

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 5501      PCB HEA 19-01      Higher Education  
**SPONSOR(S):** Higher Education Appropriations Subcommittee, Fine  
**TIED BILLS:**                      **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Higher Education Appropriations Subcommittee	10 Y, 0 N	Lloyd	Lloyd
1) Appropriations Committee	24 Y, 0 N	Lloyd	Pridgeon

The bill returns university institutions to a more traditional budget structure, provides for the expenditure of carry forward funds, clarifies provisions relating to the Bright Futures Scholarship program and provides criteria to the Board of Education (BOE) and Board of Governors (BOG) for Public Education Capital Outlay (PECO) projects recommended for funding. Specific provisions are as follows:

- **Transfers to other institutional funds:** Limits the ability of colleges and universities to transfer funds from state funds to any other fund within the institution or a direct support organization without specific authorization from the Legislature.
- **Carry forward:** Authorizes universities and colleges 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 Board of Trustees and the Board of Governors or Board of Education as appropriate.
- **Budget categories:** Establishes that university budgets will be appropriated using traditional budget entities and categories used for other state agencies.
- **Bright Futures scholarship adjustment:** Clarifies that Bright Futures eligibility is tied to achievement of ACT and SAT scores equivalent to the 89th and 75th percentile scores.
- **Space needs calculation:** Modifies standards for calculation of space needs by colleges 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.
- **PECO recommended list:** Requires the BOG and BOE to develop a points based methodology to rank projects for recommendation for funding.
- **PECO appropriation estimate by Economic and Demographic Research (EDR):** Requires EDR to to adopt a public education capital outlay (PECO) appropriation estimate that incorporates an averaged bonding capacity through Fiscal Year 2022-23.

This bill conforms statute to funding decisions included in the proposed House 2019-2020 General Appropriations Act. See fiscal section for details.

The bill takes effect upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

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

*Background:* The Florida College System (FCS) operates 28 public postsecondary institutions<sup>1</sup> which offer associate, baccalaureate and career technical education and degree programs. Florida Colleges 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,<sup>2</sup> and \$66.4 million for fixed capital outlay.<sup>3</sup> In addition, colleges collect approximately \$1 billion from student tuition and fees<sup>4</sup>, which are legislative authorized, but not appropriated.<sup>5</sup>

*Florida College System funds:* The Florida Colleges' Financial Accounting System allocates and accounts for funds separately according to the purpose for which resources may be used in accordance with limitations, regulations or restrictions imposed by sources outside the institution or the governing board. Each fund is an accounting entity with a self-balancing asset of accounts consisting of assets, liabilities, fund balance and changes in the fund balance. Florida College System institutions classify their financial activities and report annually in the following funds.<sup>6</sup>

Fund Number	Fund Title
1	Current Funds – Unrestricted
2	Current Funds – Restricted
3	Auxiliary Funds
4	Loan Endowment, Annuity and Life Income Funds
5	Scholarship Funds
6	Agency Funds
7	Unexpended Plant and Renewal/Replacement Funds
8	Retirement of Indebtedness Funds
9	Investment in Plant Funds

Fund 1 (Current Funds –Unrestricted) is used to account for those economic resources which may be used to accomplish the primary and supporting objectives of the college. The only restrictions on the resources of this fund are those imposed by law, regulation, or the budget.<sup>7</sup>

Fund 7 (Unexpended Plant and Renewals/Replacement Funds) is used to account for resources that are available for the acquisition or construction of physical property to be used for institution purposes and resources designated for the major repair and/or replacement of institutional property, as well as associated liabilities.<sup>8</sup>

<sup>1</sup> See section 1000.21(3), F.S.

<sup>2</sup> Specific Appropriations 14, 125B, and 126 of the GAA, HB 5001; Chapter 2018-9, Laws of Florida

<sup>3</sup> Specific Appropriations 21 and 23 of the GAA, HB 5001; Chapter 2018-9, Laws of Florida

<sup>4</sup> Student fees reported in the FCS Summary of Accounts by General Ledger Code for 2017-2018 – \$944,414,261

<sup>5</sup> Section 1009.23, F.S.

<sup>6</sup> Accounting Manual for The Florida College System, Florida Council of Business Affairs

<sup>7</sup> Accounting Manual for The Florida College System, Florida Council of Business Affairs (4-2)

<sup>8</sup> Id.

State appropriations received by colleges for college operations are placed into Fund 1 of the FCS Accounting System, along with other grants, donations, and revenues, including students' tuition and fees. State appropriations for fixed capital outlay are placed in Fund 7 of the FCS Accounting System. Each college's account expenditures and balances are reported in the Annual Financial Report (AFR). From the latest AFR, the combined colleges' Fund 1 (Current Funds Unrestricted) June 30, 2018 fund balance, less encumbrances totaled \$235.1 million. From Fiscal Years 2013-2014 through 2017-2018, the average fund balance for all colleges combined totaled \$302.9 million.

Florida College System  
Fund Balances - Fund 1  
2017-2018 Accounts - Ending June 30, 2018

College	Total Funds Available	Total Reserve Less Encumbrances	Required 5% Reserve	Excess Reserve
Eastern Florida State College	84,829,590	7,433,826	4,241,480	3,192,347
Broward College	277,838,192	28,744,279	13,891,910	14,852,369
College of Central Florida	47,342,662	5,772,692	2,367,133	3,405,559
Chipola College	19,959,804	4,664,522	997,990	3,666,532
Daytona State College	116,446,408	8,841,963	5,822,320	3,019,642
Florida SouthWestern State College	80,087,530	6,916,406	4,004,376	2,912,029
Florida State College at Jacksonville	158,276,111	24,438,392	7,913,806	16,524,586
Florida Keys Community College	11,924,323	1,818,269	596,216	1,222,052
Gulfcoast State College	24,406,910	1,825,622	1,220,345	605,277
Hillborough Community College	164,028,866	43,416,775	8,201,443	35,215,332
Indian River State College	93,602,240	8,892,135	4,680,112	4,212,023
Florida Gateway College	28,172,428	8,033,240	1,408,621	6,624,619
Lake-Sumter State College	27,075,557	2,561,143	1,353,778	1,207,366
State College of Florida - Sarasota-Manatee	56,615,463	9,831,143	2,830,773	7,000,370
Miami Dade College	451,726,532	78,400,081	22,586,327	55,813,754
North Florida Community College	14,013,723	3,830,290	700,686	3,129,604
Northwest Florida State College	37,145,821	2,904,900	1,857,291	1,047,609
Palm Beach State College	142,397,733	7,238,674	7,119,887	118,787
Pasco-Hernando State College	58,757,441	6,168,822	2,937,872	3,230,950
Pensacola State College	70,704,069	16,828,239	3,535,203	13,293,036
Polk State College	54,939,034	5,093,046	2,746,952	2,346,095
St. Johns River State College	40,080,239	7,840,302	2,004,012	5,836,290
St. Petersburg College	132,834,931	13,508,190	6,641,747	6,866,443
Santa Fe College	105,049,944	22,501,745	5,252,497	17,249,248
Seminole State College of Florida	92,274,351	9,164,648	4,613,718	4,550,930
South Florida State College	25,824,691	2,510,098	1,291,235	1,218,863
Tallahassee Community College	71,766,208	14,171,552	3,588,310	10,583,242
Valencia College	219,081,249	17,135,247	10,954,062	6,181,185
Total	2,707,202,047	370,486,241	135,360,102	235,126,138

Source: Florida Colleges Annual Financial Report FY 2017-2018

The combined colleges' Fund 7 (Unexpended Plant and Renewal/Replacement Funds) funds balance, less encumbrances, for all colleges totaled \$932.7 million as of June 30, 2017. This balance includes transfers made by colleges from Fund 1 to Fund 7. The transfers in Fiscal Year 2017-2018 totaled \$111.3 million. From Fiscal Years 2013-2014 through 2017-2018, the average annual transfer from Fund 1 to Fund 7 totaled \$90.8 million.

