

**STORAGE NAME:** h4371a.rpp

**DATE:** April 9, 1998

**HOUSE OF REPRESENTATIVES  
AS REVISED BY THE COMMITTEE ON  
REAL PROPERTY & PROBATE  
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

**BILL #:** HB 4371

**RELATING TO:** Postsecondary Education

**SPONSOR(S):** Representative Rayson

**COMPANION BILL(S):** SB 2214

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

- (1) COLLEGES AND UNIVERSITIES YEAS 11 NAYS 0
- (2) REAL PROPERTY & PROBATE YEAS 5 NAYS 0
- (3) EDUCATION APPROPRIATION
- (4)
- (5)

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I. SUMMARY:

The Florida Prepaid Postsecondary Education Expense Program, Board, and Trust Fund is renamed to the Florida Prepaid College Program, Board, and Trust Fund.

The current statute is reorganized, obsolete language is deleted, and technical revisions and conforming provisions are included.

The Board is authorized to provide prepaid contracts that cover local fees at community colleges and state universities.

Need-based student financial aid calculations are changed from counting contract benefits as a student resource to counting contract benefits as a family resource.

The name of the Prepaid College Program is protected from unlawful representation.

Florida Prepaid Program contracts are exempt from the probate claims of creditors.

The fiscal impact of this bill is indeterminate at this time.

**THIS BILL IS TRAVELING WITH ONE AMENDMENT BY THE COMMITTEE ON REAL PROPERTY & PROBATE**

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

**Florida Prepaid Postsecondary Education Expense Program**

The Florida Prepaid Postsecondary Education Expense Program was established by the Florida Legislature in 1987 to provide a medium through which the cost of state postsecondary education may be paid in advance and fixed at a guaranteed level for the duration of undergraduate enrollment (s. 240.551, F.S.). The Prepaid Program covers the basic tuition cost (matriculation fee) of a Florida public university or community college, as well as the building fee, capital improvement fee, and financial aid fee. Local fees, such as health, activity and service, and athletic fees, are not included in the program. The contract may be paid in a lump-sum plan, a five-year installment plan, or a monthly payment plan.

**Name Change**

Due to the lengthy title "The Florida Prepaid Postsecondary Education Expense Program" and common usage of the term "Florida Prepaid Program", the Florida Prepaid Postsecondary Education Expense Board has requested that the title be shortened.

**Financial Aid Calculation**

Current state law is silent regarding the calculation of the Florida Prepaid Program for purposes of state need-based financial aid. Current practice is to calculate student need based on the federal financial aid formula which calculates the cost of attendance (COA) minus expected family contribution (EFC). Expected family contribution takes into account family assets, income, etc. After student need is calculated, the amount of prepayment is deducted from the student need on a dollar for dollar basis.

**Protection of Florida Prepaid Postsecondary  
Education Expense Program**

Section 240.551(5)(i), specifies that any materials produced for the purpose of marketing the program should be approved by the board before they are distributed.

**Fees**

The Prepaid Program covers the basic tuition cost (matriculation fee) of a Florida public university or community college, as well as the building fee, capital improvement fee, and financial aid fee, s. 240.551(7)(a)(b), F.S. Local fees, such as health, activity and service, and athletic fees, are not included in the program.

**Exemptions from Creditors**

Section 240.551(11), exempts moneys paid into or out of the fund by or on behalf of a purchaser or qualified beneficiary of a prepaid contract from all claims of creditors of the purchaser or the beneficiary.

**B. EFFECT OF PROPOSED CHANGES:**

**Name Change**

All references to the "Florida Prepaid Postsecondary Education Expense Program, Board, and Trust Fund" are deleted and replaced with one of the following: "Florida Prepaid College Program, Board, and Trust Fund" throughout the bill.

This change is consistent with common parlance and should lessen confusion surrounding the name of the program.

**Technical Changes**

Obsolete language that establishes the procedure for the initial appointments of board members in s. 240.551(5) is removed.

Obsolete language in s. 240.551(11) that authorizes the Board to consult with the Department of Legal Affairs in the initial development of payment contracts is removed.

