

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 613 Higher Education

SPONSOR(S): Higher Education & Career Readiness Subcommittee, Rodrigues, R.

TIED BILLS: None **IDEN./SIM. BILLS:** SB 1402

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Higher Education & Career Readiness Subcommittee	10 Y, 4 N, As CS	Sleap	Fudge
2) Higher Education Appropriations Subcommittee	10 Y, 1 N	Butler	Butler
3) Education Committee			

SUMMARY ANALYSIS

The bill:

- Requires the Board of Governors (BOG) and the State Board of Education (SBE) to report annually on the intellectual freedom and viewpoint diversity at each institution by conducting a survey.
- Revises the data for academic and research excellence standards of preeminent institutions by using more timely performance data and requiring the standards to be reported annually in the BOG Accountability Plan.
- Repeals the emerging preeminent state research university designation and creates State Universities of Distinction. The bill requires the BOG to establish standards and measures for State Universities of Distinction which identify universities who are achieving excellence, meeting state workforce needs, and fostering an innovation economy.
- Modifies state university performance funding metrics to include metrics that focus on the success rate of "2+2" Associate in Arts (AA) degree transfer students and Pell Grant students; and prohibits the adjustment of such metrics once data has been received.
- Requires FCS institutions and state universities be given the choice to provide either an opt-in or an opt-out provision to students regarding textbook and instructional materials affordability.
- Removes the limitation that prohibits a Phosphate Research and Activities Board member from serving more than 180 days after the expiration of his or her term, until a successor is appointed.
- Requires the BOG legislative budget request to include 5-year trend information on the number of faculty and administrators at each university along with the proportion of full-time equivalent (FTE) dedicated to instruction and research compared to administration and specifies that the growth rate of administrators at any state university may not exceed the growth rate of faculty.

The bill would have a minimal fiscal impact on state colleges and universities. See Fiscal Analysis section.

Except as otherwise provided, the bill has an effective date of July 1, 2020.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Intellectual and Viewpoint Diversity

Present Situation

In 2006, the American Association of Colleges and Universities (AAC&U) issued a statement on academic freedom and educational responsibility¹. According to the AAC&U:

In any education of quality, students encounter an abundance of intellectual diversity—new knowledge, different perspectives, competing ideas, and alternative claims of truth. This intellectual diversity is experienced by some students as exciting and challenging, while others are confused and overwhelmed by the complexity. Liberal education, the nation’s signature educational tradition, helps students develop the skills of analysis and critical inquiry with particular emphasis on exploring and evaluating competing claims and different perspectives.

Diversity is defined by Merriam-Webster’s dictionary as “the condition of having or being composed of differing elements” and “the inclusion of different types of people (such as people of different races or cultures) in a group or organization.”² Colleges and universities have long sought to foster diversity on campus. However, recent events on multiple college campuses across the country have raised the question of whether diversity of thought is included in what appears to be an evolving definition of diversity.

Effect of Proposed Changes

The bill requires the Board of Governors (BOG) and the State Board of Education (SBE) to annually report on the intellectual freedom and viewpoint diversity at each state university system (SUS) and Florida College System (FCS) institution by conducting a survey of students, faculty and administrators. The survey must be selected or created by the BOG and the SBE and be objective, non-partisan, and statistically valid. The survey must be used by each institution to assess the extent to which members of the state university and state college community feel comfortable expressing their beliefs and viewpoints on campus and in the classroom. The first report must be published by September 1, 2021 and annually thereafter.

Preeminent State Research Universities Program

Present Situation

The Preeminent State Research Universities Program is a collaborative partnership between the BOG and the Legislature to raise the academic and research preeminence of the highest performing state research universities in Florida.³ A state university that meets 11 of the 12 academic and research excellence standards specified in law⁴ is designated a “preeminent state research university.”⁵

¹ Association of American Colleges and Universities, *Academic Freedom and Educational Responsibility*, AAC&U Board of Directors’ Statement (Jan. 2006), available at <https://www.aacu.org/sites/default/files/files/about/academicFreedom.pdf>.

² Diversity. In *The Merriam-Webster.com Dictionary*. Retrieved December 3, 2019, from <https://www.merriam-webster.com/dictionary/diversity>.

³ Section 1001.7065(1), F.S.

⁴ Section 1001.7065(2), F.S. The standards include: incoming freshman academic characteristics (average weighted GPA and average SAT score); institutional ranking nationally; freshman retention rate; four-year graduation rate; national academy membership of institution faculty; research expenditures (2 measures); research expenditure national ranking; patents awarded annually; doctoral degrees awarded annually; postdoctoral appointees annually; and institutional endowment.

⁵ Section 1001.7065(3)(a), F.S.

