

STORAGE NAME: s2316.cu

DATE: May 27, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COLLEGES AND UNIVERSITIES
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: SB 2316, 1ST ENG

RELATING TO: State Board of Independent Colleges and Universities (RAB)

SPONSOR(S): Senator Grant

COMPANION BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

(1) Senate Education Committee YEAS 8 NAYS 0

(2)

(3)

(4)

(5)

I. SUMMARY:

SB 2316, 1ST ENG, contains provisions relating to the rule making authority of the State Board of Independent Colleges and Universities (SBICU). As a result of the rule review required by s. 120.536, F.S., the SBICU identified eight administrative rules as lacking the appropriate statutory authorization required by that section. These rules relate to the role of the SBICU in overseeing the establishment and operation of nonpublic colleges and centers of out-of-state institutions in Florida. This bill provides specific authority for the rules identified by the SBICU.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

The 1996 Legislature amended the Florida Administrative Procedures Act (APA) to modify provisions relating to agency rule making and provide for the review of existing rules. Section 120.536, F.S., requires a closer connection between statutes and rules. A grant of rule making authority by the Legislature is necessary but not sufficient to allow an agency to adopt a rule; a specific law to be implemented is also required. An agency may adopt only rules that implement, interpret, or make specific the particular powers and duties granted by the enabling statute. Agencies do not have the authority to implement statutory provisions setting forth legislative intent or policy.

Section 120.536, F.S., also provides for a review of existing rules. By October 1, 1997, each agency must provide the Joint Administrative Procedures Committee (JAPC) with a listing of rules or portions of rules which exceed the rule making authority permitted by s. 120.356, F.S. During the 1998 Regular Session, the Legislature must consider whether specific legislation authorizing the identified rules, or portions thereof, should be enacted.

As a result of the rule review required by s. 120.536, F.S., the State Board of Independent Colleges and Universities (SBICU) identified the following eight rules as exceeding or lacking the appropriate statutory grant of rule making authority: 6E-1.0032; 6E-0035; 6E-2.003(5); 6E-2.0041; 6E-2.0042; 6E-2.007(4); 6E-2.009; and 6E-2.010, F.A.C. This bill reflects the statutory changes proposed by the SBICU to correct the identified deficiencies.

B. EFFECT OF PROPOSED CHANGES:

The bill makes the necessary statutory changes to provide the SBICU the authority to adopt rules on the following topics: conditions under which students of foreign medical schools may serve clinical clerkships in Florida, the review of a college's certificate of exemption from licensure, conditions affecting the licensure of agents for a college, change in ownership or the closing of a college, and the fair consumer practices required of a college.

A new section of law is created to give the SBICU specific authority to adopt rules regarding the granting of permission to an out-of-state college to have a minimal presence in Florida. The bill defines minimal presence as maintaining a business office, providing an occasional seminar that would award college credit, arranging an occasional clinical clerkship for a foreign medical student, or other operations of a non-regular, non-credit bearing nature. The current SBICU rule on this issue was previously adopted under the board's general rule making authority.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Yes. The bill provides rule making authority for several administrative rules. A new section of law is created to give the SBICU specific authority to adopt rules regarding the granting of permission to an out-of-state college to have a minimal presence in Florida.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

None.

(2) what is the cost of such responsibility at the new level/agency?

None.

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Amends ss. 246.081, 246.085, 246.087, 246.091, 246.095, F.S.

Creates s. 246.093, F.S.

E. SECTION-BY-SECTION RESEARCH:

This section need be completed only in the discretion of the Committee.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

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2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

None

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None

VII. SIGNATURES:

COMMITTEE ON COLLEGES AND UNIVERSITIES:

Prepared by:

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