Florida College System  
Fund 7 Balances / Transfers Between Fund 1 and Fund 7

Fund 1 - Current Funds Unrestricted (Includes funding from GR - Tuition & Fees- Other Grants - Interest

Fund 7 - Unexpended Plant Funds Fund Balance - (AFR Line J527 - Fund Balance College each sheet)

Transfers Out from Fund 1 Non-Mandatory Unrestricted to Fund 7 Plant Maintenance on Line D479; Transfer In from Non-Mandatory Fund 1 Unrestricted to Fund 7 on Line J347

	2017-18			2016-17			2015-16			2014-15			2013-14		
	Fund 7 Balance	Non-Mandatory Transfers		Fund 7 Balance	Non-Mandatory Transfers		Fund 7 Balance	Non-Mandatory Transfers		Fund 7 Balance	Non-Mandatory Transfers		Fund 7 Balance	Non-Mandatory Transfers	
	End Balance Less Reserve for Encumbered <sup>1</sup>	Transfers Out	Transfers In Fund 7 UnRestricted	End Balance Less Reserve for Encumbered <sup>1</sup>	Transfers Out	Transfers In Fund 7 UnRestricted	End Balance Less Reserve for Encumbered <sup>1</sup>	Transfers Out	Transfers In Fund 7 UnRestricted	End Balance Less Reserve for Encumbered <sup>1</sup>	Transfers Out	Transfers In Fund 7 UnRestricted	End Balance Less Reserve for Encumbered <sup>1</sup>	Transfers Out	Transfers In Fund 7 UnRestricted
Florida College System Institution															
Eastern Florida State College	541,852	(1,715,600)	1,700,000	12,512,744	(1,059,220)	1,055,720	3,536,440	(2,766,000)	2,766,000	3,369,625	0	0	6,995,614	0	0
Broward State College	46,961,249	(27,500,000)	27,500,000	30,623,928	0	0	27,308,360	0	0	20,446,352	0	0	43,706,419	(2,500,000)	2,500,000
College of Central Florida	7,642,042	(2,762,019)	2,762,019	5,000,963	0	0	4,861,240	0	0	7,598,022	0	0	4,613,073	0	0
Chipola College	3,901,098	0	0	3,468,314	0	0	378,083	0	0	5,947,488	0	0	4,932,561	0	0
Daytona State College	35,173,772	(9,500,000)	9,500,000	54,736,767	(5,750,000)	5,750,000	34,544,151	(6,850,000)	6,850,000	33,989,181	(1,000,000)	1,000,000	26,040,601	0	0
Florida SouthWestern State College	18,359,079	(1,850,000)	1,850,000	5,107,878	(2,700,000)	2,700,000	600,855	(2,350,000)	2,350,000	13,998,437	(1,200,000)	1,200,000	20,795,752	(5,300,000)	5,300,000
Florida State College at Jacksonville	22,701,239	(430,000)	0	27,331,002	0	6,005,741	6,103,270	(8,791,805)	8,791,805	10,011,039	(8,000,000)	8,000,000	17,590,544	0	0
Florida Keys Community College	5,087,628	0	0	4,038,161	(1,492,444)	1,492,444	1,681,314	(392,999)	392,998	2,156,091	(316,388)	250,806	2,153,743	0	0
Gulf Coast State College	13,436,144	0	0	15,896,114	(4,000,000)	4,000,000	13,014,804	0	0	16,713,057	0	0	4,878,894	0	0
Hillsborough Community College	4,973,825	0	0	7,561,830	0	0	7,768,361	0	0	8,136,975	0	0	8,831,406	0	0
Indian River State College	15,980,966	0	0	13,326,775	0	0	12,786,313	(650,000)	650,000	16,734,068	(1,600,000)	1,600,000	14,762,102	0	0
Florida Gateway College	6,751,169	0	0	2,278,575	0	0	2,451,089	0	0	2,814,251	0	0	3,578,684	(400,000)	400,000
Lake-Sumter State College	3,690,324	(750,000)	750,000	4,873,151	(800,000)	800,000	14,227,179	(500,000)	500,000	6,214,820	(1,000,000)	1,107,540	2,842,863	(400,000)	400,000
State College of Florida, Manatee-Sarasota	20,915,773	0	0	24,147,565	(16,890,790)	16,890,790	13,332,445	0	0	16,049,847	0	0	8,495,628	0	0
Miami Dade College	506,764,229	(46,507,516)	46,507,516	546,539,426	(26,488,761)	26,488,761	492,356,212	(44,636,361)	44,636,361	488,678,552	(36,742,480)	36,742,480	510,911,416	(63,222,074)	63,222,074
North Florida Community College	3,182,478	(400,000)	400,000	2,616,025	0	0	2,528,596	(700,000)	700,000	2,145,766	0	0	3,094,880	0	1,994,296
Northwest Florida State College	746,743	(1,000,000)	1,000,000	7,580,671	(3,000,000)	3,000,000	3,825,320	0	0	4,595,773	0	0	2,484,942	(900,000)	0
Palm Beach State College	34,578,536	(680,621)	0	27,627,005	(17,680,621)	17,000,000	12,811,540	(680,621)	0	13,788,293	(2,280,621)	1,600,000	28,546,331	(4,180,621)	4,180,621
Pasco-Hernando State College	31,718,887	(3,966,699)	3,966,699	27,847,654	(8,914,308)	8,914,308	22,493,992	(2,756,403)	2,756,403	13,502,561	(3,456,850)	3,456,850	9,074,551	(3,805,389)	3,805,389
Pensacola State College	22,000,042	(3,000,000)	3,000,000	18,989,577	(3,000,000)	3,000,000	7,454,180	(750,000)	750,000	8,696,166	0	0	8,301,869	0	0
Polk State College	912,760	0	0	1,736,269	0	0	5,061,513	0	0	5,343,690	0	0	17,313,934	0	0
Saint Johns River State College	12,394,350	(1,000,000)	1,000,000	11,314,252	0	0	5,310,772	0	0	8,494,583	0	0	6,665,182	0	1,000,000
Saint Petersburg College	19,022,952	0	0	14,122,428	0	0	10,529,927	0	0	12,531,045	(98,912)	98,912	16,969,996	0	0
Santa Fe College	36,696,096	(2,800,000)	2,800,000	34,589,741	(17,116,150)	17,116,150	22,796,691	(2,211,049)	2,211,049	21,810,953	(250,000)	250,000	14,117,042	(1,275,000)	1,275,000
Seminole State College of Florida	12,076,254	0	0	26,390,685	(6,350,000)	6,350,000	27,338,942	0	0	18,423,659	0	0	14,052,469	0	0
South Florida State College	4,253,960	0	0	4,260,733	0	0	3,354,962	0	0	4,090,824	0	0	6,933,299	0	0
Tallahassee Community College	9,870,895	(1,262,672)	1,262,672	10,722,474	0	0	8,029,466	0	0	14,856,683	(1,000,000)	0	16,317,241	0	0
Valencia College	32,410,159	(6,175,000)	6,175,000	25,890,922	(9,000,000)	9,000,000	31,463,916	0	0	30,916,427	(2,000,000)	2,000,000	24,831,455	0	0
<b>Total Balance - Encumbrances Only</b>	<b>932,744,502</b>	<b>(111,300,127)</b>	<b>110,179,907</b>	<b>971,171,600</b>	<b>(124,242,294)</b>	<b>129,569,915</b>	<b>798,149,993</b>	<b>(74,035,237)</b>	<b>73,354,616</b>	<b>812,054,228</b>	<b>(58,945,251)</b>	<b>57,306,588</b>	<b>850,526,498</b>	<b>(81,783,081)</b>	<b>83,817,380</b>