Currently, the University of Florida (UF), Florida State University, and the University of South Florida (USF) are designated as preeminent state research universities.⁶

A state research university that meets at least 6 of the 12 standards is designated as an “emerging preeminent state research university.”⁷ Each designated emerging preeminent state research university receives an amount of funding that is equal to one-quarter of the total increased amount awarded to each designated preeminent state research university.

In addition to preeminent and emerging preeminent state research universities, the BOG is required to identify standards and measures to identify Programs of Excellence across the SUS system.⁸ The program allows individual undergraduate, graduate, and professional degree programs achieving national excellence at a state university to be identified and recommendations made to the Legislature identifying ways to enhance and promote these Programs of Excellence.⁹

Effect of Proposed Changes

The bill requires the academic and research excellence standards for preeminent state research universities be reported annually in the BOG Accountability Plan and amends the standards to provide the BOG with the flexibility to access and utilize the most up to date data available.

The bill repeals the emerging preeminent state research university designation within the SUS and creates State Universities of Distinction. The BOG must establish standards and measures for State Universities of Distinction which help identify universities that:

- focus on a core competency unique to the SUS and also achieve excellence at the national or state level;
- meet state workforce needs; and
- fosters an innovation economy that focuses on areas such as health care, security, transportation, and science, technology, engineering, and mathematics (STEM), including supply chain management.

By January 1, the BOG may annually submit to the Legislature for funding identified programs from institutions that have not achieved preeminent designation.

These proposed changes are effective upon becoming law.

State University System Performance-Based Incentive

Present Situation

⁶ Florida Board of Governors, State University System of Florida, *System Accountability Plan 2019*, at 10, available at https://www.flbog.edu/wp-content/uploads/2019_System_Accountability_Plan_FINAL_2019-10-30.pdf.

⁷ Section 1001.7065(3)(b), F.S.

⁸ Section 1001.7065(7), F.S.

⁹ Florida Board of Governors, State University System of Florida, *Programs of Excellence Report* (Sept. 2018), available at https://www.flbog.edu/wp-content/uploads/0273_1154_8738_10.3.2-AREC-03b-Programs-of-Excellence-Report_CE.pdf.

The SUS Performance-Based Incentive is awarded to state universities using performance-based metrics¹⁰ adopted by the BOG.¹¹ The BOG performance funding model is based on four guiding principles:

- use metrics that align with strategic plan goals;
- reward excellence or improvement;
- have a few clear, simple metrics; and
- acknowledge the unique mission of the different institutions.

The BOG model contains ten performance metrics that evaluate each state university on the following:¹²

1. Percent of bachelor's degree graduates employed (earning \$25,000+) or continuing their education
2. Median wages of Bachelor's graduates employed full-time
3. Average cost to the student (Net tuition per 120 credit hours)
4. Four year graduation rate (full-time First-Time-In-College)
5. Academic progress rate (2nd year retention with GPA above 2.0)
6. Bachelor's degrees awarded in areas of strategic emphasis
7. University access rate (percent of undergraduates with a Pell Grant)
8. a. Graduate degrees awarded in areas of strategic emphasis
b. Freshman in the top 10% of graduating high school class
9. BOG Choice- Percent of Bachelor's degrees awarded without excess hours
10. Institution Board of Trustees Choice¹³

Metrics one through seven apply to all institutions. The eighth metric includes an alternative metric, 8b, for New College of Florida. Two of the ten metrics, metric 9 and 10, are choice metrics, one picked by the BOG and one by the university boards of trustees.

Institutions receive scores on each metric based on the achievement of both excellence and improvement.¹⁴ The lowest benchmark receives one point, while the highest receives ten points. The higher of the two scores (excellence and improvement) for each metric is applied to the overall score for each institution.

The performance funding model includes both a state investment (appropriated by the Legislature) for performance funding and an institutional investment which is a matched amount reallocated from the university system base budget. These "institutional base" funds are the cumulative recurring state appropriations that the Legislature has appropriated to each institution.¹⁵

The state investment is allocated based on points earned, with a maximum of 100 points possible. Institutions are eligible for their proportional amount of the state's investment if they: score within the top three institutions; score the same or higher than the previous year; or score less than the previous year, but the previous year's score was higher or the same as the year before. Any institution with a score the same or lower than the previous year's score for two consecutive years, must submit a

¹⁰ Florida Board of Governors, *Board of Governors Performance Funding Model Overview* (Nov. 2019), available at <https://www.flbog.edu/wp-content/uploads/Overview-Doc-Performance-Funding-10-Metric-Model-Condensed-Version-Nov-2019.pdf>.

¹¹ Section 1001.92(1), F.S.

¹² Performance Funding Model Overview, *supra* note 10.

