

## HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

**BILL #:** CS/HB 7051      PCB PEL 22-01      Postsecondary Education

**SPONSOR(S):** Education & Employment Committee and Post-Secondary Education & Lifelong Learning Subcommittee, Mariano and others

**TIED BILLS:** None    **IDEN./SIM. BILLS:** SB 7044

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**FINAL HOUSE FLOOR ACTION:** 77 Y's

40 N's

**GOVERNOR'S ACTION:** Approved

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### SUMMARY ANALYSIS

CS/HB 7051 passed the House on March 9, 2022, as SB 7044.

The bill contains measures related to postsecondary education affordability, informed consumer choice, transparency, articulation, transfer of credit, post-tenure review, and accreditation. Specifically, the bill:

- Authorizes the Board of Governors to adopt a regulation on post-tenure review.
- With limited exception, prohibits a Florida College System institution or state university from being accredited by the same accreditor for consecutive accreditation cycles and requires such institutions to apply for accreditation from an agency or association from a list approved by the Board of Governors or State Board of Education, as applicable.
- Provides a cause of action against an accrediting agency or association by a postsecondary education institution that has been negatively impacted by retaliatory action taken against the postsecondary education institution by an accrediting agency or association.
- Subjects any Florida College System institution or state university proposal or action to increase a fee, authorized by law, to a supermajority vote.
- Requires lists of required and recommended textbooks and instructional materials be posted at least 45 days before the first day of class for each term, be searchable and downloadable, and remain posted for five academic years.
- Requires course syllabi information to be posted for general education core courses and remain posted for five academic years.
- Requires postsecondary institutions participating in the statewide course numbering system to accept and apply general education courses and credit, including credit earned through dual enrollment, course equivalences, and other acceleration mechanisms, as first satisfying general education core course credit requirements and other general education subject area course credit requirements before applying the course credit as elective credit.

The bill may have an indeterminate fiscal impact on state government.

The bill was approved by the Governor on April 19, 2022, ch. 2022-70, L.O.F., and will become effective on July 1, 2022, except as otherwise provided.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### **Post-tenure review**

##### *Current Situation*

As provided in s. 7(d), Art. IX of the State Constitution, the Board of Governors (BOG) is charged with operating, regulating, controlling, and being fully responsible for the management of the State University System. However, the State Constitution explicitly provides the BOG's management is subject to the powers of the Legislature to appropriate for the expenditure of funds.<sup>1</sup>

Prior to August 2008, the Florida Board of Governors had a regulation covering faculty tenure and permanent status.<sup>2</sup> The regulation required tenure criteria to address the areas of teaching, research and other scholarly activities, and service to the public, the discipline, and the university including those professional responsibilities consistent with faculty status.<sup>3</sup> The regulation further required the criteria to take into account the mission and needs of the institution, place appropriate emphasis on teaching and teaching related scholarship, and ensure teaching performance be prominently considered in the award of tenure.<sup>4</sup> Pursuant to the regulation, the decision to recommend an employee for tenure was required to be made no later than the sixth year of continuous full-time service or equivalent part-time service in a tenure earning position.<sup>5</sup> In 2008, the regulation was repealed.<sup>6</sup>

To coincide with the repeal of the BOG's tenure regulation, the BOG adopted a regulation tasking each university board of trustees (UBOT) with establishing the personnel system for all state university employees, including the president and faculty.<sup>7</sup> This responsibility includes, among other things, tenure, permanent status, compensation, recruitment and selection, standards for performance and conduct, evaluation, promotion, nonreappointment, disciplinary actions, and separation and termination from employment.<sup>8</sup>

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

The bill authorizes the BOG to adopt a regulation that requires each tenured state university faculty member to undergo a comprehensive post-tenure review.

Should the BOG adopt such a regulation, it must require the post-tenure review be conducted every five years following the faculty member's receipt of tenure, last promotion, or last comprehensive post-tenure review, whichever is earliest.

Additionally, if adopted, the regulation must address, at minimum, the following:

- Accomplishments and productivity.
- Assigned duties in research, teaching, and service.
- Performance metrics, evaluations, and ratings.

