

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**HIGHER EDUCATION**  
**Senator Oelrich, Chair**  
**Senator Siplin, Vice Chair**

**MEETING DATE:** Monday, March 14, 2011  
**TIME:** 1:00 —3:00 p.m.  
**PLACE:** 301 Senate Office Building

**MEMBERS:** Senator Oelrich, Chair; Senator Siplin, Vice Chair; Senators Lynn, Negron, and Sachs

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 1264</b> Wise (Compare H 357)	Background Screening; Requires direct service providers to participate in level 2 background screening as a condition for certification to serve clients of vocational rehabilitation. Prohibits persons for whom background screening is required from having contact with any vulnerable person until the screening process is complete. Requires the Commission for Independent Education to investigate the criminal justice information history for certain persons applying for a license or license renewal, etc.	HE 03/14/2011 BC
2	<b>SB 632</b> Oelrich (Compare H 4175, H 4177, S 1732)	Postsecondary Education; Prohibits the deduction of a service charge from the proceeds of certain local option fuel taxes. Requires a percentage of certain said tax revenues to be deposited in the University Concurrency Trust Fund and provides uses therefor. Revises provisions relating to payment and funding of developments in accordance with university campus development agreements. Provides for the adoption of regulations rather than rules by the Board of Governors, universities, and university boards of trustees, etc.	HE 03/14/2011 BC
3	<b>SB 1194</b> Oelrich (Identical H 881, Compare H 4155, S 1278)	Postsecondary Education; Deletes provisions relating to the College-Level Academic Skills Test (CLAST). Provides legislative intent and requirements relating to articulation. Requires the establishment of the Articulation Coordinating Committee and provides its responsibilities. Deletes provisions that exclude students with intellectual disabilities from eligibility for substitute requirements for admission to or graduation from a public postsecondary educational institution, etc.	HE 03/14/2011 CF BC

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Higher Education Committee

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BILL: SB 1264

INTRODUCER: Senator Wise

SUBJECT: Background Screening

DATE: March 11, 2011      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Matthews	HE	<b>Pre-meeting</b>
2.			BC	
3.				
4.				
5.				
6.				

**I. Summary:**

This bill clarifies and defines the term “direct service provider”.

This bill mandates level 2 background screening for the following:

- Direct service providers of vocational rehabilitation services to vulnerable persons, including administrators, financial officers, and directors;
- All Department of Education employees and applicants; and
- Contractor personnel working on location at the Department of Education, local school board facilities, or other facilities where access may be available to confidential data or vulnerable persons.

The Commission of Independent Education (Commission) is required to adopt standards for admissions staff of private postsecondary institutions that the Commission has licensed, and is authorized to refuse and revoke licenses in certain instances relating to prior legal actions. This bill prohibits the solicitation of applicants for admission unless the institution is licensed by the Commission.

This bill substantially amends sections 413.20, 413.208, 413.407, 744.1083, 1005.02, 1005.22, 1005.31, 1005.38, and creates 413.2105, 1001.12, and 1012.02, of the Florida Statutes.

## II. Present Situation:

### Statutory Definitions

Minors are defined as persons under the age of 18 years old.<sup>1</sup>

The term “vulnerable adult” is defined as a person of at least 18 years old who is unable to provide self-care due to mental, emotional, sensory, chronic physical or developmental disabilities.<sup>2</sup>

### Level 2 Background Screening

Level 2 screening consists of security background screening initiated by fingerprinting, for statewide criminal history records checks through the Florida Department of Law Enforcement, and national criminal history records checks through the Federal Bureau of Investigation for particular offenses.<sup>3</sup> These offenses pertain to ones in which the person has been arrested and awaits final disposition, has plead or been found guilty of the charge, or has a record of an adjudication of delinquency which has not been sealed or expunged. Enumerated offenses include:

- Sexual misconduct, including sexual battery;
- Adult abuse and exploitation;
- Manslaughter and murder;
- Assault and battery against a minor;
- Kidnapping;
- Theft and robbery;
- Fraudulent sale of controlled substances; and
- Certain violent crimes, including domestic violence.<sup>4</sup>

Level 2 background screening is currently statutorily required for a variety of individuals, including the following:

- Applicants for certification, and licensees, administrators, and financial officers who provide personal care and services to clients included in the service population of the Agency for Health Care Administration (ss. 381.60225(1) and 408.809(1), F.S.);
- Direct service providers, managers and supervisors of residential facilities of those with developmental disabilities included in the population served by the Agency for Persons with Disabilities (s. 393.0655(1), F.S.);
- Noninstructional school district employees or contractual personnel permitted access on school grounds when students are present, who have direct contact with students or who have access or control of student funds (s. 1012.465(1), F.S.);
- Child care facilities personnel (s. 402.305(2), F.S.);

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<sup>1</sup> s. 1.01, F.S.

<sup>2</sup> s. 415.102(27), F.S.

<sup>3</sup> s. 435.04(1), F.S.

<sup>4</sup> s. 435.04(2), F.S.

- Service provider personnel and owners, directors, and chief financial officers of substance abuse service providers of children and adult clients (s. 347.451(1)(a), F.S.); and
- Division of Blind Services, Department of Education employees and applicants for employment (s. 413.011(7), F.S.)

