

**STORAGE NAME:** h1065a.cu

**DATE:** March 18, 1999

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
COLLEGES & UNIVERSITIES  
ANALYSIS**

**BILL #:** HB 1065

**RELATING TO:** Postsecondary Education

**SPONSOR(S):** Representative Annie Betancourt and Others

**COMPANION BILL(S):** CS/SB 288(c)

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

- (1) COLLEGES & UNIVERSITIES YEAS 9 NAYS 0
  - (2) EDUCATION APPROPRIATIONS
  - (3)
  - (4)
  - (5)
- 

**I. SUMMARY:**

This bill changes provisions relating to the transfer of benefits associated with the Florida Prepaid College Program to an out-of-state postsecondary education institution. The bill provides that a qualified beneficiary of the Florida Prepaid College Program may transfer the benefits of an advance payment contract to a not for profit, out-of-state, degree granting, college or university that is accredited by the commission on colleges of a regional accrediting association. Currently, the transfer of benefits is limited to a baccalaureate degree-granting, regionally accredited college or university. The bill also authorizes the transfer of benefits to a public community college or an area technical center offering an applied technology diploma or a vocational certificate.

This bill directs the Florida Prepaid College Board to transfer an amount that does not exceed the redemption value of the original contract to the public community college or area technical center offering the applied technology diploma or the vocational certificate. If the cost of the fees charged by the public community college or area technical center is less than the cost of the fees charged by a state postsecondary education institution, the amount transferred may not exceed the cost of the fees charged by the public community college or area technical center. Additionally, the amount transferred may only cover the number of semester credit hours stipulated in the original contract.

This bill permits a prepaid direct-support organization to use the property, facilities, and personal services of the Florida Prepaid College Board, as well as to make investments with monies invested in the Florida Prepaid College Trust Fund.

This bill does not appear to have a fiscal impact on state or local governments.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

**FLORIDA PREPAID COLLEGE PROGRAM**

In 1987, the Florida Legislature established the Florida Prepaid College Program where much of the costs associated with attending a postsecondary education institution can be paid in advance at a fixed and guaranteed rate for the duration of a student's undergraduate enrollment. According to section 240.551, Florida Statutes, the program provides a medium through which the cost of registration and dormitory residence can be paid prior to a student's enrollment at a state postsecondary education institution at a rate which is lower than the projected corresponding rate that is expected at the time a student actually enrolls at an institution. The advance payments must be combined and invested in a manner that yields, at a minimum, sufficient interest to generate the difference between the prepaid amount and the cost of registration and dormitory residence at the time a student actually enrolls at an institution.

**PREPAID COLLEGE PLANS**

The Florida Prepaid College Board provides advance payment contracts for two independent plans known as the community college plan and the university plan. The Board may also provide advance payment contracts for a dormitory residence plan.

Through the community college plan, the advance payment contract provides for prepaid registration fees at a specified number of undergraduate semester credit hours that do not exceed the average number of hours required for the conference of an associate degree. The cost of participating in the community college plan is based primarily on the average current and projected registration fees within the State Community College System and the number of years expected to elapse between the purchase of the plan on behalf of a qualified beneficiary and the exercise of the benefits provided in the plan by a beneficiary.

Through the university plan, the advance payment contract provides for prepaid registration fees at a specified number of undergraduate semester credit hours that do not exceed the average number of hours required for the conference of a baccalaureate degree. The cost of participating in the university plan is based primarily on the current and projected registration fees within the State University System and the number of years expected to elapse between the purchase of the plan on behalf of a qualified beneficiary and the exercise of the benefits provided in the plan by a beneficiary.

Through the dormitory residence plan, the advance payment contract provides for prepaid housing fees for a maximum of 10 semesters of full-time undergraduate enrollment at a state university. Dormitory residence plans are purchased in increments of two semesters. The cost of participating in the dormitory residence plan is based primarily on the average current and projected housing fees within the State University System and the number of years expected to elapse between the purchase of the plan on behalf of a qualified beneficiary and the exercise of the benefits provided in the plan by a beneficiary.