Calls highlighted green include in total (or in part, as listed below) Reserved Fund Balance - Grantor. These may be required reserves by the grantor.

For 2013-14, NFCC's fund balance of \$3,094,880 includes \$2,538,790 Fund Balance - Grantor

**College carry forward funds:** 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.<sup>9</sup>

### Effect of bill

**Transfer of funds – colleges:** The bill amends s. 1001.64, F.S. to prohibit the transfer of state funds that are appropriated from the General Revenue Fund, the Educational Enhancement Trust Fund, or from authorized tuition and fee revenues between Florida College System (FCS) institutions' General Funds – Current funds unrestricted (Fund 1) and other institutional funds without authorization in the General Appropriations Act or approval by the Legislative Budget Commission.

**College carry forward funds:** The bill creates s. 1013.841, F.S. to codify the current practice of allowing FCS institutions to carry forward funds. Each FCS institution will be required 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, required to submit a plan to attain the seven percent balance within the next fiscal year.

The bill provides that 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

<sup>9</sup> Section 1011.84(3)(b)5.(e), F.S.

plan must include all excess carry forward funds from state operating funds – Fund 1 and all of the fund balance in Fund 7. 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 1<sup>st</sup> thereafter and to the State Board of Education by October 1, 2019 and each October 1 thereafter. Authorized expenditures in a FCS institution carry forward spending plan may only include the following:

1. Commitment of funds to a public education capital outlay project for which an appropriation has previously been provided that requires additional funds for completion;
2. 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;
3. 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.;
4. 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.;
5. Operating expenditures that support the college’s mission that are nonrecurring;
6. Any purpose specified in the General Appropriations Act.

The bill requires each Florida College System institution to report the fund balance in Fund 7 – Unexpended Plant Funds on June 30, 2019 and every June 30<sup>th</sup> thereafter.

### **State University System**

*Background:* The State University System (SUS) operates 12 public postsecondary institutions which offer baccalaureate, professional, and graduate degree programs.<sup>10</sup> 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.

*Appropriations to universities and transfer of funds:* Funds appropriated by the Legislature are allocated to public universities using appropriation categories,<sup>11</sup> which identify the programmatic purpose for which the funds are intended. Education & General is the broadest such category, generally used by institutions to fund operations on their main campus. Other programs, such as medical schools or specialized research facilities, are funded through their own distinct appropriation category. Should an institution find that the original appropriation in one category is insufficient to meet their needs, they may transfer up to \$1 million in funds that are appropriated to the institution in the General Revenue Fund, the Educational Enhancement Trust Fund and the Education/General Student and Other Fees Trust Fund between the Education and General Activities category and other program categories. For transfers in excess of that threshold, a university’s board of trustees must request additional authority from the Board of Governors, who may then seek approval from the Legislative Budget Commission.<sup>12</sup>

Universities receive state funding from three primary sources: Lottery funds (Educational Enhancement Trust Fund), the General Revenue Fund and tuition. The Lottery funds are appropriated in one specific appropriation line in section 1 of the General Appropriations Act and their distribution among institutions is authorized in proviso. General Revenue and tuition are appropriated in one specific appropriation line in section 2 of the General Appropriations Act and their distribution among institutions is authorized in proviso. The entire \$4.3 billion appropriation is captured in these two lines of the General Appropriations Act. The universities do not participate in the state accounting system and the state’s Chief Financial Officer does not review their expenditures. The existing level of transparency is dependent on the timeliness and accuracy of data posted on the Board of Governor’s website or by the individual university.

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<sup>10</sup> Section 1000.21, F.S.

<sup>11</sup> See generally s. 216.011, F.S.

<sup>12</sup> Section 1001.73, F.S.

*University carry forward funds:* 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.<sup>13</sup> 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.<sup>14</sup>

#### Effect of bill:

*Appropriations to universities and transfers of funds:* The bill amends s. 1001.73, F.S. to prohibit the transfer of funds that are appropriated to the state university in the General Revenue Fund, the Educational Enhancement Trust Fund, and the Education/General Student and Other Fees Trust Fund between the Education and General Activities category and other program categories and any other institutional fund without authorization in the General Appropriations Act or approval by the Legislative Budget Commission pursuant to chapter 216.

The bill amends s. 1011.41, F.S. to provide specific authority for the Legislature to appropriate state universities in budget entities, program component, program categories, lump sums and special categories. The establishment of a more detailed appropriation will provide greater transparency, clarity and accountability to the Legislature and the Florida taxpayers. Universities will have the authority to transfer funds between appropriation categories pursuant to the provisions of chapter 216.

*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 attain the seven percent balance within the next fiscal year.

The bill provides that 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 1<sup>st</sup> thereafter and to the Board of Governor's by October 1, 2019 and each October 1 thereafter. Authorized expenditures in a university carry forward spending plan may only include the following.

1. Commitment of funds to a public education capital outlay project for which an appropriation has previously been provided that requires additional funds for completion;
2. 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;
3. 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.;
4. 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.;
5. Operating expenditures that support the college's mission that are nonrecurring;
6. Any purpose specified in the General Appropriations Act.

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<sup>13</sup> Section 1011.45, F.S.