¹³ Each Board of Trustees selects a metric from the University Work Plan that is applicable to the mission of the university and has not been previously chosen for the model.

¹⁴ Benchmarks for Excellence were based on the BOG 2025 System Strategic Plan goals and analysis of relevant data trends. Benchmarks for Improvement were determined after reviewing data trends for each metric. Performance Funding Model Overview, *supra* note 10.

¹⁵ Performance Funding Model Overview, *supra* note 10.

student success plan to the BOG in order to be eligible for their proportional amount of the state's investment (baseline scores begin with the June 2018 results).¹⁶

The institutional investment is also allocated based on points earned, with a maximum of 100 points possible. Any institution that fails to meet the BOG's minimum performance funding threshold (a total score of less than 56 points)¹⁷ has a portion of its institutional investment withheld, and is required to submit an improvement plan that specifies the activities and strategies for improving its performance.¹⁸ A state university may submit an improvement plan for only one fiscal year.

Effect of Proposed Changes

The bill requires that beginning in fiscal year 2021-2022, the performance-based incentive metrics include:

- a single graduation rate metric comprised of 4-year graduation rates for first-time-in-college students and 2-year graduation rates for FCS institution Associate in Arts (AA) transfer students; and
- the 6-year graduation rate for students who are awarded a Pell Grant in their first year.

The bill authorizes the BOG to approve other metrics in a publicly noticed meeting and prohibits benchmarks and metrics from being adjusted after university performance data has been received by the BOG.

Textbook and Instructional Materials Affordability

Present Situation

Current law authorizes each FCS institution and state university board of trustees to adopt policies in consultation with providers, including bookstores, which allow for the use of innovative pricing techniques and payment options for textbooks and instructional materials.¹⁹ Innovative pricing techniques and payment options must include an opt-in provision for students and may be approved only if there is documented evidence that the options reduce the cost of textbooks and instructional materials for students taking a course.²⁰

Effect of Proposed Changes

The bill authorizes FCS institutions and state universities to provide either an opt-in or opt-out provision to students within their innovative pricing techniques and payment options for textbooks and instructional materials.

Phosphate Research and Activities Board

¹⁶ Section 1001.92(2), F.S.; *Id.* In Nov. 2018 the BOG approved new changes to the allocation methodology eliminating the bottom three requirement which prevented the three lowest scoring institutions from being eligible for the state's investment. In addition, beginning with the 2021-22 fiscal year, if a university's score is below 70 points, it will only be eligible to receive 50% of its prorated state investments after successfully implementing a student success plan. Florida Board of Governors, *Performance Funding Model, Approved Changes to the Model 2019-20*, available at https://www.flbog.edu/wp-content/uploads/Changes_2019-20.pdf.

¹⁷ The performance funding threshold for institutional investment was previously set at a total score of less than 51 points. The BOG approved changes to the threshold in Oct. 2019 effective immediately, increasing the threshold incrementally to 55 for 2020 and 60 for 2021. Florida Board of Governors, *Performance Funding Model, Approved Changes to the Model 2020-21*, available at <https://www.flbog.edu/wp-content/uploads/Changes-2020-21.pdf>.

¹⁸ Section 1001.92(3)(a)-(b), F.S.; Performance Funding Model Overview, *supra* note 10.

¹⁹ Section 1004.085(4), F.S.

²⁰ *Id.*

Present Situation

The Florida Industrial and Phosphate Research Institute is housed within Florida Polytechnic University (FPU)²¹ and the Phosphate Research and Activities Board is tasked with monitoring the expenditure of funds appropriated to FPU from the Phosphate Research Trust Fund.²² The board consists of five members.²³ The Governor is required to appoint two persons representing the phosphate mining or processing industry and one member representing a major environmental conservation group in the state.²⁴ The Secretary of Environmental Protection or his or her designee and the president of FPU are required to serve as board members.²⁵

Members of the board appointed by the Governor are appointed to 3-year terms.²⁶ A board member may continue to serve until a successor is appointed, but not more than 180 days after the expiration of his or her term.²⁷ A board member is eligible for reappointment to subsequent terms.²⁸

Effect of Proposed Changes

Effective upon becoming law, the bill removes the limitation that a board member may not serve more than 180 days after the expiration of his or her term, which prevents vacancies on the board by allowing that member to serve on the board until a replacement is appointed or that member is reappointed.

