

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: April 15, 1998 Revised: \_\_\_\_\_

Subject: State University System/Board of Regents

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>White</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Favorable/CS</u>
2.	<u>Wilson</u>	<u>Wilson</u>	<u>GO</u>	<u>Fav/2 amendments</u>
3.	<u>Collins</u>	<u>Smith</u>	<u>WM</u>	<u>Favorable/CS</u>
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

**I. Summary:**

This committee substitute proposes a variety of changes in current law to provide more independence and management flexibility for the Board of Regents and the universities in the State University System. University presidents gain additional independence through the decentralization of certain record keeping, reporting, and decision making responsibilities. This independence includes authorization to approve general construction contracts. The purchasing authority of presidents is raised from \$500,000 to \$1 million, and the Board of Regents will contract for purchases of over \$1 million. The Board of Regents is authorized to independently acquire property without the need for competitive selection, under certain circumstances. The Board of Regents and the state universities will no longer be included in the definition of a state agency under chapter 287, Florida Statutes. The bill states circumstances under which certain members of the Canadian military will be classified as Florida residents for tuition purposes. The definition of equity in employment of women and minorities in community colleges and state universities is amended to reflect federal guidelines. A sixth regional autism center is established at the University of Central Florida. Several obsolete or redundant rule making requirements will be repealed, as will the laws that delegate certain functions of the Department of Management Services to the State University System, requiring a report on gender equity and salary discrimination, and requiring the Board of Regents to adopt rules regarding the Theodore R. and Vivian M. Johnson Scholarship Foundation and Trust Fund. The definition of Auxiliary Enterprises is clarified. For joint-use facilities, participating institutions are required to include 25 percent of the cost of the facility in their legislative budget request, or a prorata share of 25 percent based on space utilization. New joint-use facilities require review by PEPC, recommendation by the State Board of Education and recommendation to the Legislature for authorization.

This committee substitute amends the following sections of the Florida Statutes: 110.131, 228.055, 235.055, 235.195, 240.1201, 240.147, 240.205, 240.209, 240.2097, 240.214, 240.227, 240.241, 240.2605 240.281, 240.295, 243.151, 287.012, 240.2475, and 240.3355. It repeals the following sections of the Florida Statutes: 240.225, 240.247, 240.4988(4), and 287.017(3).

## II. Present Situation:

The State University System is statutorily defined as the Board of Regents and the ten state universities. Each of them is considered a state agency and, as such, it is subject to all the laws and administrative rules governing other agencies unless a specific statutory exception is provided. These laws and rules regulate the day-to-day administration and operation of the universities and cover such items as purchasing and land acquisition and disposal.

## III. Effect of Proposed Changes:

The Committee Substitute for Senate Bills 1358 and 160 is a comprehensive measure addressing a number of issues and proposed statutory changes. Rather than treat these revisions in general, the following section by section summary is provided to highlight each of the proposed modifications.

**Section 1.** Amends s. 110.131, F.S., by deleting reporting requirements for the Board of Regents for certain Other Personal Services (OPS) employees. The board claims this exemption will eliminate a duplicate reporting requirement.

**Section 2.** Amends s. 228.055, F.S., to establish a sixth regional autism center at the College of Health and Public Affairs at the University of Central Florida, which serves Brevard, Lake, Orange, Osceola, Sumter, and Volusia Counties. Regional autism centers provide nonresidential resource and training services for people of all ages who have autism.

**Section 3.** Amends s. 235.055, F.S., to delete the Board of Regents' authority to construct or place facilities on leased land, or to enter into a short-term lease for land on which relocatable or temporary facilities are to be used. Section 16 restates this provision in s. 243.151, F.S.

**Section 4.** Amends s. 235.195, F.S., to authorize two or more boards, such as a community college board of trustees and the Board of Regents, to construct facilities for joint-use at a single location to once every 3 years. It also amends a requirement that the Commissioner of Education must include "up to" 25 percent of the cost of the project in the legislative capital outlay budget request to require that 25 percent of the cost be included in the legislative budget request or a prorata share of 25 percent based on the percentage of space to be used by the institution. Also required for any new campus or new joint-use facility is: 1) a review by the Postsecondary Education Planning Commission, 2) recommendations to the State Board of Education, and 3) formal request for authorization by the Legislature.

**Section 5.** Amends s. 240.1201, F.S., to authorize in-state matriculation fees for active duty members of the Canadian military, and their families, who reside in or are stationed in Florida

because of their service under the North American Air Defense (NORAD) agreement. They could attend only a college or university that was within 50 miles of the base they serve. Currently, only about 37 families could take advantage of this opportunity, and, because they are all stationed at Tyndall Air Force Base in Panama City, they could enroll only at Gulf Coast Community College or the branch campus of the Florida State University that is located in Panama City.

**Section 6.** Amends s. 240.147, F.S., to correct a cross reference. In considering which programs to recommend for contracts with nonpublic colleges, the Postsecondary Education Planning Commission is required to consider the limited access programs at state universities. The reference is incorrectly made to the report of limited access programs required by s. 240.209(3)(s), F.S.

**Section 7.** Amends s. 240.205, F.S., to authorize the Board of Regents to approve contracts for commodities, goods, and services for up to \$1 million; the current limit is \$500,000. A requirement is added that the board must comply with the provisions of s. 287.055, F.S., the Consultants' Competitive Negotiations Act, which requires proper procedures for selecting professional services for engineers, land surveyors, and architects in state construction projects.

**Section 8.** Amends s. 240.209, F.S., to authorize the Board of Regents to contract for property acquisition or to sell property without competitive selection and without following the procedures established in s. 287.017, F.S., so long as the board followed established procedures and used approved appraisers and review services.