<sup>14</sup> Florida House of Representatives Higher Education Appropriations Subcommittee. (19, 2 13). State University Operating Budgets and Fund Balances. Retrieved from <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3006&Session=2019&DocumentType=Meeting%20Packets&FileName=hea%202-13-19.pdf>

## **Direct-Support Organizations**

*College Direct-Support Organizations:* 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>15</sup>. Each of the 28 FCS institutions have a DSO. 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>16</sup> Each DSO must be reviewed and certified by the FCS institution's BOT to be operating in a manner consistent with the goals of the college and in the best interest of the state.<sup>17</sup>

The FCS institutions' BOTs are currently authorized to permit the use of property, facilities, and personal services at their college by the DSO.<sup>18</sup> "Personal services" includes full-time or part-time personnel as well as payroll processing.<sup>19</sup>

In a query, 24 of the FCS institutions allowed their DSOs to use personal services that are funded through college funds. 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>20</sup>

*University Direct-Support Organizations:* Section 1004.28, F.S. relates to university direct-support organizations and contains similar provisions to the section on college direct support organizations. A university's board of trustees may transfer funds pledged for capital projects from their state appropriation to their DSO, and must report information related to these transfers to the Legislature on an annual basis.<sup>21</sup>

### **Effects of bill:**

*College Direct Support Organizations:* The bill amends s. 1004.70, F.S. to strengthen the oversight of DSOs by Florida College System boards of trustees by requiring each FCS institution's board of trustees (BOT) to establish thresholds for approval of purchases, acquisitions, projects, and issuance of debt. Beginning July 1, 2019, college transfers of any state appropriation to DSOs with a fund balance of greater than \$50 million may only include funds pledged for capital projects. In addition, each FCS institution's BOT must annually report on the amount of appropriated funds that are transferred to a DSO during the previous fiscal year, the purpose for each transfer, and the remaining balance, if any, of funds transferred.

FCS institutions' DSOs will be prohibited from giving, either directly or indirectly, any gift to a political committee.

*University Direct-Support Organizations:* This bill amends s. 1004.28, F.S. to allow universities to transfer an appropriation from the General Revenue Fund, the Educational Enhancement Trust Fund, or the Education/General Student and Other Fees Trust Fund to a DSO only if such funds are pledged for capital projects and the transfer is authorized in the General Appropriations Act or by the Legislative Budget Commission. No other transfers are permitted under the provisions of the bill.

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<sup>15</sup> Section 1004.70(1)(a)1., F.S.

<sup>16</sup> Section 1004.70(1)(a)2., F.S.

<sup>17</sup> Section 1004.70(1)(a)3., F.S.

<sup>18</sup> Section 1004.70(3)(a), F.S.

<sup>19</sup> Section 1004.70(1)(a)3.(b), F.S.

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

<sup>21</sup> Section 1004.28, F.S.

The bill also modifies the current public records exemption for records of the DSO in order to provide that an auditor's report, management letter, any information necessary for the auditor's report, any information necessary for the auditor's report, any information relating to the expenditure of funds, and any supplemental data requested by the Board of Governors, the university board of trustees, the Auditor General, and the Office of Program Policy Analysis and Government Accountability (OPPAGA) will not be confidential and exempt from s. 119.07(1), F.S.

### **Auditor General's Responsibilities**

The Auditor General conducts annual financial audits of 12 state universities and 28 state colleges. Pursuant to s. 11.45, F.S., 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.

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

### **Bright Futures Program**

*Background:* In 1997, the Bright Futures Scholarship Program (BF) was created as a lottery-funded (Educational Enhancement Trust Fund) scholarship program to reward any Florida high school graduate who merits recognition of high academic achievement and who enrolls in a degree program, certificate program, or applied technology program in an eligible Florida public or private postsecondary education institution.<sup>22</sup>

The Bright Futures Scholarship Program consists of the following awards:

- Florida Academic Scholars (FAS);<sup>23</sup>
- Florida Medallion Scholars (FMS); and <sup>24</sup>
- Florida Gold Seal Vocational Scholars (FGSVS), and the Florida Gold Seal CAPE Scholars (FGSCS)<sup>25</sup>

The Florida Department of Education (DOE or department) is responsible for issuing awards from the Bright Futures program annually.<sup>26</sup> Annual awards may be for up to 45 semester credit hours or the equivalent.<sup>27</sup>

Each award level has specific eligibility criteria a student must meet to receive an initial award, and for subsequent renewal awards. Initial award criteria includes High School Course Credits, High School GPA, Community Service Hours, and specific scores students must make on the College Entry Exam.<sup>28</sup>

The Bright Futures Scholarship currently provides for up to 45 credit hours per year for the following:<sup>29</sup>

- 100 percent of tuition and fees for FAS, plus \$300 college related expenses each fall/spring term;<sup>30</sup>

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<sup>22</sup> Section 2, ch. 1997-77, L.O.F.; Section 1009.53(1), F.S.

<sup>23</sup> Section 1009.534, F.S.

<sup>24</sup> Section 1009.535, F.S.

<sup>25</sup> Section 1009.536, F.S.

<sup>26</sup> Section 1009.53(5), F.S.

<sup>27</sup> Id.

<sup>28</sup> Bright Futures Student Handbook: Chapter 1, Page 3 <https://www.floridastudentfinancialaidsg.org/PDF/BFHandbookChapter1.pdf>

<sup>29</sup> Section 1009.53(5), F.S.



- Summer-Term Funding for FAS and FMS;<sup>31</sup>
- 75 percent of tuition and fees for FMS;<sup>32</sup>
- Per credit hour awards as specified in the General Appropriations Act for FGVS and FGSCS; and<sup>33</sup>
- For each district's highest academically ranked FAS - an additional \$44 per credit hour award for college related expenses<sup>34</sup>

*College Entry Exam/Test Score Eligibility:* To be eligible to receive a FAS or FMS Bright Futures Scholarship, a student must attain specific test scores on either the SAT or ACT. Pursuant to s. 1009.531(6)(a), F.S., to be eligible for a FAS award, high school students must earn an SAT score of 1290 which corresponds to the 89<sup>th</sup> percentile rank or a concordant ACT score of 29. To be eligible for a FMS award, high school students must earn an SAT score of 1170 which corresponds to the 75<sup>th</sup> SAT percentile rank or a concordant ACT score of 26.<sup>35</sup> The SAT percentile ranks and corresponding SAT scores specified are based on the SAT percentile ranks for 2010 college-bound seniors in critical reading and mathematics as reported by the College Board.<sup>36</sup>

In March 2014, The College Board announced a redesigned version of the SAT would be administered in 2016. The new test scoring differs considerably from the prior test version: 1) The redesigned SAT moved to a 1600-point score scale, from the 2400-point score scale of the previous test; 2) scores for the optional essay are reported separately; and 3) there is no penalty for guessing because scores are based on the number of questions answered correctly.<sup>37</sup>

Because of the redesign and changes in test scores, more students qualify for the Bright Futures Scholarship, and some who would qualify for the Florida Medallion Scholars at the prior test scores now qualify as Florida Academic Scholars, who receive higher awards. As demonstrated in columns E and F in the table below, the SAT scores specified in law no longer correspond to the SAT percentile ranks for the FAS and FMS awards which were updated in 2010<sup>38</sup> and 2011,<sup>39</sup> respectively, and are not concordant to the ACT examination scores.