Statutory exemptions from disqualification, where a disqualifying offense is revealed through screening, are authorized on a discretionary basis for the following:

- Felonies for which at least 3 years have passed since the felon has completed a sentence, supervision, or sanction;
- Misdemeanors for which a sentence, supervision, or sanction is completed;
- Offenses previously felonies that are now misdemeanors; and
- Findings of delinquency.<sup>5</sup>

Exceptions from the exemption are provided, and these are for sexual predators, career offenders (habitual violent felony offenders), and sexual offenders.<sup>6</sup>

### **Commission for Independent Education**

The Commission for Independent Education (Commission), of the Department of Education, is statutorily charged with licensure of nonpublic postsecondary institutions that are under its jurisdiction.<sup>7</sup> Licensure can be granted on the basis of the Commission's full review or under a partial independent review and licensure by means of accreditation.<sup>8</sup> The Commission reports that 376 degree-granting institutions and 557 non-degree issuing institutions are currently under its jurisdiction as licensed entities. Applicants submitted 84 new institutional applications for approval during the 2009-10 fiscal year. Eighty-six Letters of Noncompliance were sent to entities that appeared to be operating a school or college without a license during the 2009-10 fiscal year.<sup>9</sup>

The Attorney General is conducting investigations, regarding allegations of unfair/deceptive practices in the area of recruitment, against the University of Phoenix (Apollo Group), Everest College (Florida Metropolitan University), Argosy University of Florida, Kaplan, Inc. (Kaplan University), Medvance Institute, Inc., The Keiser School (Keiser University), Sanford-Brown College (Sanford-Brown Institute), and Concorde Career Colleges, Inc. All of these entities operate under either a regular license or a license issued by means of accreditation by the Commission.

### **III. Effect of Proposed Changes:**

This bill clarifies and defines the term "direct service provider".

<sup>5</sup> s. 435.07(1), F.S.

<sup>6</sup> s. 435.07(4), F.S.

<sup>7</sup> s. 1005.21, F.S.

<sup>8</sup> s. 1005.32, F.S., authorizes licensure by means of accreditation, provided that certain other conditions are met. According to the Commission, the Commission has approved 13 accrediting bodies to be considered for those institutions seeking licensure by means of accreditation.

<sup>9</sup> 2009-10 Annual Report, Commission for Independent Education (pgs. 2- 3, 11).

This bill mandates level 2 background screening for the following:

- Direct service providers of vocational rehabilitation services to vulnerable persons (minors and adults with certain disabilities), where providers include administrators, financial officers, and directors;
- Department of Education (Department) employees and applicants; and
- Contractor personnel working on location at the Department of Education, local school board facilities, or other facilities where access may be available to confidential data or vulnerable persons.

Rescreening is required on an every five year basis for direct service providers and contractor personnel, so costs will be borne initially and then pursuant to this timeframe. This bill does not specify that Department employees are subject to the rescreening requirement.

In addition to Level 2 offenses, this bill adds fraud, domestic violence, and felony drug offenses to its list of disqualifying offenses regarding direct service providers and contractor personnel only. This bill also includes the statutory exemption (with the statutory exceptions to the exemption for sexual predators, sexual offenders and career offenders). The Department applicants and employees are subject to a less strict level 2 standard.

Written notice is required if grounds for denial or termination of certification or contract exist based on screenings of direct service providers and contractor personnel. It is unclear whether this will give the person an opportunity to respond.

Although the bill explicitly provides for costs to be borne by the direct service provider or the contractor, it is silent regarding screenings for the Department. However, it is assumed that costs will similarly be borne in this manner.

Potential penalties for violations of level 2 screening requirements for direct service providers and contractor personnel include suspension, termination or revocation of contract.

Actual level 2 background screening is not mandated; however, the Commission of Independent Education (Commission) is required to adopt standards for admissions staff of private postsecondary institutions that are under its jurisdiction, and is authorized to refuse and revoke licenses in certain instances relating to prior legal actions, including civil actions and crimes relating to fraud. This bill prohibits the solicitation of applicants for admission unless the institution is licensed by the Commission. Therefore, those who are license holders may have an advantage in recruitment over those who are not.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Either the entities themselves or individual applicants to the organizations/private companies cited in this bill would incur costs of background screening, and rescreening.

The Florida Department of Law Enforcement (FDLE) indicates the following estimate, noting that it is likely much higher, as reported by the Department of Education for private sector costs associated with screening:

	FY 2011-12	FY 2012-13	FY 2013-14
Recurring (300 x \$43.25)		\$12,975	\$12,975
Non-recurring (3,000 x \$43.25)	\$129,750		

This is based on an estimate of approximately 3,000 requests in the first year, and then 300 for each year thereafter. Each request is \$43.25, with \$24 going into the FDLE Operating Trust Fund and \$19.25 being paid to the FBI for the national check. Costs would increase again in the fifth year, due to the rescreening requirement.

Revocation of a license/contract could prove very costly to the current license holder/contracting entity, and this is fiscally unascertainable.

C. Government Sector Impact:

The Florida Department of Law Enforcement (FDLE), estimates the following revenue associated with approximately 3,000 criminal history records checks on Department of Education current employees, applicants, direct service providers and contractor personnel in the first year, and 300 in years 2 and 3:

	FY 2011-12	FY 2012-13	FY 2013-14
Recurring (300 checks x \$24)		\$7,200	\$7,200
Non-recurring (3,000 x \$24)	\$72,000		

Department of Education employees represent very few of these checks, as the Department has already provided for background checks for all current employees. Due to anticipated budget constraints, the number of new employees is expected to be minimal, and therefore, the cost to background check inconsequential.

Regarding a fiscal impact on FDLE itself, FDLE notes that while this bill alone does not necessitate additional FTE or other resources, in combination with other background screening bills, demand on the FDLE criminal history system could require additional staffing and other resources.