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<sup>1</sup> *Id.*

<sup>2</sup> *See* Board of Governors, Regulation 5.940 Tenure and Permanent Status, repealed August 7, 2008.

<sup>3</sup> *Id.*

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

<sup>5</sup> *Id.*

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

<sup>7</sup> Florida Board of Governors, Regulations 1.001 University Board of Trustees Powers and Duties, (5)(a), *available at* [https://www.flbog.edu/wp-content/uploads/1\\_001-PowersandDuties.pdf](https://www.flbog.edu/wp-content/uploads/1_001-PowersandDuties.pdf) and Section 1001.706(6), F.S.

<sup>8</sup> *Id.*

- Recognition and compensation considerations, as well as improvement plans and consequences for under performance.

## **Textbooks and Instructional Materials Transparency**

### *Current Situation*

Current law establishes requirements regarding the textbook and instructional materials<sup>9</sup> adoption process at state colleges and universities.<sup>10</sup> As part of this process, each state college and state university is required to post a hyperlink to lists of required and recommended textbooks required for at least 95 percent of all courses and course sections offered during the upcoming term.<sup>11</sup> Such lists must be posted as early as is feasible, but at least 45 days before the first day of class for each term.<sup>12</sup> The lists must include the International Standard Book Number (ISBN) for each required textbook or other identifying information, which must include, at a minimum: the title, all authors listed, publishers, edition number, copyright date, published date and any other relevant information necessary to identify the specific textbooks or instructional materials required and recommended for each course.<sup>13</sup>

As reflected in the Fall 2021 ‘State University System Textbook & Instructional Materials Affordability Report’, eight of the 12 state universities met the 95 percent threshold for posting of lists of required and recommended textbooks and instructional materials for courses and course sections at least 45 days prior to the start of classes for the Fall 2020 semester.<sup>14</sup> Ten universities met the threshold for the Spring 2021 semester.

As reflected in the ‘College and Textbook Affordability in the Florida College System 2021,’ 21 of the 28 Florida College System institutions met the 95 percent threshold for posting of lists of required and recommended textbooks and instructional materials for courses and course sections at least 45 days prior to the start of classes for the Fall 2020 semester.<sup>15</sup>

Additionally, the SBE and the BOG are required to adopt textbook and instructional materials affordability policies, procedures, and guidelines for implementation by Florida College System institutions and state universities, respectively, that further efforts to minimize the cost of textbooks and instructional materials for students attending such institutions while ensuring that the quality of education and academic freedom is maintained.<sup>16</sup>

Further, each state college’s and state university’s board of trustees is required to submit an annual report by September 30 to the chancellor of the State University System and Florida College System, respectively.<sup>17</sup> Each state college’s and state university’s report is required to address the following four components:

- The textbook and instructional materials selection process for high-enrollment courses.
- Specific initiatives of the institution designed to reduce the costs of textbooks and instructional materials.
- Institution policies implemented for the posting of textbook and instructional materials information for students.

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<sup>9</sup> Pursuant to s. 1004.085(1), F.S., the term ‘instructional materials’ means “educational materials for use within a course which may be available in printed or digital format.”

<sup>10</sup> Section 1004.085, F.S.

<sup>11</sup> Section 1004.085(5), F.S.

<sup>12</sup> *Id.*

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

<sup>14</sup> See ‘State University System Textbook & Instructional Materials Affordability Report,’ Fall 2021, pg. 7.

<sup>15</sup> See ‘College and Textbook Affordability in the Florida College System 2021,’ Fall 2021, pg. 14.

<sup>16</sup> Section 1004.085(6), F.S.

<sup>17</sup> Section 1004.085(7), F.S.

- The number of courses and course sections that did not meet the textbook and instructional materials posting deadline in the previous academic year.<sup>18</sup>

## Effect of the Bill

To add additional transparency, the bill supplements the current law requiring the posting of lists of required and recommended textbooks and instructional materials at least 45 days before the first day of class for each term by requiring the lists to:

- Remain posted for at least five academic years.
- Be searchable by the course subject, course number, course title, the name of the instructor of the course, the title of each assigned textbook or instructional material, and each author of an assigned textbook or instructional material.
- Be easily downloadable by current and prospective students.