State University System Faculty/Administrator Ratios

Present Situation

The Office of Program Policy Analysis and Government Accountability (OPPAGA) reports that from 2010 through 2014, Florida's state universities reduced the ratio of students to administrators (meaning the number of administrators was growing faster than the number of students) while student to full-time faculty ratios increased slightly.²⁹ Additionally, from 2010 to 2016, the number of staff with administrative duties increased at a faster rate than that of students or full-time faculty.³⁰

Effect of Proposed Changes

The bill requires legislative budget request for each state university to include 5-year trend information on the number of faculty and administrators at each university and the proportion of full-time equivalent (FTE) dedicated to instruction and research compared to administration. The BOG must define faculty and administrative personnel classifications in regulation and these definitions must be included in the legislative budget request. The bill specifies that the growth rate of administrators at any state university may not exceed the growth rate of faculty.

²¹ Section 1004.346(1), F.S.

²² Section 1004.346(2), F.S.

²³ Section 1004.346(2)(b), F.S.

²⁴ *Id.*

²⁵ *Id.*

²⁶ Section 1004.346(2)(c), F.S.

²⁷ *Id.*

²⁸ *Id.*

²⁹ Office of Program Policy Analysis and Government Accountability, *OPPAGA Research on State University System Administrative Positions and Salaries*, Presentation to the House Higher Education Appropriations Subcommittee (Mar. 14, 2017), at 117, available at

<https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2896&Session=2017&DocumentType=Meeting%20Packets&FileName=hea%203-14-17.pdf>.

³⁰ *Id.* at 115

B. SECTION DIRECTORY:

Section 1. Amending section 1001.03, F.S.; requiring the State Board of Education to require Florida College System institutions to conduct an annual assessment related to intellectual freedom and viewpoint diversity at each institution; providing State Board of Education requirements relating to such assessment.

Section 2. Amending section 1001.706, F.S.; requiring the Board of Governors to require state universities to conduct an annual assessment related to intellectual freedom and viewpoint diversity at each university; providing Board of Governors requirements relating to such assessment.

Section 3. Amending section 1001.7065, F.S.; revising standards for the preeminent state research universities program; requiring such standards to be reported annually in a specified plan; repealing the "emerging preeminent state research university" designation within the State University System; repealing the programs of excellence designation within the State University System; creating the "state universities of distinction" designation within the State University System; requiring the Board of Governors to establish standards and measures for specific state university competencies; providing requirements for such standards and measures; authorizing the Board of Governors to annually submit such programs to the Legislature for funding by a specified date.

Section 4. Amending section 1001.92, F.S.; revising the performance-based metrics for state universities to include specific data beginning in a certain fiscal year; authorizing the Board of Governors to approve other metrics; prohibiting the adjustment of such metrics and benchmarks once specified data has been received.

Section 5. Amending section 1004.085, F.S.; requiring innovative pricing techniques and payment options to include an opt-out provision.

Section 6. Amending section 1004.346, F.S.; removing a limitation on the length of time a Phosphate Research and Activities Board member may serve after expiration of his or her term.

Section 7. Amending section 1011.90, F.S.; providing requirements for a specified legislative budget request; requiring the Board of Governors to define specified classifications in regulation and provide such classifications in specified budget requests; prohibiting the growth rate of administrators at a state university from exceeding the growth rate of faculty at such university.

Section 8. Provides for an effective date of July 1, 2020, except as otherwise provided in the bill.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill would result in a minimal increase in expenditures for FCS and SUS institutions to administer the annual intellectual freedom and viewpoint diversity assessment.

The BOG currently tracks student performance at an individual level so changes made to the metrics for including "2+2" students and the graduation rate of a Pell Grant student should only require adjustments to reporting queries.

Once the BOG defines in regulation faculty and administrator classifications, universities should be able to adjust their human resources classifications at minimal cost.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill repeals the emerging preeminent state research university designation within the State University System (SUS). Currently, the University of Central Florida (UCF) is designated an emerging preeminent state research university and receives \$15.2 million in recurring General Revenue funding associated with this designation. Removing the emerging preeminent state research university designation from statute would not remove this funding from UCF. The funding would remain unless the Legislature eliminated this appropriation in the General Appropriations Act. The bill renames an unfunded program, Programs of Excellence, to create State Universities of Distinction and provides that the Board of Governors may annually submit identified programs for funding for the Universities of Distinction. The Universities of Distinction designation is designed to support the nine non-preeminent institutions in the State University System which would include UCF.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the BOG to define in regulation faculty and administrator classifications.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On December 12, 2019, the Higher Education & Career Readiness Subcommittee adopted two amendments and reported the bill favorably as a committee substitute. The amendments:

- clarify that the BOG may annually submit State Universities of Distinction programs to the Legislature for funding, however, programs from preeminent state research universities are excluded; and
- provides for an effective date upon the act becoming law for the removal of a limitation that prohibits a Phosphate Research and Activities Board member from serving more than 180 days after the expiration of his or her term, until a successor is appointed.

The analysis is drafted to the committee substitute as amended by the Higher Education & Career Readiness Subcommittee.