**VI. Technical Deficiencies:**

Line 211: The bill requires employees and applicants for employment of the Department of Education to undergo level 2 background screenings under s. 435.04, F.S. The bill further provides that these individuals are eligible for an exemption from the disqualification, as provided in s. 435.07, F.S. However, the bill authorizes the “division” to grant the exemption. The department should be the authorized entity to grant an exemption.

Lines 218-273: The title of this bill is “background screening”. Language in this section provides guidance for denial or revocation of licensure of private postsecondary institutions by the Commission on Independent Education and has little to do with background screening, other than to briefly reference criminal or civil histories. This may potentially be considered a title defect. Also, a period is missing on Line 273 after the word “prospectively”.

Line 257: Regarding the provision that authorizes the Commission to refuse or revoke an institutional license, an applicant with a specified legal history appears to have been inadvertently included as one of the entities that could jeopardize an institution’s licensure, although the institution has no control over who applies for admission.

Line 259: This bill provides for an institution to be denied, or lose licensure where entities related to the institution have either been involved in certain criminal activity or been party to a civil action. It is unclear whether denial authority applies to any civil action, or just those related to the specific crimes mentioned (for example, the same activity resulting in a fraudulent practices claim both criminally and civilly).

Line 300: This bill requires level 2 screening for contractor personnel who will work at local school board facilities. It is unclear what a local school board facility means.

Line 301: This bill requires level 2 background screening for contractor employees working at certain locations who will have access to confidential data. It is unclear what is meant by “confidential data”.

Line 354: There is a typo here, as “termination” is listed twice.

## **VII. Related Issues:**

FDLE recommends that language be added which requires participation in FDLE’s fingerprint retention program, consistent with other background check requirements for school personnel. When fingerprints are retained, FDLE searches them against incoming arrests and notifies the regulatory agency if the retained fingerprints match an incoming arrest. Participating in this program would eliminate the state criminal history record check at the five year interval as the regulatory agency would receive a notification when a direct service provider was arrested. At the five year date, the Department of Education would request FDLE to submit the fingerprints to the FBI for a national check. Additionally, there would be a potential cost savings to the direct service provider, their employees and contractors for the cost of the fingerprints being taken and the time and travel to get fingerprinted.

## **VIII. Additional Information:**

### **A. Committee Substitute – Statement of Substantial Changes:** (Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

### **B. Amendments:**

None.



**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Higher Education Committee

BILL: SB 632

INTRODUCER: Senator Oelrich

SUBJECT: Postsecondary Education

DATE: March 11, 2011      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harkey	Matthews	HE	<b>Pre-meeting</b>
2.			BC	
3.				
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**I. Summary:**

This bill would require the eight-percent General Revenue Fund service charge from a local option fuel tax<sup>1</sup> to be deposited into the University Concurrency Trust Fund instead of the General Revenue Fund. The funds would have to be used for university offsite improvements and to meet concurrency standards. State universities would be required to pay development impact costs exclusively from the University Concurrency Trust Fund, and the state land planning agency would be prohibited from ordering a university to fund improvements from any source other than the University Concurrency Trust Fund.

The bill would authorize the Board of Governors (BOG) to adopt a regulation instead of a rule to govern the naming of state university buildings; university-acquired patents, copyrights or trademarks; purchasing; and university lease agreements for facilities.

The bill would repeal s. 1007.27(10), F.S., which prohibits a university from requiring a student who earns 9 or more credit hours through an acceleration mechanism to enroll in a summer term, thus permitting a state university to require summer term attendance by students.

This bill amends ss. 215.211, 267.062, 1004.23, 1007.27, 1010.04, 1013.171, and 1013.30, Florida Statutes.

<sup>1</sup> Section 336.025(1)(b), F.S., authorizes a local option fuel tax of 1 to 5 cents.

## II. Present Situation:

### **Local Option Fuel Tax**

Section 336.025(1)(b), F.S., authorizes a local option fuel tax of 1 to 5 cents which must be used by local governments for transportation expenditures. The proceeds from this tax are subject to an eight-percent General Revenue Fund service charge under s. 215.20(1), F.S. The tax, which is levied by 21 counties, is estimated to generate \$14.2 million for the General Revenue Fund service charge.<sup>2</sup>

### **Growth Management and Concurrency Requirements**

A key component of the Local Government Comprehensive Planning and Land Development Regulation Act<sup>3</sup> is its “concurrency” provision that requires infrastructure facilities and services to be available concurrent with the impacts of development. The state land planning agency that administers these provisions is the Department of Community Affairs.

### **The University Concurrency Trust Fund**

Section 1013.63, F.S., creates the University Concurrency Trust Fund which may be funded as provided in the General Appropriations Act. The statute requires funds in the trust fund to be used for university offsite improvements and to meet the requirements of concurrency standards required under pt. II of ch. 163, F.S. Funds last were appropriated to the trust fund in 2007, and at present there are no funds in the trust fund.

### **Rules and Regulations**

Section 1001.706(2)(b), F.S., establishes the rulemaking and regulatory authority of the BOG. When the BOG is acting pursuant to authority derived from the Legislature, it must adopt rules pursuant to ch. 120, F.S., except that the BOG is authorized to adopt regulations for such matters if it is expressly authorized to do so by law. For matters relating to the BOG’s constitutional authority, the BOG may adopt regulations. Statutes granting rulemaking or regulatory authority to the BOG specify whether rules or regulations are to be adopted. The BOG has identified four statutes requiring rules for which the BOG would prefer the Legislature to authorize regulations in lieu of rules. The statutes concern the naming of university buildings; the acquiring of university patents, copyrights, or trademarks; purchasing; and university lease agreements for facilities. The BOG has already adopted regulations to govern these areas.