The current statute is reorganized, therefore, the bill contains numerous pages of underlined and stricken texts. Additionally, titles are inserted, and paragraphs are enumerated.

**Financial Aid Calculation**

Section 240.551(17), Florida Statutes, would change the calculation of student need by factoring the amount of the prepayment into the expected family contribution rather than subtracting it, dollar for dollar, from student need. This results in a 30 percent reduction in the calculated need based on the prepaid contract amount, as opposed to a 100 percent reduction in the calculated need under the current practice. The students calculated need would be higher, therefore students could be eligible for more financial aid due to the change in calculation.

An additional effect of this provision is that postsecondary institutions will be required to calculate aid differently depending upon the source of the funds. This could potentially increase administrative costs at the institutions.

**Protection of the Florida Prepaid College Program**

Section 240.551(22), F.S., creates a new section that prohibits any person from using the phrase "Prepaid College," "Prepaid College Program," "Florida Prepaid College Program," "State Prepaid College Program," or any similar phrase in the title or name of any enterprise, product or service without the written authorization of the Florida Prepaid College Board.

The effect of this provision strengthens the protection of the Prepaid name.

### **Fees**

Sections 240.551(9)(a)2., and 240.551(9)(b)2., Florida Statutes, authorizes the Board to provide prepayment contracts that include additional fees. These fees are delineated in s. 240.35, F.S., for community colleges and 240.235, F.S., for state universities.

### **Exemption from Creditors**

Section 732.402(2)(c), F.S., is amended to include the Florida Prepaid College Program contracts as property exempt from the probate claims of creditors.

This change expands the protection of Florida Prepaid contracts from creditors.

#### **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?

No.

(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?

No.

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

No.

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

No.

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 sections 240.551, 222.22, 732.402, Florida Statutes.

Reenacts sections 731.201(13), 735.301(1), Florida Statutes.

**E. SECTION-BY-SECTION RESEARCH:**

Section 1. Amends s. 240.551, F.S., relating to the Florida Prepaid Program (name change and reorganization of statute)

Section 2. Amends s. 222.22, F.S., relating to the name change (conforming provisions)

Section 3. Amends s. 732.402(2), F.S., relating to exempt property (inclusion of prepaid contracts)

Section 4. Reenacts ss. 731.201(13), 735.301(1), F.S., relating to exempt property (conforming provisions)

Section 5. Provides effective date of July 1 of the year enacted.

**III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:**

**A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:**

1. Non-recurring Effects:

SEE FISCAL COMMENTS.

2. Recurring Effects:

SEE FISCAL COMMENTS.

3. Long Run Effects Other Than Normal Growth:

SEE FISCAL COMMENTS.

4. Total Revenues and Expenditures:

SEE FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

SEE FISCAL COMMENTS.

2. Recurring Effects:

SEE FISCAL COMMENTS.

3. Long Run Effects Other Than Normal Growth:

SEE FISCAL COMMENTS.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

This bill could potentially increase the cost of the program for purchasers of prepaid contracts due to the authorization to include local fees.

2. Direct Private Sector Benefits:

By including Florida Prepaid contracts in the family resource calculation for need-based student financial aid, a student could be eligible for a greater amount of financial assistance than he or she can qualify for at this present time.

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

SEE FISCAL COMMENTS.

D. FISCAL COMMENTS:

The fiscal impact of this bill is indeterminate at this time.

This bill could potentially increase the cost of the program to purchasers of prepaid contracts due to the authorization to include local fees.

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

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A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to 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:

The Committee on Real Property & Probate adopted one amendment which is traveling with the bill. The amendment removes proposed s. 240.551(17), F.S., which provides a new method of calculation for need-based student financial aid. There was some concern that changing the calculation may jeopardize federal matching funds. The amendment also makes technical changes to correct references necessitated by removing this subsection.

VII. SIGNATURES:

COMMITTEE ON COLLEGES AND UNIVERSITIES:

Prepared by:

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AS REVISED BY THE COMMITTEE ON REAL PROPERTY & PROBATE:

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