In addition, if a course is a general education core course option, the list must include course syllabi information containing sufficient detail to inform students of all of the following:

- The course curriculum.
- The goals, objectives, and student expectations of the course.
- How student performance will be measured.

## Articulation

Florida law requires the Department of Education, in conjunction with the Board of Governors, to develop, coordinate, and maintain a statewide course numbering system for postsecondary and dual enrollment education in school districts, public postsecondary educational institutions, and participating nonpublic postsecondary educational institutions that will improve program planning, increase communication among all delivery systems, and facilitate student acceleration and the transfer of students and credits between public school districts, public postsecondary educational institutions, and participating nonpublic educational institutions.<sup>19</sup> The law provides that the continuing maintenance of the system must be accomplished with the assistance of appropriate faculty committees representing public and participating nonpublic educational institutions.<sup>20</sup>

All 12 of Florida's state universities, 28 Florida College System (FCS) institutions, 38 participating nonpublic postsecondary institutions, and 48 career education centers participate in the statewide course numbering system (SCNS).<sup>21</sup> When transferring institutions, a student's credits are accepted at institutions participating in the SCNS when the two institutions offer the same course, course prefix, and number.<sup>22</sup>

Courses that have the same academic content and are taught by faculty with comparable credentials are given the same prefix and number and are considered equivalent courses.<sup>23</sup> Equivalent courses are guaranteed to transfer to any other institution participating in the SCNS. Courses that are not substantially like any other course in the SCNS are given a unique course number and are not considered equivalent.<sup>24</sup>

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<sup>18</sup> Section 1004.085(7), F.S.

<sup>19</sup> Section 1007.24(1), F.S.

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

<sup>21</sup> Florida Department of Education, *Statewide Postsecondary Articulation Manual* (Jan. 2021), at 3, available at <https://www.fldoe.org/core/fileparse.php/5421/urlt/Statewide-Articulation-Manual.pdf>

<sup>22</sup> *Id.* at 3-4.; See also Section 1007.24(7), F.S.

<sup>23</sup> Florida Department of Education, *Statewide Postsecondary Articulation Manual* (Jan. 2021), at 4, available at <https://www.fldoe.org/core/fileparse.php/5421/urlt/Statewide-Articulation-Manual.pdf>

<sup>24</sup> *Id.*

Since the implementation of Florida's SCNS, specific types of courses have been exempted from the guarantee of transfer for equivalent courses. The following courses are exceptions to the general rule for course equivalencies and transferability of these courses is at the discretion of the receiving institution:

- Courses not offered by the receiving institution.
- For courses at non-regionally accredited institutions, courses offered prior to the established transfer date of the course in question.
- Courses in the 900-999 series, such as Special Topics, Internships, Apprenticeships, Practicums, Study Abroad, Thesis and Dissertations.
- College preparatory and vocational preparatory courses.
- Graduate courses.
- Applied courses in the performing arts (Art, Dance, Interior Design, Music, and Theatre) and skills courses in Criminal Justice (academy certificate courses) are not guaranteed as transferable. These courses need evidence of achievement (i.e., portfolio, audition, interview, etc.).

### Statewide Articulation Agreement

Florida established a Statewide Articulation Agreement in 1971 to facilitate the seamless articulation of student credits between and among public postsecondary institutions.<sup>25</sup> The "2+2" articulation system provides for the equitable treatment of transfer students.<sup>26</sup> The Articulation Coordinating Committee, made up of members representing the State University System, FCS, public career and technical education, K-12 education, and nonpublic postsecondary education oversees the agreement and makes recommendation for continuous improvement.<sup>27</sup>

Under the statewide articulation agreement, a student who graduates from an FCS institution with an Associate in Arts (AA) degree is guaranteed the following rights:<sup>28</sup>

- Admission to an upper division program at a state university or FCS institution if it offers baccalaureate degree programs, except to limited access programs.
- Acceptance of at least 60 semester hours by the state universities and FCS baccalaureate degree-granting institutions.
- Adherence to the university or college requirements and policies, based on the catalog in effect at the time the student first enters the Florida college, provided the student maintains continuous enrollment.
- Transfer of equivalent courses under the SCNS.
- Acceptance by the state universities and baccalaureate degree-granting FCS institutions of credits earned in accelerated programs (e.g. Dual Enrollment, CLEP, Advanced Placement, International Baccalaureate, and Advanced International Certificate of Education).
- No additional general education core or general education institutional requirements.
- Advance knowledge of selection criteria for limited access programs.
- Equal opportunity with native university students to enter limited access programs.