### **Summer Term at Universities**

Section 1007.27(10), F.S., prohibits a public college or university from requiring a student who earns 9 or more credit hours through an acceleration mechanism, such as dual enrollment and advanced placement, to enroll in a summer term.

## III. Effect of Proposed Changes:

This bill would require the eight-percent General Revenue Fund service charge from a local option fuel tax<sup>4</sup> to be deposited into the University Concurrency Trust Fund instead of the General Revenue Fund. The funds would have to be used for university offsite improvements

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<sup>2</sup> Office of Economic and Demographic Research

<sup>3</sup> See ch. 163, pt. II, F.S.

<sup>4</sup> Section 336.025(1)(b), F.S., authorizes a local option fuel tax of 1 to 5 cents.

and to meet concurrency standards. State universities would be required to pay development impact costs exclusively from the University Concurrency Trust Fund, and the state land planning agency would be prohibited from ordering a university to fund improvements from any source other than the University Concurrency Trust Fund. Under these provisions, state universities would have a dedicated source of revenue to pay their costs related to concurrency requirements and they could not be required to pay any more that was available from that source.

The bill would authorize the Board of Governors (BOG) to adopt a regulation instead of a rule to govern:

- The naming of state university buildings in s. 267.062, F.S.;
- University-acquired patents, copyrights or trademarks in s. 1004.23, F.S.;
- Purchasing in s. 1010.04, F.S.; and
- University lease agreements for facilities in s. 1013.171, F.S.

The bill would repeal s. 1007.27(10), F.S., which prohibits a public college or university from requiring a student who earns 9 or more credit hours through an acceleration mechanism to enroll in a summer term, thus permitting a state university to require summer term attendance by students. This provision could enable a postsecondary institution to use its facilities year-round. However, the provision could create new costs for students who receive state financial aid, including the Bright Futures Scholarships, because state scholarship programs are only funded for the fall and spring academic terms. The Bright Futures Scholarships may be used in the summer term if funds are available<sup>5</sup>, but the Legislature has not funded the scholarship for the summer term.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

None.

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

**B. Private Sector Impact:**

Florida college students and state university students who were required to enroll during the summer term could incur costs not covered by financial aid if their financial aid only covered fall and spring academic terms. A student who enrolled in the fall, spring, and summer terms would be more likely to finish his degree program sooner than a student who only enrolled in the fall and spring terms.

**C. Government Sector Impact:**

State universities could make better year-round use of their facilities if they required students to enroll in the summer term. Universities would receive additional revenue from students whose financial aid did not cover the summer term.

The bill would require eight percent of the proceeds from a local option fuel tax, which currently is deposited into the General Revenue Fund to be deposited instead into the University Concurrency Trust Fund. The 2010-2011 estimated General Revenue service charge for this tax is \$14.2 million. The bill would cause a recurring reduction in General Revenue.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

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

None.

**B. Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
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The Committee on Higher Education (Oelrich) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Section 705.18, Florida Statutes, is amended to read:

705.18 Disposal of personal property lost or abandoned on university or community college campuses; disposition of proceeds from sale.—

~~(1)~~ Whenever any lost or abandoned personal property is ~~shall be~~ found on a campus of an institution in the State University System or a campus of a state-supported community



121116

13 college, the president of the institution or the president's  
14 designee shall take charge of the property and make a record of  
15 the date such property was found. If the property is not claimed  
16 by the owner, within 30 days after it such property is found, or  
17 a longer period of time as may be deemed appropriate by the  
18 president ~~under the circumstances, the property is not claimed~~  
19 ~~by the owner,~~ the president or his or her designee shall dispose  
20 of or make use of the property in accordance with established  
21 policies and procedures that best meet the needs of the  
22 university and its students ~~order it sold at public outcry after~~  
23 ~~giving notice of the time and place of sale in a publication of~~  
24 ~~general circulation on the campus of such institution and~~  
25 ~~written notice to the owner if known.~~ The rightful owner of the  
26 such property may reclaim his or her property the same at any  
27 time prior to the disposition, sale, or use of the property in  
28 accordance with this section and established university policies  
29 and procedures.

30 ~~(2) All moneys realized from such institution's sale shall~~  
31 ~~be placed in an appropriate fund and used solely for student~~  
32 ~~scholarship and loan purposes.~~

33 Section 2. Subsections (13) and (16) of section 1013.30,  
34 Florida Statutes, are amended to read:

35 1013.30 University campus master plans and campus  
36 development agreements.—

37 (13) With regard to the impact of campus development on the  
38 facilities and services listed in paragraph (11)(c), the  
39 following applies:

40 (a) All improvements to facilities or services which are  
41 necessary to eliminate the deficiencies identified in paragraph



121116

42 (11) (e) must be specifically listed in the campus development  
43 agreement.

44 (b) The university board of trustees' fair share of the  
45 cost of the measures identified in paragraph (a) must be stated  
46 in the campus development agreement. ~~In determining the fair~~  
47 ~~share,~~ The effect of any demand management techniques,  
48 including, but not limited to, which may include such techniques  
49 ~~as flexible work hours and carpooling, which that~~ are used by  
50 the Board of Governors to minimize the offsite impacts shall be  
51 considered in determining fair share.