The redesigned SAT compares to current statutorily set scores and ACT concordance as follows:

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<sup>30</sup> Section 19. Chapter 2018-4 codified funding levels provided in the 2017-18 GAA (ch. 2017-70, L.O.F.), Specific Appropriation 4 included funding for these FAS awards, which were returned to those provided in 1997-98 through 2005-2006.

<sup>31</sup> Section 18. Chapter 2018-4 codified funding levels provided in the 2017-18 GAA (ch. 2017-70, L.O.F.), Specific Appropriation 4, included 100 percent of tuition and fees, and summer-term funding for FAS beginning summer 2018. These returned FAS awards the levels provided in Fiscal Years 1997-1998 through 2005-2006. For FMS it provided for summer term funding beginning in summer 2019.

<sup>32</sup> Section 20. Ch. 2018-4, L.O.F. The FAS awards were returned to those provided in 1997-98 through 2005-2006

<sup>33</sup> Specific Appropriation 4, Ch. 2018-9, L.O.F.,

<sup>34</sup> Id.

<sup>35</sup> Section 1009.531(6)(b), F.S.

<sup>36</sup> Section 1009.531(6)(c), F.S.

<sup>37</sup> <https://collegereadiness.collegeboard.org/educators/higher-ed/scoring>

<sup>38</sup> Section 13, ch. 2010-155, L.O.F.

<sup>39</sup> Section 17, ch. 2011-63, L.O.F.

**Comparison of Prior SAT to Redesigned SAT  
SAT / ACT Concordance  
Bright Futures Eligibility**

Bright Futures Scholarship Awardee	Bright Futures Eligibility Requirements as provided in s. 1009.531, F.S.			How These Scores and Percentiles Compare Between Current Statutory Scores and Percentiles to the Redesigned SAT and Concordant ACT			How These Scores Compare with the Redesigned SAT and Concordant ACT	
	A	B	C	D	E	F	G	H
	SAT Score	ACT Score	Percentile	SAT Score	ACT Score	Percentile	SAT Score	ACT Score
Florida Academic Scholar	1290	29	89 <sup>th</sup>	1290	27	86 <sup>th</sup>	1330	29
Florida Medallion Scholar	1170	26	75 <sup>th</sup>	1170	24	70 <sup>th</sup>	1200	25

In Fiscal Year 2018-2019, the Legislature appropriated \$519.1 million during the 2018 Legislative Session for the Bright Futures Program. In September 2018, the Legislative Budget Commission adopted a budget amendment to provide the program with an additional \$25.4 million.<sup>40</sup> On March 6, 2019 the Education Estimating Conference on Student Financial Aid adopted estimates, indicating an additional shortfall of \$8.8 million for 2018-19, thus bringing the total cost in Fiscal Year 2018-2019 to \$553.3 million.<sup>41</sup> It is assumed that the combination of increased eligible students due to the redesigned test has impacted enrollment in the program; however, other factors, such as the Legislature increasing award levels and providing funding for the summer term tend to change student behavior to take advantage of the increased benefits.

**Effects of bill:** The bill maintains the state board's responsibilities regarding publicizing the examination scores required for a student to be eligible for an FAS and FMS award. However, the bill revises the examination scores to align the SAT examination scores with the concordant 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. (No change to current law.)
  - 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 89th 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. (No change to current law.)
  - 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 75th national percentile on the SAT.

Because SAT scores corresponding to percentile ranks may change from one year to another based on student performance or test characteristics, 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:

<sup>40</sup> <http://www.leg.state.fl.us/Data/Committees/Joint/JLBC/Meetings/Packets/012419.pdf>,

EOG Number: B2019-0349, See Page 3

<sup>41</sup> <http://edr.state.fl.us/Content/conferences/financialaid/ConferenceResults.pdf> page 5 of 18

- 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.

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 pertaining to Bright Futures.

The bill removes obsolete provisions pertaining to the Bright Futures program 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.

### **Public Education Capital Outlay Program**

*Background:* 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, 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>42</sup>, 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.

*The Office of Economic and Demographic Research –Estimating PECO Appropriation Amounts:* GRT revenues are estimated each summer, fall and spring by the Office of Economic and Demographic Research (EDR) which then 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. (In years when the legislature meets in January there are only two estimating conferences -summer and fall.)

For each PECO appropriation estimate, the Office of Economic and Demographic Research estimates GRT revenues; updates debt service on outstanding bonds; estimates cash adjustments such as interest income, reversions of appropriations, administrative costs; and ultimately estimates an amount of GRT cash that is available for appropriation. That amount of PECO cash can either be spent as a cash-only PECO appropriation with no bonding or a portion may be bonded such that the total appropriation has a cash component and a bonding component.

As required by law, the Department of Education, pursuant to s.1013.60, F.S. must use EDR's estimate of PECO appropriation to allocate amounts to each PECO spending category to support the PECO legislative budget request (LBR). The Governor determines which estimate is used by the DOE in its allocations for various spending categories in the LBR. Since 2012 the PECO allocation plan has been based on EDR's estimated PECO cash with no bonding estimate. The Legislature has bonded only once in the past eight years (in Fiscal Year 2016-17).

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<sup>42</sup> See Article XII, Section 9, Fla. Constitution  
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**DATE:** 3/27/2019

Below are the March 2019 estimates provided by EDR for the two PECO appropriations estimates:

**PECO Appropriation Estimates - Economic and  
Demographic Research March 2019**

With Bonding				No Bonding
Year	Bonding	Cash	Total	Total
FY 2019-20	2611.4	162.9	2774.3	280.40
FY 2020-21	0	197.2	197.2	317.20
FY 2021-22	112.6	171.7	284.3	328.00
FY 2022-23	649.1	175.5	824.6	384.5
FY 2023-24	1420.7	205.2	1625.9	480.1
FY 2024-25	1088.3	225.2	1313.5	573.3

*How Projects Become Eligible to Receive PECO Funding:* 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.. 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.

The detail method used by institutions to calculate needed space is not specified in law. However, the Board of Governors by regulation and the Board of Education by rule, are each required to provide guidance for calculating space needs for its respective institutions that become part of the list of survey recommended needs. The lists of survey recommended projects are also the projects included in the five year Capital Improvement Plan (CIP) as required for all agencies pursuant to chapter 216, Florida Statutes.

Universities and colleges each categorize space by approximately a dozen different space types. Classroom, teaching lab, research lab, and non-vocational lab 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 14 percent of total space.<sup>43</sup>

One of the components of calculating needed additional space requires colleges and universities to determine how efficiently they use their existing space. A space utilization metric is defined in law, pursuant to s.1013.03, F.S., for postsecondary classroom space. By law, classroom space is considered 100 percent utilized if a classroom is 60 percent filled for 40 hours per week. Colleges and universities have historically used different space utilization metrics for teaching labs. Colleges consider teaching lab space 100 percent utilized if it is 80 percent occupied for 30 hours a week while universities consider teaching lab space 100 percent utilized if it is 80 percent occupied for 20 hours a week.