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<sup>25</sup> Section 1007.23, F.S.; Rule 6A-10.024 F.A.C.; Florida Board of Governors Regulations for Articulation; See also Florida Department of Education, *Statewide Postsecondary Articulation Manual* (Jan. 2021), at 14, available at

<https://www.fldoe.org/core/fileparse.php/5421/urlt/Statewide-Articulation-Manual.pdf>

<sup>26</sup> Florida Department of Education, *Statewide Postsecondary Articulation Manual* (Jan. 2021), at 14, available at

<https://www.fldoe.org/core/fileparse.php/5421/urlt/Statewide-Articulation-Manual.pdf>

<sup>27</sup> Section 1007.01(3)(d), F.S.

<sup>28</sup> *Id.* See also Rule 6A-10.024, F.A.C. and Florida Board of Governors Regulations for Articulation.

Some degree programs require specific lower division coursework outside of common prerequisites, thus, depending on a student's course selection, the 60 hours earned in the AA will be accepted; however, not all of the credit may apply towards a student's degree program.<sup>29</sup>

### General Education Courses

Current law requires an associate in arts (AA) degree at an FCS or SUS institution to be no more than 60 semester hours of college credit and include 36 semester hours of general education course work.<sup>30</sup> For the baccalaureate degree, it must be no more than 120 semester hours of college credit, unless prior approval has been granted by the BOG or the SBE, as applicable, and include 36 semester hours of general education coursework.<sup>31</sup>

Students entering a FCS or SUS institution are required to complete at least one identified core course in the subject areas of communication, mathematics, social sciences, humanities, and natural sciences.<sup>32</sup> All public postsecondary educational institutions are required to accept these courses as meeting general education core course requirements.<sup>33</sup> After completing the general education core course requirements, the remaining courses and credits that fulfill the total 36-hour general education requirement for an associate in arts or baccalaureate degree are at the discretion of the FCS or SUS institution.<sup>34</sup>

General education programs in Florida, while consistent at the general education core requirements and the total of 36 hours for completion, vary in the selection of institutionally-required courses.<sup>35</sup> Students who transfer with an AA or AS degree, or who have completed their block of 36 general education hours do not have to meet the receiving institution's general education program requirements. If a student does not complete the total 36-hour general education curriculum prior to transfer, each course, outside of courses taken as general education courses, will be reviewed individually to determine if it meets the general education requirements of the new institution.<sup>36</sup>

### **Effect of the Bill**

To further facilitate efforts to maximize articulation, the bill requires the statewide course numbering system to be maintained electronically and regularly updated by the DOE, and in addition to including the courses at the recommended levels, requires inclusion of course numbers, course titles, credits awarded, and other identifiable information by institution and academic year. The bill further requires such information to be included in the registration process at each state university and Florida College System institution.

When receiving transfer course credit, the bill requires postsecondary institutions participating in the statewide course numbering system to accept and apply general education courses and credit, including credit earned through dual enrollment, course equivalences, and other acceleration mechanisms, as first satisfying general education core course credit requirements and other general education subject area course credit requirements before applying the course credit as elective credit.

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<sup>29</sup> Florida Department of Education, *Statewide Postsecondary Articulation Manual* (Jan. 2021), at 15, available at <https://www.fldoe.org/core/fileparse.php/5421/urlt/Statewide-Articulation-Manual.pdf>

<sup>30</sup> Section 1007.25(9), F.S.

<sup>31</sup> Section 1007.25(10), F.S.

<sup>32</sup> Section 1007.25(3), F.S. Beginning in the 2022-2023 academic year, and thereafter students entering an associated in applied science degree or an associate in science degree must complete at least one identified core course in each subject area as part of the general education course requirements before a degree is awarded.