52 (c) The university board of trustees' ~~trustees is~~  
53 ~~responsible for paying the~~ fair share identified in paragraph  
54 (b) is payable exclusively from the University Concurrency Trust  
55 Fund., and it may do so by:

56 1. ~~Paying a fair share of each of the improvements~~  
57 ~~identified in paragraph (a); or~~

58 2. ~~Taking on full responsibility for the improvements,~~  
59 ~~selected from the list of improvements identified in paragraph~~  
60 ~~(a), and agreed to between the host local government and the~~  
61 ~~Board of Governors, the total cost of which equals the~~  
62 ~~contribution identified in paragraph (b).~~

63 ~~(d) All concurrency management responsibilities of the~~  
64 ~~university board of trustees are fulfilled if the university~~  
65 ~~board of trustees expends the total amount of funds identified~~  
66 ~~in paragraph (b) notwithstanding that the university board of~~  
67 ~~trustees may not have undertaken or made contributions to some~~  
68 ~~of the measures identified in paragraph (a).~~

69 (d)(e) Capital projects included in the campus development  
70 agreement may be used by the local government for the



121116

71 concurrency management purposes.

72 ~~(e)-(f)~~ Funds from the University Concurrency Trust Fund  
73 ~~provided by universities in accordance with campus development~~  
74 ~~agreements~~ are subject to appropriation by the Legislature. A  
75 ~~development authorized by a campus development agreement may not~~  
76 ~~be built until the funds to be provided pursuant to paragraph~~  
77 ~~(b) are appropriated by the Legislature.~~

78 (16) If, within 180 days following the host local  
79 government's receipt of the proposed campus development  
80 agreement, the university board of trustees and host local  
81 government cannot reach agreement on the provisions of the  
82 campus development agreement, the following procedures for  
83 resolving the matter must be followed:

84 (a) The matter must be submitted to the state land planning  
85 agency, which has 60 days to hold informal hearings, if  
86 necessary.

87 (b) In deciding upon a proper resolution, the state land  
88 planning agency shall consider the nature of the issues in  
89 dispute, the compliance of the parties with this section, the  
90 extent of the conflict between the parties, the comparative  
91 hardships, and the public interest involved. In resolving the  
92 matter, the state land planning agency may prescribe, by order,  
93 the contents of the campus development agreement. The order may  
94 not require the university to fund improvements from sources  
95 other than the University Concurrency Trust Fund.

96 Section 3. Subsection (3) of section 267.062, Florida  
97 Statutes, is amended to read:

98 267.062 Naming of state buildings and other facilities.—

99 (3) Notwithstanding the provisions of subsection (1) or s.





121116

100 1013.79(11), any state building, road, bridge, park,  
101 recreational complex, or other similar facility of a state  
102 university may be named for a living person by the university  
103 board of trustees in accordance with regulations ~~rules~~ adopted  
104 by the Board of Governors of the State University System.

105 Section 4. Subsection (6) of section 1004.23, Florida  
106 Statutes, is amended to read:

107 1004.23 Universities; powers; patents, copyrights, and  
108 trademarks.—Any other law to the contrary notwithstanding, each  
109 state university is authorized, in its own name, to:

110 (6) Do all other acts necessary and proper for the  
111 execution of powers and duties herein conferred upon the  
112 university, including adopting regulations ~~rules~~, as necessary,  
113 in order to administer this section. Any proceeds therefrom  
114 shall be deposited and expended in accordance with s. 1004.22.  
115 Any action taken by the university in securing or exploiting  
116 such trademarks, copyrights, or patents shall, within 30 days,  
117 be reported in writing by the president to the Department of  
118 State.

119 Section 5. Subsection (4) of section 1010.03, Florida  
120 Statutes, is amended to read:

121 1010.03 Delinquent accounts.—District school boards,  
122 community college boards of trustees, and university boards of  
123 trustees:

124 (4) May adopt regulations ~~rules~~, as necessary, to implement  
125 the provisions of this section, including setoff procedures,  
126 payroll deductions, and restrictions on release of transcripts,  
127 awarding of diplomas, and access to other resources and services  
128 of the school district, community college, or university.



121116

129 Section 6. Subsection (2) of section 1010.04, Florida  
130 Statutes, is amended to read:

131 1010.04 Purchasing.—

132 (2) Each district school board ~~and~~, community college board  
133 of trustees, ~~and each university board of trustees~~ shall adopt  
134 rules and each university board of trustees shall adopt  
135 regulations to be followed in making purchases.

136 Section 7. Paragraph (b) of subsection (2) of section  
137 1010.07, Florida Statutes, is amended to read:

138 1010.07 Bonds or insurance required.—

139 (2)

140 (b) Contractors paid from university funds shall give bond  
141 for the faithful performance of their contracts in such amount  
142 and for such purposes as prescribed by s. 255.05 or by  
143 regulations ~~rules~~ of the Board of Governors relating to the type  
144 of contract involved. It shall be the duty of the university  
145 board of trustees to require from construction contractors a  
146 bond adequate to protect the board and the board's funds  
147 involved.

148 Section 8. Subsection (4) of section 1011.48, Florida  
149 Statutes, is amended to read:

150 1011.48 Establishment of educational research centers for  
151 child development.—

152 (4) The Board of Governors may adopt regulations ~~rules~~ for  
153 the establishment, operation, and supervision of educational  
154 research centers for child development. Such regulations ~~rules~~  
155 shall include, but need not be limited to: a defined method of  
156 establishment of and participation in the operation of centers  
157 by the appropriate student government associations; guidelines



121116

158 for the establishment of an intern program in each center; and  
159 guidelines for the receipt and monitoring of funds from grants  
160 and other sources of funds consistent with existing laws.

161 Section 9. Subsection (1) of section 1012.91, Florida  
162 Statutes, is amended to read:

163 1012.91 Personnel Records.—

164 (1) Each university board of trustees shall adopt  
165 regulations ~~rules~~ prescribing the content and custody of  
166 limited-access records that the university may maintain on its  
167 employees. Such limited-access records are confidential and  
168 exempt from the provisions of s. 119.07(1). Such records are  
169 limited to the following:

170 (a) Records containing information reflecting academic  
171 evaluations of employee performance shall be open to inspection  
172 only by the employee and by officials of the university  
173 responsible for supervision of the employee.