**TRANSFER OF BENEFITS**

A qualified beneficiary may apply the benefits of an advance payment contract toward an independent college or university. The independent college or university must be chartered in the State of Florida, be designated as a not for profit institution, be accredited by the Southern Association of Colleges and Schools or by the Association of Independent Colleges and Schools, and confer degrees beyond the level of a specialized associate degree or any honorary credential conferred for meritorious recognition.

A qualified beneficiary may also apply the benefits of an advance payment contract toward an out-of-state college or university. The out-of-state college or university must be regionally accredited and designated as a not for profit institution that confers baccalaureate degrees.

Current statutory provisions do not permit a qualified beneficiary of the Florida Prepaid College Program to apply the benefits of an advance payment contract toward an applied technology diploma or a vocational certificate offered by a public community college or an area technical center.

### **DIRECT-SUPPORT ORGANIZATIONS**

The Florida Prepaid College Board established the Florida Prepaid College Foundation, which is a direct-support organization that is located within the Board's offices, in order to assist in the administration of the Florida Prepaid College Program.

According to section 240.551, Florida Statutes, the Florida Prepaid College Board is permitted to establish a direct-support organization for the purpose of receiving, holding, investing, administering property, and making expenditures to or for the benefit of the Florida Prepaid College Program. A direct-support organization established by the Board must be a Florida corporation, be designated as a not for profit organization, be incorporated according to statutory provisions, and be approved the Secretary of State. Additionally, the chair and the executive director of the Florida Prepaid College Board must serve as directors of the direct-support organization and are responsible for appointing three other individuals to serve as directors of the organization.

Current statutory provisions do not permit a prepaid direct-support organization to use the property, facilities, and personal services of the Florida Prepaid College Board, nor to make investments with monies invested in the Florida Prepaid College Trust Fund.

#### **B. EFFECT OF PROPOSED CHANGES:**

This bill provides that a qualified beneficiary of the Florida Prepaid College Program may apply the benefits of an advance payment contract toward a not for profit, out-of-state, degree granting, college or university that is accredited by the commission on colleges of a regional accrediting association. A qualified beneficiary of the Florida Prepaid College Program may also apply the benefits of an advance payment contract toward an applied technology diploma or a vocational certificate offered by a public community college or an area technical center.

This bill directs the Florida Prepaid College Board to transfer an amount that does not exceed the redemption value of the original contract to the public community college or area technical center offering the applied technology diploma or the vocational certificate. If the cost of the fees charged by the public community college or area technical center is less than the cost of the fees charged by a state postsecondary education institution, the amount transferred may not exceed the cost of the fees charged by the public community college or area technical center. Additionally, the amount transferred may only cover the number of semester credit hours stipulated in the original contract.

This bill also permits a prepaid direct-support organization to use the property, facilities, and personal services of the Florida Prepaid College Board, as well as to make investments with monies invested in the Florida Prepaid College Trust Fund.

### **TRANSFER OF BENEFITS TO OUT-OF-STATE INSTITUTIONS**

The provisions of the bill permit a qualified beneficiary of the Florida Prepaid College Program to transfer the benefits of an advance payment contract to a regionally accredited out-of-state college or university, which is designated as a not for profit institution. The bill requires such an institution to confer degrees and no longer requires such an institution to confer baccalaureate degrees. The bill does not specify the types of degrees a not for profit, regionally accredited, out-of-state college or university must confer in order to receive the benefits of an advance payment contract. By not restricting such an institution to confer baccalaureate degrees, it appears the benefits of an advance payment contract would be applicable at a not for profit out-of-state community college. However, the bill does not specify the types of institutions that would be eligible to receive the benefits of an advance payment contract.