**Section 9.** Amends s. 240.2097, F.S., to delete duplicative language related to the reporting of limited access programs, and permitting the updating of student handbooks when necessary.

**Section 10.** Amends s. 240.214, F.S., to revise the State University System accountability law so that the goals, measures, and performance standards identified for accountability purposes will be consistent with the strategic plan required by s. 240.209, F.S., and the performance-based budgeting process required by s. 216.0166, F.S. The measures must reflect the missions of teaching, research, and service that are the elements of performance-based budgeting.

**Section 11.** Amends s. 240.227, F.S., to allow university presidents to enter into contracts for commodities, goods, and services for up to \$1 million. The current limit is \$500,000. The presidents are allowed to adjust university property records, dispose of state-owned tangible personal property, and retain the proceeds to use for university purposes. They must comply with s. 287.055, F.S., the Consultants' Competitive Negotiations Act, which requires professional engineering and architectural procedures for state building projects.

**Section 12.** Amends s. 240.241, F.S., to provide that the 5 percent limit on overhead that universities may charge state agencies on contracts and grants does not apply to contracts between state universities.

**Section 13.** Amends s. 240.2605, F.S., regarding the Trust Fund for Major Gifts, to authorize the Board of Regents Foundation to participate in the Trust Fund for Major Gifts.

**Section 14.** Amends s. 240.281, F.S., requiring Legislative review of additional requests to deposit certain funds outside the State Treasury upon approval of the Board of Regents and the Governor.

**Section 15.** Amends s. 240.295, F.S., to authorize construction of dormitories or other auxiliary accommodations with fixed capital outlay dollars. The construction would be subject to the other requirements of that section, namely, that no General Revenue or other state support would be required to maintain or continue operation of the project once completed.

**Section 16.** Amends s. 243.151, F.S., to authorize a university, with Board of Regents approval, to construct facilities on leased land and to enter into short-term leases for land with usable temporary facilities. This change restates the provision deleted from s. 235.055, F.S., in section 2 of the bill.

**Section 17.** Amends s. 287.012, F.S., to exempt the Board of Regents and the State University System from the state purchasing guidelines. The exceptions granted would not relieve the board or the system from the provisions of the Consultants' Competitive Negotiations Act (s. 287.055, F.S.) or the bid protest procedure contained in s. 120.53(5), F.S.

**Section 18.** Repeals s. 240.247, F.S., the requirement of a report on gender equity and salary discrimination (the information is reported as part of the equity accountability program); s. 240.4988(4), F.S., a rule making requirement regarding the Theodore R. and Vivian M. Johnson Scholarship Foundation and Trust Fund; and s. 240.225, F.S., the delegation of purchasing authority from the Department of Management Services to the Board of Regents. Also repeals s. 287.017(3), F.S., the requirement that the State University System be subject to the rules regarding state purchasing categories. This proposed change is consistent with other modifications in the bill to authorize the Board of Regents to establish its own purchasing program.

**Sections 19 & 20.** Amend ss. 240.2475 and 240.3355, F.S., regarding the employment equity programs required of the State University System and the State Community College System. The definition of "appropriate representation" of women and minorities is changed so that representation is appropriate if it equals comparable national standards. This change is consistent with federal methods of evaluating equity. The following three changes authorize reports required by the state and federal governments to be somewhat consolidated: The bill requires each state university and community college to plan annually to achieve appropriate representation, modifies the annual equity report to the governing board of each system, and requires a corrective plan in any year in which the prior year goals were not achieved. In addition, the bill deletes a requirement that a portion of vacant positions at universities must be used to reward department heads that attained equity goals.

**Section 21.** Amends s. 240.2803, Florida Statutes, to clarify the definition of auxiliary enterprises as those business activities which require no support from the General Revenue fund and clarifies the list of Auxiliary Enterprise activities.

**Section 22.** Amends Section 3 of Chapter 97-381, Laws of Florida to authorize the State Board of Administration to invest the funds received from the Department of Insurance, Case # 18900-96-C, for the purpose of providing Ethics in Business Scholarships for community colleges and private universities.

**Section 23.** Provides an effective date of July 1, 1998.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Canadian citizens stationed in Florida because of their affiliation with NORAD will benefit from lower fees in attending a public community college or university within 50 miles of the military base where they or a member of their immediate family is stationed.

C. Government Sector Impact:

Depending upon the president's choices, a state university could benefit from improved efficiency.

The waiver of nonresident fees for enrolling Canadian NORAD personnel and their dependents will act as an income avoidance to affected universities and community colleges.

For Gulf Coast Community College in Panama City this revenue loss will be \$3460.50 per enrollee for each block of 30 credit hours. For Florida State University, which operates a branch campus in Panama City, this loss will be \$5917.40 per enrollee.

Chapter 91-109, Laws of Florida, imposed a 5 percent cap on indirect cost overhead which state agencies may be charged by member institutions of the public higher education system. That level was established in response to documented billings of overhead charges unrelated to actual expenses incurred. It is a customary practice of university divisions of sponsored research, or their structural equivalents, to impose such charges for infrastructure expenses associated with faculty research projects. In some cases amounts in excess of costs are transferred to other accounts which, in turn, provide seed money for other university undertakings. The effect of this change will still retain the 5 percent cap on such charges as they affect state agencies but permit member institutions to impose higher levels in other contractual activities.

**VI. Technical Deficiencies:**

Section 216.351, F.S., requires a specific cross reference whenever any part of chapter 216, F.S., is amended. The bill does not contain such a provision. A technical amendment is recommended.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.