174 (b) Records maintained for the purposes of any  
175 investigation of employee misconduct, including but not limited  
176 to a complaint against an employee and all information obtained  
177 pursuant to the investigation of such complaint, shall be  
178 confidential until the investigation ceases to be active or  
179 until the university provides written notice to the employee who  
180 is the subject of the complaint that the university has either:

- 181 1. Concluded the investigation with a finding not to  
182 proceed with disciplinary action;
  - 183 2. Concluded the investigation with a finding to proceed  
184 with disciplinary action; or
  - 185 3. Issued a letter of discipline.
- 186



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187 For the purpose of this paragraph, an investigation shall be  
188 considered active as long as it is continuing with a reasonable,  
189 good faith anticipation that a finding will be made in the  
190 foreseeable future. An investigation shall be presumed to be  
191 inactive if no finding is made within 90 days after the  
192 complaint is filed.

193 (c) Records maintained for the purposes of any disciplinary  
194 proceeding brought against an employee shall be confidential  
195 until a final decision is made in the proceeding. The record of  
196 any disciplinary proceeding, including any evidence presented,  
197 shall be open to inspection by the employee at all times.

198 (d) Records maintained for the purposes of any grievance  
199 proceeding brought by an employee for enforcement of a  
200 collective bargaining agreement or contract shall be  
201 confidential and shall be open to inspection only by the  
202 employee and by officials of the university conducting the  
203 grievance proceeding until a final decision is made in the  
204 proceeding.

205 Section 10. Subsection (4) of section 1013.171, Florida  
206 Statutes, is amended to read:

207 1013.171 University lease agreements; land, facilities.—

208 (4) Agreements as provided in this section shall be entered  
209 into with an offeror resulting from publicly announced  
210 competitive bids or proposals, except that the university may  
211 enter into an agreement with an entity enumerated in paragraph  
212 (3) (a) for leasing land or with a direct-support organization as  
213 provided in s. 1004.28, which shall enter into subsequent  
214 agreements for financing and constructing the project after  
215 receiving competitive bids or proposals. Any facility



121116

216 constructed, lease-purchased, or purchased under such  
217 agreements, whether erected on land under the jurisdiction of  
218 the university or not, shall conform to the construction  
219 standards and codes applicable to university facilities. Each  
220 university board of trustees shall adopt such regulations ~~rules~~  
221 as are necessary to carry out its duties and responsibilities  
222 imposed by this section.

223 Section 11. Subsection (10) of section 1007.27, Florida  
224 Statutes, is repealed.

225 Section 12. This act shall take effect July 1, 2011.

226  
227 ===== T I T L E A M E N D M E N T =====

228 And the title is amended as follows:

229 Delete everything before the enacting clause  
230 and insert:

231 A bill to be entitled

232 An act relating to postsecondary education; amending  
233 s. 705.18, F.S.; revising provisions relating to the  
234 disposal of personal property lost or abandoned on a  
235 university or community college campus and the  
236 disposition of proceeds from the sale of such  
237 property; requiring that the university or community  
238 college president, or his or her designee, dispose of  
239 or make use of unclaimed property in accordance with  
240 university or community college policies and  
241 procedures; amending s. 1013.30, F.S.; revising  
242 provisions relating to university campus master plans  
243 and campus development agreements; requiring that a  
244 university board of trustees' fair share of the costs



121116

245 of certain measures be payable exclusively from the  
246 University Concurrency Trust Fund; conforming  
247 provisions to changes made by the act; providing that  
248 a development order of the state land planning agency  
249 may not require that improvements be funded from  
250 sources other than the University Concurrency Trust  
251 Fund; amending ss. 267.062, 1004.23, 1010.03, 1010.04,  
252 1010.07, 1011.48, 1012.91, and 1013.171, F.S. ;  
253 revising provisions to replace references to "rules"  
254 with "regulations"; repealing s. 1007.27(10), F.S.,  
255 relating to an exemption for students who earn 9 or  
256 more credits from one or more of the articulated  
257 acceleration mechanisms from any requirement of a  
258 public postsecondary educational institution which  
259 mandates enrollment during a summer term; providing an  
260 effective date.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Higher Education Committee

BILL: SB 1194  
 INTRODUCER: Senator Oelrich  
 SUBJECT: Postsecondary Education  
 DATE: March 11, 2011

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harkey	Matthews	HE	<b>Pre-meeting</b>
2.			CF	
3.			BC	
4.				
5.				
6.				

**I. Summary:**

This bill revises statutes to remove obsolete references to the College Level Academic Skills Test, to make college readiness testing uniform and to codify the Articulation Coordinating Committee. The bill removes a barrier to postsecondary education for individuals with intellectual disabilities by allowing them to use reasonable substitutions for admission to postsecondary programs. The bill authorizes the Department of Education (DOE) to certify community service hours for home education students' Bright Futures Scholarship requirements.

This bill amends ss. 467.009, 1004.04, 1004.68, 1007.01, 1007.25, 1007.264, 1007.265, 1008.30, 1008.345, 1008.38, 1009.534, and 1012.56, Florida Statutes.

