

STORAGE NAME: h1697s1.ed

DATE: April 20, 1999

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
EDUCATION APPROPRIATIONS
ANALYSIS**

BILL #: CS/HB1697

RELATING TO: Student Fees

SPONSOR(S): Representative Betancourt

COMPANION BILL(S): Senate Bill 2086 (Diaz-Balart)

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

- (1) COMMUNITY COLLEGES AND CAREER PREP YEAS 12 NAYS 0
 - (2) BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE (W/D)
 - (3) EDUCATION APPROPRIATIONS YEAS 13 NAYS 0
 - (4)
 - (5)
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I. SUMMARY:

Currently, community colleges have specific statutory authority to assess regular registration (matriculation, tuition, activity & service, capital improvement, and financial aid) fees (Sections 239.117 and 240.35, Florida Statutes). Other kinds of fees, such as user fees, are assessed by community colleges and school boards as well, under a broad rule making authority granted to the State Board of Education. Given recent changes in APA procedures for granting rule making authority, the authorization for these fees is questionable. Also, audit criticisms have put these fees at risk. According to the Division of Community Colleges, there is a need to provide statutory authority for these fees.

The bill would strike current law relating to the authority of school districts and community colleges to charge fees as authorized by rule of the SBOE or SBCC and the authority to assess a consumable supply fee. It would provide specific statutory authority for many of the fees currently authorized in rule. The bill would specify that no fee could be charged to students enrolled in workforce development programs that is not specifically authorized by statute.

The bill would clarify language regarding the establishment of a separate fee for financial aid (current language says "collect"), but does not change the amount of the fee collected - up to 10 percent of matriculation and tuition fees for workforce development instruction and up to 5 percent of matriculation and fees for college credit instruction. The bill would also authorize district school boards and community college boards of trustees to establish a separate technology fee, not to exceed 5 percent of matriculation and tuition fees.

The bill would codify current practice by authorizing district school boards and community college boards of trustees to establish specific fees for workforce development instruction that is not reported for state funding purposes.

The bill would change the amount which matriculation and tuition fees could vary to 10% below and 15% above the fee schedule adopted by the State Board of Community Colleges. This would allow fees to be a maximum of 5% higher, but locally determined. There is also a provision that specifies that any amount from 10 to 15 percent above the fee schedule would be used only to support safety and security purposes.

The bill would specify that each community college may assess either a safety and security fee, a technology fee, or a combination of these fees provided that the total amount assessed does not exceed 5 percent of tuition and matriculation fees.

The bill would allow community colleges to pledge parking fees as a dedicated revenue source for the repayment of debt, including lease-purchase agreements and revenue bonds. The bill would also allow for 50 percent of technology fee revenues to be pledged as a dedicated revenue source only for lease-purchase agreements.

The fiscal impact is indeterminate at this time. The bill provides statutory authority for fees currently in rule, authorizes an increase in certain fees, and indexes the amount of fees charged to matriculation and tuition fees.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Currently, community colleges have specific statutory authority to assess regular registration (matriculation, tuition, activity & service, capital improvement, and financial aid) fees (Sections 239.117 and 240.35, Florida Statutes). Other kinds of fees, such as user fees, are assessed by community colleges and school boards as well, under a broad rule making authority granted to the State Board of Education. Given recent legislative changes in the Administrative Procedures Act tightening the requirements for statutory authority necessary to make rules, the authorization for these fees is questionable. Also, audit criticisms have put these fees at risk. According to the Division of Community Colleges, there is a need to provide statutory authority for these fees.

According to the *Florida Community College System: Strategic Plan for the Millennium 1998-2003*, student fees are a significant source of revenue for the System, and changes in student fee policy will undoubtedly affect the level of revenues needed to accommodate budgetary requirements in the future. In the past decade, student fee revenues have increased by 123 percent compared to an increase of 76 percent in state revenues. The community college fee level has been at approximately 60 percent of the university fee level for the past 5 years.

See SECTION-BY-SECTION ANALYSIS for further detail.

B. EFFECT OF PROPOSED CHANGES:

This bill would provide statutory authority for user fees that are already being assessed by the community colleges and school boards under broad rule making authority granted to the State Board of Education. The bill would also provide statutory authority for two new fees: technology and safety & security. Each of these fees would be indexed at 5 percent of the matriculation and tuition fees, as long as the total amount of the two fees does not exceed 5 percent. The bill would increase the authority for fees to be charged, but the flexibility on the local level in making the decision whether or not to charge the fees would be maintained.

See SECTION-BY-SECTION ANALYSIS for further detail.

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?

Community college district boards of trustees and school boards will be responsible for determining the appropriate fee amounts within statutory parameters.

(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?

