amount of funds equal to 0.5 percent of the total value of the building for future maintenance
- 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
- The project has been recommended pursuant to s. 1013.31

The bill requires the maintenance of a list of all public education capital outlay projects for which state funds were previously appropriated which have not been completed, including an estimate of the amount of state funding needed for the completion of each project.

The bill also requires that the state board review the space need calculation and methodology and provide recommendations to the House and Senate by October 31, 2019, and every three years thereafter.

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<sup>116</sup> Section 1013.64(1)(h), F.S.

## **Carry Forward**

### ***State Universities***

#### Present Situation

The SUS operates 12 public postsecondary institutions which offer baccalaureate, professional, and graduate degree programs. Florida universities receive state funding from the General Revenue Fund, Educational Enhancement Trust Fund, Student Tuition and Fees Trust Fund, and the Phosphate Research Trust Fund (Florida Polytechnic University only) each year in the General Appropriations Act (GAA). In Fiscal Year 2018-19 state appropriations to the universities totaled \$5.1 billion for operations and \$148 million for fixed capital outlay.

Unlike state departments and agencies receiving state funding, a university's unspent operating appropriations do not revert back to the state fund from which they were appropriated at the end of the fiscal year; the funds remain with the university to utilize for future needs. Universities must maintain a reserve equal to 5 percent of their operating budget, and the remaining balance is carried forward. The state university system has accumulated a carryforward fund balance in excess of \$1.1 billion as of Fiscal Year 2018-19. In the 2012-13 GAA, the university budgets were reduced on a nonrecurring basis by \$300 million in order to mitigate the growth of this fund balance. While the statewide balance dropped to \$618 million the following fiscal year, it increased by over 85 percent in the five years since then.

#### Effect of the Bill

The bill requires 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 attain the seven percent balance within the next fiscal year.

Each institution retaining a carry forward balance in excess of the seven percent minimum is required to submit a spending plan for their excess carry forward balance. The spending plan must be submitted for review, approval or amendment to the institution's Board of Trustees by September 1, 2019 and each September 1st thereafter and to the Board of Governor's by October 1, 2019 and each October 1st thereafter. Authorized expenditures in a university carry forward spending plan may include only the following:

- Commitment of funds to a public education capital outlay project for which an appropriation has previously been provided that requires additional funds for completion;
- 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 and replacement of a minor facility that does not exceed 10,000 gross square feet in size up to \$2 million;
- 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; or
- Any purpose specified in the General Appropriations Act.

The bill also requires that the Chief Financial Officer of each university certify by September 30th the unexpended amounts of funding as of June 30 of the previous year, and permits the spending of the minimum carryforward balance of seven percent to address a demonstrated emergency, with the approval of their board of trustees and the Board of Governors.

### ***Florida College System Institutions***

## Present Situation

The FCS operates 28 public postsecondary institutions which offer associate, baccalaureate and career technical education and degree programs. FCS institutions receive state funding from the General Revenue Fund and the Educational Enhancement Trust Fund each year in the General Appropriations Act (GAA). In Fiscal Year 2018-19 state appropriations to the colleges totaled \$1.2 billion for operations, and \$66.4 million for fixed capital outlay. In addition, colleges collect approximately \$1 billion from student tuition and fees, which are legislative authorized, but not appropriated.

Unlike state departments and agencies receiving state funding, the FCS institutions' unspent operating appropriations do not revert back to the state fund from which they were appropriated at the end of the fiscal year; the funds remain with the college to utilize for future needs. These are commonly referred to as "carry forward funds". Although not explicit in statute, standard practice has allowed fund balance retention by FCS institutions. Florida law provides that if at any time the unencumbered balance in the general fund of a Florida College System institution board of trustees approved operating budget goes below 5 percent, the president must provide written notification to the State Board of Education.

## Effect of the Bill

The bill codifies the current practice of allowing FCS institutions to carry forward funds. Each FCS institution with FTE enrollment below 15,000 will be required to maintain a minimum carry forward balance of at least five percent of its state operating budget, seven percent for institutions with FTE of 15,000 or greater, and when such a balance is not maintained, required to submit a plan to attain the seven percent balance within the next fiscal year. The bill also requires the Chief Financial Officer of each institution to certify by September 30 the unexpended funds as of June 30 of the prior year beginning in 2020.

Each institution retaining a carry forward balance in excess of the designated minimum is required to submit a spending plan for their excess carry forward balance. The spending plan must be submitted for review, approval or amendment to the institution's Board of Trustees by September 1, 2020 and each September 1st thereafter and submitted to the SBE for review and publication by October 1, 2020 and each October 1st thereafter.

Authorized expenditures in a FCS institution carry forward spending plan for institutions with FTE enrollment above 15,000 may include only the following:

- Commitment of funds to a public education capital outlay project for which an appropriation has previously been provided that requires additional funds for completion;
- 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; or
- Any purpose specified in the General Appropriations Act.

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

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Carry Forward Expenditures

Colleges and universities will have greater flexibility to expend carry forward funds on previously funded PECO projects, as well as remodeling, repair and maintenance projects. The requirement for board approval of the each institution's carry forward spend plan provides accountability and transparency for those spending plans but also requires institutions to publicly determine their spending priorities. It is anticipated that the revised fund balance statutes will improve campus maintenance and simultaneously encourage the useful expenditure of over \$2 billion dollars in taxpayer funds currently held by colleges (\$1.2 billion) and universities (\$1.1 billion).

Bright Futures

The changes to the eligibility levels will have no immediate impact to the total costs to the state. The changes will impact rising juniors in high school; therefore the financial savings to the state will not be realized for at least two years. The full impact of the changes will not be realized for six years.

Currently over 42,000 students are initially eligible for Bright Futures with over 23,000 receiving the FAS (100% tuition and fees) award. When the eligibility standard is tied to the accurate percentiles of 75th and 89th for each type of award, it is anticipated that there will be a reduction of approximately 7,000 students being eligible for the FMS (75% tuition & fees) award and about 6,200 students no longer being eligible for the FAS award who will instead be eligible for the FMS award. The initial year that these changes effect the incoming freshmen class, the Bright Futures program funding may be reduced by \$40 million based on approximately 7,000 fewer total students receiving scholarships and approximately 6,200 FAS scholars becoming eligible for FMS scholarships. When fully implemented in six years, these changes could save the state \$111 million annually.

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.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The changes to the eligibility levels for Bright Future Scholarships will have no immediate impact on students. The changes will impact rising juniors in high school. When the eligibility standard is tied to the accurate percentiles of 75th and 89th for each type of award, it is anticipated that there will be a reduction of approximately 7,000 students being eligible for the FMS (75% tuition & fees) award and about 6,200 fewer students eligible for the FAS award.

**D. FISCAL COMMENTS:**

The State Board of Education must update rules in the Bright Futures Scholarship Program pertaining to SAT and ACT national percentile ranks in determining and publishing the required examination scores a student must meet to qualify for the awards.

The State Board of Education must also update rules pertaining to the changes in FCS institutions' carry forward fund balance procedures.