**II. Present Situation:**

**College Level Skills**

Public postsecondary institutions are currently following the requirements established in s. 1007.25, F.S., relating to the mastery of college-level communication and computation skills. The College-Level Academic Skills Test (CLAST) was administered from October 1982 to June 2009 to students seeking associate in arts (AA), bachelor of arts (BA), or bachelor of science (BS) degrees from a Florida public college or university.<sup>1</sup>

**Articulation**

The Articulation Coordinating Committee (ACC) serves as an advisory board to the State Board of Education (SBE), Board of Governors and Higher Education Coordinating Council, on

<sup>1</sup> Department of Education, <http://www.fldoe.org/asp/clast/>

postsecondary transition issues. The ACC is no longer codified in law; it is established in SBE Rule 6A-10.024.<sup>2</sup>

### **Students with Intellectual Disabilities**

The federal Higher Education Opportunity Act reauthorization<sup>3</sup> creates incentives for states to provide transition to postsecondary education programs for students with intellectual disabilities—those with mental retardation or a cognitive impairment characterized by significant limitation in intellectual and cognitive functioning who are or were provided a free and appropriate public education under the Individuals with Disabilities Education Act. Three Florida institutions—the University of South Florida, St. Petersburg (USFSP); University of North Florida (UNF); and Lynn University have received a grant, funded for \$421,000 a year for 5 years, to form a consortium<sup>4</sup> to oversee the following grant activities:

- Expansion of the quality and depth of the current transition programs on the campuses of USFSP, UNF, and Lynn University;
- Support for other existing transition programs for students with intellectual disabilities at institutions of higher education across the State of Florida; and
- Expansion of the transition programs in these institutions across Florida.

While students with disabilities are eligible for reasonable substitutions for requirements for graduation, admission to postsecondary program, or entry into the upper division of a postsecondary program, ss. 1007.264 and 21007.265, F.S., specifically excludes students who have been documented as having intellectual disabilities. A repeal of these prohibitions may be necessary to allow certain students with intellectual disabilities to work toward a postsecondary degree or certificate.

### **Common Placement Testing**

Minimum college placement test scores are currently established in SBE Rule 6A-10.0315. Florida College System institutions have flexibility to establish higher college placement scores so a student could be eligible for college level coursework at one college with a certain score, but not at another college. This inconsistency may cause unintended inequities for students seeking a degree. Establishing college placement scores statewide will enable students to transfer test scores from college to college and be eligible for the same course placement.

According to the DOE, there is no statewide consistency in remediation policies. Remediation courses have been approved for high schools on the basis of the highest level of developmental education (i.e., remediation) offered at Florida College System institutions. The implementation of the high school remediation courses is voluntary and student enrollment is also voluntary. For high schools offering the remediation courses, students who enroll and pass a remediation course with a grade of “C” or better and pass the Basic Skills Exit Test will be guaranteed entry to college credit coursework without additional testing or remediation on admission to a Florida college. Colleges may offer students alternative remediation opportunities and retests.

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<sup>2</sup> Section 3, ch. 2002-387, L.O.F., transferred the ACC to the State Board of Education.

<sup>3</sup> P.L.110-315

<sup>4</sup> The Florida Consortium on Postsecondary Education Transition Programs and Intellectual Disabilities



Students may accumulate more than 12 college credit hours without demonstrating readiness in mathematics, reading, or writing, provided they are co-enrolled in developmental education. The Florida College System has recently developed statewide developmental education competencies and established common course numbers that will be implemented in fall 2011. Current law does not fully reflect all provisions to implement the postsecondary readiness testing.

### **Bright Futures Community Service Hours**

Home school students are required to complete community service hours to be eligible for a Florida Academic Scholars award. Currently, the DOE, Office of Student Financial Assistance certifies home education students' community service hours for the purpose of Bright Futures Scholarship initial eligibility. However, current law does not explicitly give the department authority to approve community service hours for home education students.

## **III. Effect of Proposed Changes:**

### **College Level Skills**

The bill removes obsolete references to the College Level Academic Skills Test (CLAST) in ss. 467.009, 1004.04, 1004.68, 1007.25, 1008.29, 1008.345, 1008.38, and 1012.516 F.S. The CLAST is no longer administered for these purposes.

### **Articulation**

The Articulation Coordinating Committee (ACC) would be statutorily authorized as an advisory body that would report to the Commissioner of Education. The ACC would propose policies to coordinate among the education sectors to promote smooth and efficient student educational transitions.

### **Students with Intellectual Disabilities**

The bill amends ss. 1007.264 and 1007.265, F.S., to provide access to postsecondary education for individuals with intellectual disabilities by allowing reasonable substitutions for entry, admission to a program of study, and graduation requirements, as is currently provided to other students with disabilities. The proposed changes will align Florida statutes with the provisions of the Higher Education Opportunities Act and facilitate activities to help them prepare for gainful employment.

### **Common Placement Testing**

The bill authorizes the DOE the authority to establish statewide consistency in the implementation of the common placement requirements. The bill requires the State Board of Education to establish by rule the test scores a student must achieve to demonstrate readiness for postsecondary work, provisions for remediation and retesting policies.

By requiring colleges to inform students of the possible implications of amassing college credit prior to successful completion of developmental education, students will have the necessary information to make informed decisions when registering for courses.

By establishing developmental education competencies in SBE rule, there will be consistency in the delivery of developmental education in the Florida College System, as well as high schools. High school teachers would have access to the competencies Florida faculty have identified as

necessary for success in entry level college credit courses. Establishing the competencies in rule will result in better informed instruction at the secondary level and better prepared students coming to the Florida colleges.

**Bright Futures Community Service Hours**

The bill requires the DOE to approve community service hours for home education students to be eligible for the Bright Futures Florida Academic Scholars award.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Currently, the DOE reimburses Florida Colleges for common placement tests provided to high school students who are evaluated for college readiness. To the extent this bill increases the number of high school students taking such tests, the costs for reimbursement may increase. The specific impact cannot be determined at this time.