The space utilization metrics are a component of the formula used to calculate space factors for instructional space, (space factors represent the total amount of space required for each additional

<sup>43</sup> *Higher Education Space Utilization Research Memorandum*, Office of Program Policy and Government Accountability, February 20, 2019.

student by category) which colleges and universities then use in calculating the amount of total instructional space needed given projected student enrollment in five years. The shortfall in space needed based on enrollments for the next five years, minus the current amount of space, forms the basis of specific survey recommended projects to make up any gaps in needed space for each category.

For example, space factors on a square foot per student basis used by the universities for calculation of space needs are below:

#### 2016 Space Factors

	Classroom	Teaching Lab	Study	Research Lab	Office	Auditorium /Exhibit	Instructional Media	Gym	Campus Support Services	Total Space Need Per Student
Universities	12	15	18	25	30	3	4	6	5	118

The surveys are also used to generate recommendations for renovation and remodeling of existing space. Space planners in each institution look at new space needs projected by the survey. Planners will identify excess space in one category appropriate to be remodeled (floor plan changes) or renovated (new paint/new carpets, etc.) to meet space needs in another category. The decision to renovate a space may be recommended by planners based on student survey complaints or internal guidelines determining the level of wear and tear requiring renovation. From the list of survey recommended projects, each institution then develops its own prioritized list of survey recommended PECO eligible projects as determined by its Board of Trustees.

Currently, colleges do not treat online students differently in space needs calculations to accommodate the need for less space by each online student. In 2017, universities began adjusting for online students by counting each online student for the purposes of calculating space need as needing only 20 percent of space used by an on campus student. It will take several years before the current survey recommendations incorporate the adjustments for online students, since colleges and universities stagger each five year survey.

*List of Survey Recommended Projects:* Approximately 295 projects costing over \$5.6 billion have been survey recommended as projects eligible for PECO funding. A summary of those projects follows:

- 258 survey recommended projects with a total cost of \$4.9 billion have never received state funds consisting of the following:
  - Universities: 82 projects for \$2.6 billion
  - Florida Colleges: 176 projects for \$2.3 billion
- 37 survey recommended projects have previously been funded, are not yet finished and have a cost to complete of \$733 million including:
  - Florida Colleges: 21 projects totaling \$292.3 million (or 40 percent of total)
  - Universities: 12 projects totaling \$400.3 million (or 55 percent of total)
  - Special Facilities (Public Schools): 3 projects totaling \$39.5 million (or 5 percent of total)

Of the 37 projects that have been started but not completed, 15 projects first received funding from 2006-07 through 2015-16 and are still incomplete. These older projects comprise \$205.6 million or 28 percent of the outstanding need.

*Department of Education –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) as required by 1013.60, F.S. The DOE is directed in 1013.03, F.S. to use a five year

average of appropriations to limit the amount provided to each educational system (universities, colleges, and public schools).

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 developed pursuant to s.1013.64, F.S. The BOG (for universities) and BOE (for colleges) are required by 1013.64(4), F.S. to provide 3 year prioritized project lists to the legislature 90 days before session.

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 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 year to fund all the projects that have been started by the legislature.

Below is a five year history of total PECO appropriations by category included in the General Appropriations Act.

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

\* Total Appropriated for PECO in the General Appropriations Act before vetoes

*Board of Education and Board of Governor's Recommended Lists - How Projects Are Selected for Recommendation from the List of Survey Recommended Projects:* Each board (BOG and BOE) develops its 3 year priority list based on DOE's allocation plan amount. All board recommended projects must be survey recommended pursuant to s.1013.31, F.S. 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, as provided in s. 1013.64(1)(a), F.S. 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”. “Sum of the Digits” calculations for Florida’s education system buildings are as follows:

**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%

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.

**Building Value Chart**

Education System	Number of PECO Eligible Buildings	PECO Eligible Building Value	2 % of Building Value	4 % of Building Value
Colleges	3335	14,784.1	295.7	591.4
Universities	2164	26,971.7	539.4	1,078.9
Total (millions)	5499	41,755.8	835.1	1,670.2

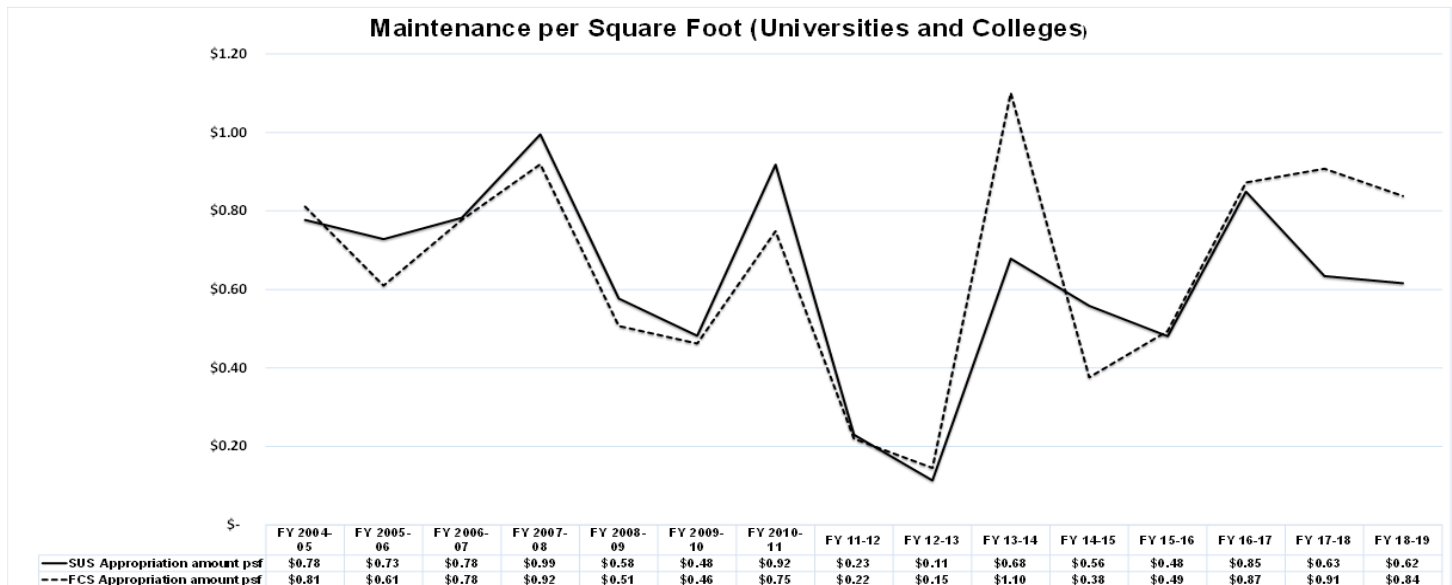
Historically, within the PECO allocation formula developed by DOE pursuant to s.1013.60, F.S. an amount has been calculated for the maintenance category for each education system (public schools, colleges, universities). It is allocated to each system dividing up the amount of non-bonded cash in the PECO appropriation by the relative percent of the total for of each system’s total “sum of the digits” calculation described in 1013.64 (1a). (See the “% of total” ratios in the Sum of the Digits Chart). 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. For example, see below for maintenance estimates for specific universities and colleges that would be generated under the DOE allocation formula for different PECO appropriation estimates by EDR, which have different levels of non-bonded cash.