<sup>33</sup> *Id.*

<sup>34</sup> Florida Board of Governors, General Education Core Course Options, Regulation 8.005(1) and Rule 6A-14.0303(5), F.A.C

<sup>35</sup> Florida Department of Education, *Statewide Postsecondary Articulation Manual* (Jan. 2021), at 14, available at <https://www.fldoe.org/core/fileparse.php/5421/urlt/Statewide-Articulation-Manual.pdf>

<sup>36</sup> *Id.*

## Accreditation

### *Current Situation*

In order for students to receive federal student aid from the U.S. Department of Education (USDOE) for postsecondary study, the institution must be accredited by a nationally recognized accrediting agency, be authorized by the State in which the institution is located, and receive approval from the USDOE through a program participation agreement.<sup>37</sup>

Federal law requires an accrediting agency to establish standards for the accreditation process, which must be sufficiently rigorous to ensure that the agency is a reliable authority regarding the quality of the education provided by the institution it accredits.<sup>38</sup> While an agency may establish additional accreditation standards it deems appropriate,<sup>39</sup> the agency must establish standards for the following:<sup>40</sup>

- Student success, in relation to the institution's mission, including as applicable, course completion, passage of state licensing examinations, and job placement rates.
- Curriculum.
- Faculty.
- Facilities, equipment, and supplies.
- Fiscal and administrative capacity as appropriate to the specified scale of operations.
- Student support services.
- Recruiting and admissions practices, academic calendars, catalogs, publications, grading, and advertising.
- Measures of program length and the objectives of the degrees or credentials offered.
- Record of student complaints received by, or available, to the agency.
- Record of compliance with the institution's responsibilities under title IV of the Higher Education Act of 1965, as amended, based on the most recent loan default data, the results of financial or compliance audits, program reviews, and any other information provided by the U.S. Department of Education.

For the purposes of determining institution eligibility for Federal Financial Aid programs, the accrediting agency must also establish the following procedures which are required of an institution it accredits:<sup>41</sup>

- Notification to the agency if it plans to establish a branch campus and to submit a business plan for the branch campus.
- Required site visits for a new branch campus or a change of ownership or control.
- Submission of a teach-out-plan to the agency for approval in certain circumstances.
- Confirmation that the institution has transfer of credit policies which are publicly disclosed and include a statement of the criteria established by the institution regarding the transfer of credit earned at another institution.
- Publicly disclose when an institution is considered for accreditation or renewal of accreditation.

To gain or renew accreditation, an institution must be evaluated through a set of procedures established by an accrediting agency.<sup>42</sup> Many of the procedures are guided by federal requirements.

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<sup>37</sup> U.S. Department of Education, *Overview of Accreditation in the United States*, <https://www2.ed.gov/admins/finaid/accred/accreditation.html> (last visited Mar. 11, 2022).

<sup>38</sup> 34 C.F.R. s. 602.16.

<sup>39</sup> 34 C.F.R. s. 602.16(f)-(g).

<sup>40</sup> 34 C.F.R. s. 602.16(1)(i)-(x).

<sup>41</sup> 34 C.F.R. s. 602.24.; See also Congressional Research Service, *An Overview of Accreditation of Higher Education in the United States* (Oct. 16, 2020), at 13, available at <https://sgp.fas.org/crs/misc/R43826.pdf>.

<sup>42</sup> Congressional Research Service, *An Overview of Accreditation of Higher Education in the United States* (Oct. 16, 2020), at 4, available at <https://sgp.fas.org/crs/misc/R43826.pdf>.