Colleges may incur additional expenses relating to the notice requirement for students who accumulate 12 college credit hours with developmental education coursework remaining. The exact cost is indeterminate, but likely to be insignificant.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

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

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

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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552138

LEGISLATIVE ACTION

Senate	.	House
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The Committee on Higher Education (Oelrich) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 42 - 71.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 3 - 4.



934560

LEGISLATIVE ACTION

Senate	.	House
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The Committee on Higher Education (Oelrich) recommended the following:

**Senate Amendment**

Delete lines 104 - 158  
and insert:

(2) To improve and facilitate articulation systemwide, the State Board of Education and the Board of Governors shall collaboratively establish ~~recommend~~ policies and guidelines ~~to the Legislature~~ with input from statewide K-20 advisory groups established by the Commissioner of Education and the Chancellor of the State University System and shall recommend the policies and guidelines to the Legislature. ~~relating to:~~

~~(a) The alignment between the exit requirements of one~~



934560

13 ~~system and the admissions requirements of another system into~~  
14 ~~which students typically transfer.~~

15 ~~(b) The identification of common courses, the level of~~  
16 ~~courses, institutional participation in a statewide course~~  
17 ~~numbering system, and the transferability of credits among such~~  
18 ~~institutions.~~

19 ~~(c) Identification of courses that meet general education~~  
20 ~~or common degree program prerequisite requirements at public~~  
21 ~~postsecondary educational institutions.~~

22 ~~(d) Dual enrollment course equivalencies.~~

23 ~~(e) Articulation agreements.~~

24 (3) The Commissioner of Education, in consultation with the  
25 Chancellor of the State University System, shall establish the  
26 Articulation Coordinating Committee, which shall report to the  
27 commissioner. The committee shall be a K-20 advisory group that  
28 consists of members representing the State University System,  
29 the Florida College System, public career and technical  
30 education, public K-12 education, and nonpublic education, with  
31 at least one member representing students. The commissioner  
32 shall appoint a chair from the membership. The committee shall:

33 (a) Propose monitoring, compliance, and reporting systems  
34 to facilitate and ensure institutional compliance with state  
35 articulation policies.

36 (b) Monitor the alignment between the exit requirements of  
37 one system and the admissions requirements of another system  
38 into which students typically transfer.

39 (c) Propose guidelines for interinstitutional agreements  
40 between and among public schools, career and technical education  
41 centers, Florida College System institutions, and state



934560

42 universities.

43 (d) Establish dual enrollment course and high school  
44 subject area equivalencies.

45 (e) Establish groups of public and nonpublic educational  
46 institution representatives to facilitate articulation.

47 (f) Conduct a continuing review of statewide articulation  
48 statutes, rules, regulations, and agreements and make  
49 recommendations to the State Board of Education and the Board of  
50 Governors for revisions.

51 (g) Review the statewide course numbering system, the  
52 levels of courses, and the application of transfer credit  
53 requirements from public and nonpublic institutions  
54 participating in the statewide course numbering system,  
55 including, but not limited to, instances of student transfer and  
56 admissions difficulties.

57 (h) Identify courses that meet general education or common  
58 degree program prerequisite requirements at public postsecondary  
59 institutions.

60 (i) Examine statewide data regarding articulation,  
61 recommend resolutions for issues, and propose programmatic and  
62 budget policies and procedures to improve articulation  
63 throughout the K-20 education system.

64 (j) Recommend roles and responsibilities of public  
65 education entities in interfacing with the single, statewide  
66 computer-assisted student advising system established pursuant  
67 to s. 1007.28, including, but not limited to, functionality  
68 requirements, data needs, and appropriate reporting timelines.



386222

LEGISLATIVE ACTION

Senate

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House

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The Committee on Higher Education (Oelrich) recommended the following:

**Senate Amendment to Amendment (934560)**

Delete lines 3 - 23

and insert:

Delete lines 124 - 158

and insert:

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333832

LEGISLATIVE ACTION

Senate	.	House
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The Committee on Higher Education (Oelrich) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 449 and 450  
insert:

Section 11. Section 1011.30, Florida Statutes, is amended  
to read:

1011.30 Budgets for community colleges.—Each community  
college president shall recommend to the community college board  
of trustees a budget of income and expenditures at such time and  
in such form as the State Board of Education may prescribe. Upon  
approval of a budget by the community college board of trustees,  
such budget shall be transmitted to the Department of Education



333832

13 ~~for review and approval.~~ Rules of the State Board of Education  
14 shall prescribe procedures for effecting budget amendments  
15 subsequent to the final approval of a budget for a given year.  
16

17 ===== T I T L E A M E N D M E N T =====

18 And the title is amended as follows:

19       Between lines 35 and 36

20 insert:

21       amending s. 1011.30, F.S.; removing a requirement that  
22       a budget of a community college be transmitted to the  
23       Department of Education for review and approval;



915352

LEGISLATIVE ACTION

Senate	.	House
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The Committee on Higher Education (Oelrich) recommended the following:

**Senate Amendment (with title amendment)**

Delete line 481

and insert:

Section 13. Section 6 of chapter 2006-58, Laws of Florida, is repealed.

Section 14. This act shall take effect upon becoming a law.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 37

and insert:



915352

13 provisions relating to the CLAST; repealing s. 6, ch.  
14 2006-58, Laws of Florida; abrogating the repeal of s.  
15 1004.226, F.S., which created the 21st Century World  
16 Class Scholars Program; providing an