**Higher Education Maintenance Allocations Pursuant to DOE Allocation Formula  
Under Different PECO Appropriation Estimates**

EDR Estimate	Cash Only/No Bonding/ EDR March 2019 (280.4 million)	With Bonding/ EDR March 2019 (2,774.3 million)	Cash Only/No Bonding/ EDR March 2019 (573.3 million)
Fiscal Year	Fiscal Year 2019-20	Fiscal Year 2019-20	Fiscal Year 2024-25
Amount of Non Bonded Cash in Estimate	274.3	162.9	567.2
Universities	41.7	24.8	86.3
Colleges	28.7	17.0	59.3
Total Maintenance Allocated by DOE Formula (millions)	70.4	41.8	145.6

In recent years, it has become apparent that both colleges and universities have funded an increasing amount of their maintenance expenditures out of their carry forward funds despite the lack of clear statutory authority to do so. Further, the amounts spent from carry forward are not readily available for the purpose of determining what is actually being spent on maintenance from all sources, including GAA PECO maintenance appropriations. Below is a history of GAA maintenance appropriations for colleges and universities by square foot.



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 terms defined in s. 1013.01, F.S. as follows:

- “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;

For both colleges and universities, any remodeling project must be survey recommended pursuant to s. 1013.31, F.S. The only limit on the project amount is the amount of funding in the maintenance appropriation. (See previous chart for historical appropriations by system.) Also, the amount per project that universities and colleges may spend from the GAA maintenance category on each “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 1013.64(1)(h), F.S. universities may expend up to \$1 million to construct minor facilities.

#### Effect of bill:

*PECO Appropriation Estimates by the Office of Economic and Demographic Research:* The bill amends s. 216.136, F.S. to change the Office of Economic and Demographic Research (EDR) calculation methodology for the PECO appropriation with bonding estimate, to provide an estimate that assumes that bonding capacity for each year is equal to the average of annual bonding capacities through fiscal year 2022-23. This will provide a more practical annual appropriation for three year planning purposes than the current estimating method which lumps all unused bonding capacity accumulated since Fiscal Year 2014-15 into the subsequent year if unused through Fiscal Year 2022-23.

Below is a preliminary estimate prepared March, 15, 2019 by staff of the Office of Economic and Demographic Research for comparison purposes with the actual March 5, 2019 PECO with bonding estimate. Assuming the legislature does not bond in Fiscal Year 2019-20, the following years show an averaged bonding capacity of \$1,100 million in each of the next three years. If the legislature should authorize bonding in Fiscal Year 2019-20 then subsequent years’ average bonding capacity would be adjusted downward accordingly by the estimating conference.

## PUBLIC EDUCATION CAPITAL OUTLAY (PECO) ESTIMATING CONFERENCE

## PRELIMINARY ESTIMATE - SECTION 2 OF PCB HEA 19-01

		March 2019		
		NO BONDING in FY19-20 / Bonding Averaged in FY20- 21, FY21-22, & FY22-23		
<i>Forecast</i>		<u>5-Mar-19 Estimate</u>	<u>15-Mar-19 Estimate</u>	<u>Change</u>
FY 19-20	Maximum Available	2,774	280.4	(2,494)
	Bonded Projects	2,611	-	(2,611)
	Non-bonded Projects	163	280.4	117
FY 20-21	Maximum Available	197	1,359	1,162
	Bonded Projects	-	1,100	1,100
	Non-bonded Projects	197	260	62
FY 21-22	Maximum Available	284	1,325	1,041
	Bonded Projects	113	1,100	987
	Non-bonded Projects	172	225	54
FY 22-23	Maximum Available	825	1,315	490
	Bonded Projects	649	1,100	451
	Non-bonded Projects	175	215	39
FY 23-24	Maximum Available	1,626	1,644	18
	Bonded Projects	1,421	1,421	-
	Non-bonded Projects	205	223	18
FY 24-25	Maximum Available	1,314	1,318	4
	Bonded Projects	1,088	1,088	-
	Non-bonded Projects	225	229	4

*Project Selection Process Established in Statute for PECO Project Recommendations by Board of Governors and Board of Education:* The bill amends s. 1001.03, F.S. and s. 1001.706, F.S. to require the Board of Education (for colleges) and the Board of Governors (for universities), to choose PECO projects for the prioritized list required by s. 1013.64, F.S. from a preliminary selection group which includes PECO projects previously funded by the Legislature and the top two priorities of each institution. The Board of Education and Board of Governors will also be required to each develop a points-based methodology for developing the prioritized lists of construction, remodeling and renovation projects from the preliminary selection group. The bill establishes parameters for the methodology including that points be awarded to each project to 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 (weighted at 20 percent of the total score);
- The project represents a building maintenance project or the repair of a utility infrastructure which is necessary to preserve a safe environment for students and staff, or a project that is necessary to keep a site in operation and for which the institution is able to demonstrate it has no other funds for completion (weighted at 20 percent of the total score);
- 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 (weighted at 35 percent of the total score);
- The project reflects the priority of the submitting institution (weighted at 5 percent of the total score);
- The project represents the most cost effective replacement or renovation of an existing building (weighted at 20 percent of the total score).

The bill provides that any new construction, renovation or remodeling project that has not received an appropriation in a previous year may only be considered for the prioritized list if:

- The institution has allocated funding equal to no less than 10 percent (for Colleges), or 15 percent (for State Universities) of the total project cost or the project is needed to preserve the safety of persons using the facility or the project is consistent with a strategic legislative initiative;
- A plan is provided to reserve an amount of funds in an escrow account, specific to the project, into which shall be deposited each year an amount equal to 3 percent of the building's value for future maintenance;
- There is sufficient PECO cash which is not needed to complete previously funded previously PECO projects; and
- The project is survey recommended pursuant to s.1013.31, F.S.

The bill also requires each board to maintain lists of previously funded projects that require additional funds to complete. The combined list of all PECO projects which require additional state funds to complete will be maintained by the Department of Education so that PECO decision makers can more readily determine the potential for additional funds needed from non-PECO sources over the subsequent three years.

*Standards for Space Needs Calculations:* The bill amends s. 1013.31, F.S. to increase the specific space utilization rate, currently in statute, that represents full utilization of a classroom and establishes a rate in statute for teaching laboratory space. The rate at which a classroom is considered fully utilized is increased from 60 percent occupied for 40 hours a week to 80 percent occupied for 60 hours a week. The utilization rate for lab space is increased from 80 percent occupied for 30 hours a week to 85 percent occupied for 40 hours per week.

To the extent that existing classroom or lab space is more efficiently utilized, less space is needed for each additional student which directly translates into less space needed for projected five year enrollments when calculating space needs pursuant to s.1013.31, F.S. The overall result would be fewer or smaller projects in the pool of survey recommended projects available to the BOG and BOE for recommendation to the legislature for funding.

The chart below shows the respective decreases in space per student which will be used to calculate survey recommended projects.