The process typically begins with an institutional self-study, to examine whether the institution meets the basic standards of the accrediting agency.<sup>43</sup> The self-study includes reports which show how the institution meets the agency's standards. The next phase of the process involves a peer review and site visit at the institution.<sup>44</sup> The peer review includes a review of the self-study and an on-site visit to determine whether the standards of the agency are being met, in addition to discussions with faculty, students, staff and administrators regarding issues or questions that may have arisen during the self-study.<sup>45</sup>

Following the visit, the peer review team submits a report to the accrediting agency with recommendations. The decision-making body of an accrediting agency issues a decision on whether to award or deny accreditation or preaccreditation<sup>46</sup> to a new institution; renew or terminate accreditation for an existing institution; or take an intermediate action, such as probationary status.<sup>47</sup> An accrediting agency must provide an institution with the ability to appeal an agency action prior to it becoming final.<sup>48</sup>

A renewal of accreditation must take place at regularly established intervals set by the accrediting agency.<sup>49</sup> Accrediting agencies also monitor institutions between full accreditation reviews and may require annual reporting, interim reviews, or reviews of any substantive changes.<sup>50</sup>

### Council of Regional Accrediting Commissions (C-RAC)

The Council of Regional Accrediting Commissions (C-RAC) represents the seven organizations responsible for the accreditation<sup>51</sup> of approximately 3,000 of the nation's colleges and universities:

- Accrediting Commission for Community and Junior Colleges.
- Higher Learning Commission.
- Middle States Commission on Higher Education.
- New England Commission of Higher Education.
- Northwest Commission on Colleges and Universities.
- Southern Association of Colleges and Schools Commission on Colleges (SACSCOC).
- Western Association of Schools and Colleges (WASC) Senior College and University Commission.<sup>52</sup>

The Southern Association of Colleges and Schools Commission on Colleges (SACSCOC) is the body for the accreditation of degree-granting higher education institutions in the Southern states.<sup>53</sup> It serves

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<sup>43</sup> Congressional Research Service, *An Overview of Accreditation of Higher Education in the United States* (Oct. 16, 2020), at 5, available at <https://sgp.fas.org/crs/misc/R43826.pdf>.

<sup>44</sup> *Id.* A peer review is comprised of an outside team of primarily higher education faculty and administrators, but also practitioners in specific fields and member of the public.

<sup>45</sup> *Id.*

<sup>46</sup> 34 C.F.R. s. 600.2. defines "preaccreditation" as the status of accreditation and public recognition that a nationally recognized accrediting agency grants to an institution or program for a limited period of time that signifies the agency has determined that the institution or program is progressing toward full accreditation and is likely to attain full accreditation before the expiration of that limited period of time.

<sup>47</sup> *Id.* at 5-6

<sup>48</sup> 34 C.F.R. s. 602.25.

<sup>49</sup> 34 C.F.R. s. 602.19(a).

<sup>50</sup> 34 C.F.R. s. 602.22. A substantive change could include an institution's change of control, addition of new educational programs that are a significant departure from existing offers, or a new location or branch campus.

<sup>51</sup> Defined as "a process of external review used by the higher education community to assure quality and spur ongoing improvement." Council of Regional Accrediting Commissions, *Accreditation 101*, <https://www.c-rac.org/accreditation-101> (last visited Mar. 11, 2022).

<sup>52</sup> Council of Regional Accrediting Commissions, *Who We Are*, <https://www.c-rac.org/copy-of-about-us> (last visited Mar. 15, 2022).

<sup>53</sup> See The Southern Association of Colleges and Schools Commission on Colleges website at <https://sacscoc.org/about-sacscoc/>. (last visited Mar. 15, 2022).



as the common denominator of shared values and practices primarily among the diverse institutions in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, Virginia and Latin America and certain other international sites approved by the SACSCOC Board of Trustees that award associate, baccalaureate, master's, or doctoral degrees.<sup>54</sup>

Florida's state colleges and state universities, as well as some non-public postsecondary education institutions are accredited by SACSCOC.

### Revised Federal Regulations for Accreditation Outside Traditional Region

In 2020, the U.S. Department of Education revised federal regulations to remove geographical boundaries on institutions seeking accreditation.<sup>55</sup>

According to its summary published in the Federal Register, the U.S. Department of Education summarized the revisions, in part, to "revise the requirements for accrediting agencies in their oversight of member institutions and programs to be less prescriptive and provide greater autonomy and flexibility to facilitate agility and responsiveness and promote innovation."<sup>56</sup>

SACSCOC accepts applications for membership from domestic institutions in the other 39 states as well as international institutions of higher education around the world.<sup>57</sup>

Other regional accreditors accepting applications from schools outside of their historical territory include Middle States, WASC Senior College and University Commission, Northwest Commission on Colleges and Universities, and The Higher Learning Commission.