### **TRANSFER OF BENEFITS TO VOCATIONAL PROGRAMS**

The provisions of the bill permit a qualified beneficiary of the Florida Prepaid College Program to transfer the benefits of an advance payment contract to an applied technology diploma or a

vocational certificate offered by a public community college or an area technical center. These provisions contained in the bill provide qualified beneficiaries with the additional option of transferring the benefits of an advance payment contract to a public postsecondary vocational program.

**DIRECT-SUPPORT ORGANIZATIONS**

The Florida Prepaid College Board established the Florida Prepaid College Foundation, which is a direct-support organization that is located within the Board's offices, in order to assist in the administration of the Florida Prepaid College Program. Since the Foundation is located within the Board's offices, it is inevitable that the Foundation utilizes the Board's property, facilities, and personal services. Provisions in the bill simply codify this current practice.

**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 Florida Prepaid College Board must prescribe rules relating to the conditions which the direct-support organization must comply with in order to use the property, facilities, and personal services of the Board.

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

Yes. The Florida Prepaid College Board must transfer an amount that does not exceed the redemption value of the original contract to the public community college or area technical center offering the applied technology diploma or the vocational certificate.

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

No.

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

An agency or program is not eliminated or reduced.

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

N/A.

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

N/A.

(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?

Yes. Qualified beneficiaries can apply the benefits of an advance payment contract toward an applied technology diploma or a vocational certificate offered by a public community college or an area technical center.

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:

This bill does not purport 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?

No.

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:

This bill does not create or change a program providing services to families or children.

(1) parents and guardians?

N/A.

(2) service providers?

N/A.

(3) government employees/agencies?

N/A.

D. STATUTE(S) AFFECTED:

Amends section 240.551, Florida Statutes.

E. SECTION-BY-SECTION ANALYSIS:

**SECTION 1:** Amends section 240.551, Florida Statutes, (1) provides that a qualified beneficiary of the Florida Prepaid College Program may apply the benefits of an advance payment contract toward a not for profit, out-of-state, degree granting, college or university that is accredited by the commission on colleges of a regional accrediting association; (2) provides that a qualified beneficiary of the Florida Prepaid College Program may apply the benefits of an advance payment contract toward an applied technology diploma or a vocational certificate offered by a public community college or an area technical center; (3) directs the Florida Prepaid College Board to transfer an amount that does not exceed the redemption value of the original contract to the public community college or area technical center offering the applied technology diploma or the vocational certificate; (4) provides that if the cost of the fees charged by the public community college or area technical center is less than the cost of the fees charged by a state postsecondary education institution, the amount transferred may not exceed the cost of the fees charged by the public community college or area technical center; (5) provides that the amount transferred may only cover the number of semester credit hours stipulated in the original contract; (6) permits a prepaid direct-support organization to use the property, facilities, and personal services of the Florida Prepaid College Board; (7) provides the Florida Prepaid College Board with rulemaking authority relating to a direct-support organization's use of the Board's property, facilities, and personal services; and (8) permits a prepaid direct-support organization to make investments with monies invested in the Florida Prepaid College Trust Fund.

**SECTION 2:** Establishes an effective date of July 1, 1999.

III. FISCAL ANALYSIS & 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.

2. Direct Private Sector Benefits:

Qualified beneficiaries can apply the benefits of an advance payment contract toward an applied technology diploma or a vocational certificate offered by a public community college or an area technical center.

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

None.

D. FISCAL COMMENTS:

This bill does not appear to have a fiscal impact on state or local governments.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action which requires the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

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

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

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

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 18, 1999, the House Committee on Colleges & Universities adopted one amendment that is currently traveling with the bill. The amendment adds conforming language drafted by the Senate Committee on Governmental Oversight & Productivity to ensure accountability for any direct-support organization involved in the administration and operation of the Florida Prepaid College Program. The amendment also clarifies language relating to the investment of funds of direct-support organizations.

VII. SIGNATURES:

COMMITTEE ON COLLEGES & UNIVERSITIES:

Prepared by:

Staff Director:

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Daniel Furman

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Betty H. Tilton, Ph.D.