	Utilization Rates		Space Factor
	Hours Per Week	Occupancy Rate	
<b>Universities /Classrooms</b>			
Current utilization rate representing "100% utilized"	40	60%	13.75
New utilization rate per this bill	60	80%	6.88
% Reduction in space need per student			43%
<b>Universities- Teaching Lab Space</b>			
Current utilization rate representing "100% utilized"	20	80%	15.63
New utilization rate per this bill	40	85%	7.35
% Reduction in space need per student			53%
<b>Colleges - Classrooms</b>			
Current utilization rate representing "100% utilized"	40	60%	13.50
New utilization rate per this bill	60	80%	6.75
% Reduction in space need per student			50%
<b>Colleges - Teaching Lab Space</b>			
Current utilization rate representing "100% utilized"	30	80%	13.75
New utilization rate per this bill	40	85%	9.71
% Reduction in space need per student			29%

The bill also requires colleges and universities to make adjustments to lower the amount of space needed for online students when calculating space needs. As colleges and universities conduct more classes online, each additional online student should require less space when calculating needed space.

The bill requires institutions to provide summaries from the inventory of data available relating to space needs currently met calculations as well as utilization data. Data for space needs currently met for each institution will be posted on their website in a consistent format. This data will aid decision makers when reviewing the BOG and BOE recommendations for projects to fund.

The bill also requires each board to review its space needs calculation methodology developed pursuant to s. 1013.31, F.S. and make recommendations to incorporate changes. Recommendations shall be submitted to the chairs of the House of Representatives and Senate Appropriations committees by October 31, 2019 and every three years thereafter.

The bill requires that all survey recommended projects be updated with the bill's new space utilization metrics and adjustments for online students by December 2019. The result should decrease the number and or size of some projects included in the university and college Capital Improvement Plans (CIP) which are the list of survey recommended projects eligible for PECO. The total for projects not already funded by the legislature is \$4.9 billion.

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

**Section 1:** Amends s. 11.45(2), F.S., relating to the duties of the Auditor General

**Section 2:** Amends s. 216.136(3), F.S., relating to revenue estimating conference functions

**Section 3:** Amends s. 1001.03, F.S., relating to specific powers of the Board of Education

**Section 4:** Amends s. 1001.64, F.S., relating to the powers and duties of Florida College System institutions boards of trustees

**Section 5:** Amends s. 1001.706, F.S., relating to the powers and duties of the Board of Governors

**Section 6:** Amends s. 1001.73, F.S., relating to the university board empowered to act as trustee

**Section 7:** Amends s. 1004.28, F.S., relating to direct-support organizations; use of property; board of directors; activities; audit; facilities

**Section 8:** Amends s. 1004.70, F.S., relating to Florida College System institution direct-support organizations

**Section 9:** Amends s. 1009.531, F.S., relating to Florida Bright Futures Scholarship Program; student eligibility requirements for initial awards

**Section 10:** Amends s. 1011.41, F.S., relating to university appropriations

**Section 11:** Amends s. 1011.45, F.S., relating to university end of year balances

**Section 12:** Amends s. 1011.84, F.S., relating to the procedure for determining state financial support and annual apportionment of state funds to each Florida College System institution district

**Section 13:** Amends s. 1013.03, F.S., relating to the functions of the department and the Board of Governors

**Section 14:** Amends s. 1013.31, F.S., relating to educational plant survey; localized need assessment; PECO project funding

**Section 15:** Amends s. 1013.60, F.S., relating to the PECO Legislative capital outlay budget request

**Section 16:** Amends s. 1013.64, F.S., relating to funds for comprehensive educational plant needs; construction cost maximums for school district capital projects.

**Section 17:** Amends s. 1013.841, F.S., relating to end of year balance of funds for Florida colleges.

**Section 18:** Requires survey recommended projects to be reviewed and revised by December 30, 2019 to incorporate the revised metrics included in section 14 of the bill in order for the Legislature to consider the projects “survey recommended”.

**Section 19:** Provides an effective date of upon becoming law.

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

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

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

None.

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

University Expenditures in State Budget: Appropriating university budgets in multiple expenditure categories for individual institutions will provide a higher level of transparency; however, it will also require institutions to manage their expenditures more precisely. While universities will be able to amend their budgets and move appropriation between categories as necessary for operations pursuant to chapter 216; universities have not been required to follow the budget amend process under Chapter 216 as other agencies are currently required to do.. This change should not negatively impact their ability to provide services; however it will require more planning to allow time for budget amendments to be approved pursuant to Chapter 216.

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 estimates: The bill requires the Office of Economic and Demographic Research (EDR) to provide a PECO appropriation with bonding estimate that averages bonding capacity through Fiscal Year 2022-2023. This provides a PECO appropriation estimate that is more practical in planning three years of multi-phase public education fixed capital outlay projects. Annually, the Governor selects one of the two estimates for use in the Department of Education's legislative budget request which drives the amounts in the allocation plan developed by the department pursuant to s. 1013.60, F.S. The allocation plan determines specific total category amounts in the legislative budget request for maintenance, renovation, remodeling and construction projects.

Under the current "with bonding" PECO appropriation estimate the current bonding capacity is \$2.6 billion in Fiscal Year 2019-20, zero in Fiscal Year 2020-21, \$112.6 million in Fiscal Year 2021-22, and \$649.1 million in Fiscal Year 2022-23. For EDR estimates done after July 1, 2019, bonding capacity would be averaged which will result in a more consistent level of annual PECO appropriation should the Governor select the "with bonding" estimate for purposes of developing LBRs through Fiscal Year 2022-2023.

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:

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

Not applicable.

##### 2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The Board of Education will have to update their rules to incorporate changes to provisions in s. 1013.31, F.S. relating to metrics used in the calculation of space needs. Similarly, the Board of Governors will have to update their regulations to incorporate changes to provisions in s. 1013.31, F.S. relating to metrics used in the calculation of space needs.

The bill will require the State Board of Education to 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 bill will require the State Board of Education to update rules pertaining to the changes in FCS institutions' DSOs and carry forward fund balance procedures.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 19, 2019, the Higher Education Appropriations Subcommittee adopted two amendments and reported the bill favorably with a committee substitute. The amendments provided that for the points-based prioritization by the State Board of Education for Florida Colleges, and the Board of Governors for State Universities, for a new construction, remodeling, or renovation project that has not received an appropriation in a previous year:

- The amount that a Florida College System (FCS) institution must allocate to be considered for inclusion on the prioritized Public Education Capital Outlay project list was reduced from 25 percent to 10 percent;
- The amount that a State University System (SUS) institution must allocate to be considered for inclusion on the prioritized Public Education Capital Outlay project list is reduced from 25 percent to 15 percent;
- For both FCS and SUS institutions, their plans to reserve funds in an escrow account for future maintenance must be "specific to the project", and include a deposit each year an amount of funds equal to 3 percent of the total value of the building, in lieu of a 10 percent reserve value of the building over a period not to exceed 3 years;
- The requirements that institutional funds allocated by FCS and SUS institutions for the projects and maintenance come from "non-state appropriated funding" were removed.

The staff analysis has been updated to reflect the committee substitute.