### **Effect of the Bill**

By September 1, 2022, the bill requires the Board of Governors, for state universities, and the State Board of Education, for Florida College System institutions, to identify and make a determination of the accrediting agencies or associations that are best suited to, respectively, serve as an accreditor for state universities and Florida College System institutions.

The bill prohibits a state university or Florida College System institution from being accredited by the same accrediting agency or association for consecutive accreditation cycles. In the year following reaffirmation or fifth-year review by their accrediting agencies or associations, each state university or Florida College System institution must seek and obtain accreditation from an accrediting agency or association identified by the Board of Governors or State Board of Education, respectively, before its next reaffirmation or fifth-year review date. The bill contemplates the list compiled by the BOG and SBE to only include regional accreditors. The institution must provide quarterly reports of its progress to the Board of Governors or State Board of Education, as applicable. The bill specifies that this requirement is not applicable to those professional, graduate, departmental, or certificate programs at state universities or Florida College System institutions that have specific accreditation requirements or best practices, including, but not limited to, law, pharmacy, engineering, or other similarly situated education programs.

If each regional accreditor on the BOG or SBE approved list, as applicable, has refused to grant candidacy status to an institution, the bill requires the institution to seek and obtain accreditation from another U.S. DOE-recognized accreditor. If such institution has not received candidacy status before its next reaffirmation or fifth-year review date, it may remain with its current accreditor.

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

<sup>55</sup> *See* 84 Federal Register 58917-58918 (amending 34 C.F.R. §§ 602.3, 602.11).

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

The bill also provides a cause of action against an accrediting agency or association by a postsecondary education institution that has been negatively impacted by retaliatory action taken against the postsecondary education institution by an accrediting agency or association. For purposes of this section of the bill, the term 'postsecondary education institution' includes state colleges, state universities, and nonpublic postsecondary institutions that receive state funds. If the postsecondary institution prevails, the bill provides it may recover liquidated damages up to the amount of federal financial aid received by the postsecondary education institution, court costs, and reasonable attorney fees.

These provisions expire December 31, 2032.

The bill directs the Division of Law Revision to prepare a reviser's bill to replace references to the phrases "the Southern Association of Colleges and Schools," "the Commission on Colleges of the Southern Association of Colleges and Schools," and "the Southern Association of Colleges and Schools Commission on Colleges" wherever they occur in Florida Statutes with the phrase "an accrediting agency or association recognized by the database created and maintained by the United States Department of Education."

## **Tuition and Fees**

### *Current Situation*

#### Florida College System

The State Board of Education (SBE) has adopted a rule related to student fees. The rule authorizes each Florida College System (FCS) institution board of trustees to establish, publish, collect, and budget student fees, and establish dates for the payment of such fees.<sup>58</sup>

For 2019-2020, the average cost per credit hour at a Florida College System institution was \$225.<sup>59</sup>

Each Florida College System institution is required to publicly notice and notify all enrolled students of any proposal to increase tuition or fees at least 28 days before its consideration at a board of trustees meeting.<sup>60</sup> The notice must:

- Include the date and time of the meeting at which the proposal will be considered.
- Specifically outline the details of existing tuition and fees, the rationale for the proposed increase, and how the funds from the proposed increase will be used.
- Be posted on the institution's website and used in a press release.<sup>61</sup>

#### State University System

Current law authorizes the Board of Governors (BOG), or the board's designee, to establish tuition for graduate and professional programs and out-of-state fees for all programs.<sup>62</sup> The BOG has adopted regulations related to the adoption of tuition and fees at state universities. The regulations authorize undergraduate tuition per credit hour to be charged as established in law and that each university board of trustees (UBOT) set out-of-state fees, graduate fees and myriad other associated student fees.<sup>63</sup>

BOG regulation requires the board to authorize all fees assessed to students and that only tuition and fees outlined in the board regulations may be charged.<sup>64</sup> The BOG's regulation development

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<sup>58</sup> Rule 6A-14.054, F.A.C.

<sup>59</sup> See The Florida Department of Education's "College and Textbook Affordability in the Florida College System 2021," at pg. 2.

<sup>60</sup> Section 1009.23(20), F.S.

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

<sup>62</sup> Section 1009.24(4)(b), F.S.

<sup>63</sup> Board of Governors Regulation 7.001

<sup>64</sup> Board of Governors Regulation 7.003

procedures for the university boards of trustees (UBOT) require that UBOTs give at least 30 days' notice prior to any proposed adoption or repeal of a regulation. Notice of the proposed regulation, amendment or repeal must be published on a clearly marked area of the institution's website and include a summary of the proposed action, the full text of the proposed action, a reference to the authority for the regulation, the university official initiating the proposed action and a procedure for commenting on the proposed action. Following the adoption by the UBOT, the regulation must be provided to the BOG for adoption.

The resident undergraduate tuition rate for the State University System is currently set in statute at \$105.07 per credit hour.<sup>65</sup> For 2021-2022, the average resident undergraduate, full-time student tuition and fees is \$6,030.26.<sup>66</sup>

Each state university is required to publicly notice and notify all enrolled students of any proposal to change tuition or fees at least 28 days before its consideration at a board of trustees meeting.<sup>67</sup> The notice must:

- Include the date and time of the meeting at which the proposal will be considered.
- Specifically outline the details of existing tuition and fees, the rationale for the proposed change, and how the funds from the proposed change will be used.
- Be posted on the institution's website and used in a press release.<sup>68</sup>

### **Effect of the Bill**

The bill subjects any Florida College System institution or state university proposal or action for a fee increase, authorized by law, to a supermajority vote.

Therefore, a Florida College System institution proposal or action to raise, impose, or authorize any fee, as authorized by law, except for tuition, must be approved by a supermajority of the members of the board of trustees, if approval by the board of trustees is required by general law, and supermajority vote of the members of the State Board of Education, if approval by the State Board of Education is required by general law.

Codifying s. 7(e), Art. IX of the State Constitution, the bill requires any state university proposal or action to raise, impose, or authorize any fee, as authorized by law, except for tuition, to be approved by at least nine affirmative votes of the members of the board of trustees of the constituent university, if approval by the board of trustees is required by general law, and at least twelve affirmative votes of the members of the Board of Governors, if approval by the Board of Governors is required by general law.

The bill requires each Florida College System institution and state university to prominently post all tuition and fees, as well as any proposed changes, to their respective websites in an area that is transparent and easily accessible. The bill requires this information also be emailed to all enrolled students.

The bill also increases transparency by revising the requirements of the notification to all enrolled students to also include the following:

- How the tuition and fees which are the subject of the proposal are currently expended.
- The necessity for the proposed change or increase.

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

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<sup>65</sup> Section 1009.24(4)(a), F.S.

<sup>66</sup> See 'State University System of Florida, Tuition and Required Fees, 2021-22'.

<sup>67</sup> Section 1009.24(20), F.S.

<sup>68</sup> *Id.*

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

There will be a cost to state colleges and state universities to the extent they will be required, unless unable to obtain accreditation from an accreditor on the list approved by the BOG or SBE, to seek and obtain accreditation from an accrediting agency or association other than their current accreditors. Costs associated with seeking institutional accreditation vary, but may include an application fee, which may vary between \$5,000 - \$12,500; candidacy fee, which is \$5,000 for at least one accreditor; and costs associated with a site-visit conducted by the accreditor. Fees associated with a site visit may include travel, lodging, food, and related expenses. To the extent the cost of seeking and obtaining accreditation is greater than the costs borne for reaffirmation, there may be a negative fiscal impact to state colleges and universities.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The measures related to fee transparency may limit fee increases, thereby saving students money while completing their programs, while the measures designed to improve articulation and credit transfer may allow students to also save money by completing their programs in a more timely fashion. The provision relating to public postsecondary institutions seeking and obtaining accreditation may have a positive impact on some accrediting agencies or associations while having a negative fiscal impact on others, depending on which accrediting agencies and associations receive applications from Florida's public postsecondary institutions.

D. FISCAL COMMENTS:

None.