Yes. The bill authorizes a small increase in technology and safety & security fees assessed to students by community colleges and school districts.

- 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?

Yes. The bill authorizes community colleges and school districts to increase current fees that are authorized in statute.

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?

Students who receive specific services would be responsible for paying fees equal to the cost of those services. Community colleges and school districts would benefit from an increase in revenue that could result in an increased ability to meet student needs.

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:

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:

The 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:

Section 239.117, Florida Statutes, 1998 Supplement
Section 240.319, Florida Statutes, 1998 Supplement
Section 240.35, Florida Statutes, 1998 Supplement

E. SECTION-BY-SECTION ANALYSIS:

SECTION 1. Amends section 239.117, Florida Statutes, 1998 Supplement, to grant statutory authority for the establishment of certain fees relating to workforce development programs; prohibits community colleges and district school boards from charging any fees not specifically authorized in statute; provides authorization for specific user fees and fines; clarifies the establishment of specific fees for workforce development instruction, not included in state funding calculations; authorizes the establishment of a separate fee for technology; provides for authority to utilize 50 percent of technology fee revenues to enter into lease-purchase agreements; provides for authority to bond parking fees and enter into lease-purchase agreements using parking fee revenues;

Present Situation:

Section 239.117, F.S., contains provisions which apply fees to workforce development programs which are funded in the Workforce Development Education Fund. Section 239.115, F.S., as amended in 1997 by CS/CS/SB 1688, established the following instruction as "workforce development education" funded in the Workforce Development Education Fund: adult general education; vocational certificate; degree vocational education (Associate in Science or Associate in Applied Technology degree); apprenticeship programs; and single course instruction (formerly known as "supplemental" courses).

The Commissioner of Education must, no later than December 31 of each year, recommend to the State Board of Education (SBOE) a schedule of fees for workforce development education. The SBOE adopts a base fee schedule for school districts which takes effect, unless otherwise specified in the General Appropriations Act. The State Board of Community Colleges (SBCC) adopts a base fee schedule for the community colleges which takes effect unless otherwise specified in the General Appropriations Act. Each community college board of trustees must establish tuition and noncredit fees that may vary no more than 10 percent from the schedule approved by the SBOE.

Currently, community college boards of trustees and district school boards charge fees that are known as "user fees." These fees are charged for specific use of services, equipment, or facilities and are assessed only to those persons receiving the service. The authority to charge these fees is provided by rule of the State Board of Education and the State Board of Community Colleges. There is no specific statutory authority for these fees. Criticism by the Auditor General puts all of these fees based on rule at risk.

School boards and community college boards of trustees may establish, by rule, a consumable supply fee for students enrolled in certificate career education or supplemental courses. Each school board and community college board of trustees may also collect, for financial aid purposes, up to an additional 10 percent of the student fees collected for workforce development programs.

Effect of Proposed Changes:

The bill would strike current law relating to the authority of school districts and community colleges to charge fees as authorized by rule of the SBOE or SBCC and the authority to assess a consumable supply fee. The bill would provide specific statutory authority for many of the fees currently authorized in rule such as laboratory fees; parking fees and fines; library fees and fines; fees and fines relating to facilities and equipment use or damage; access or identification card fees; duplicating, photocopying, binding, or microfilming fees; standardized test fees; diploma replacement fees; transcript fees; application fees; graduation fees; and late fees for registration and payment. These fees will only be charged to those persons receiving the service and would not exceed the cost of service provided. The bill would specify that no fee could be charged to students enrolled in workforce development programs that is not specifically authorized by statute.

It could be argued that, by granting specific statutory authority, the bill could open the door for all colleges to charge these fees. However, all community colleges *could* charge these fees now by rule authority, some don't. The Division of Community Colleges believes that changing the authority from rule to statute will not be sufficient to make colleges change their current fee schedule.

The bill would clarify language regarding the establishment of a separate fee for financial aid (current language says "collect"), but does not change the amount of the fee collected - up to 10 percent of matriculation and tuition fees.

The bill would authorize district school boards and community college boards of trustees to establish specific fees for workforce development instruction that is not reported for state funding purposes. This would apply to situations in which a school district or community college contracts with a private service provider to deliver instruction. If the revenue is not counted for state funding purposes, the bill would clarify that the local community college has flexibility in setting the fees for workforce development instruction. This is codifying current practice.

The bill would authorize district school boards and community college boards of trustees to establish a separate technology fee. The bill specifies that this fee could not exceed 5 percent of the matriculation fee for residents students (an average amount of \$1.86 per credit hour) or 5 percent of the matriculation and tuition fee for nonresident students. This would authorize a fee increase, but it is permissive. Each community college and school district would have to elect to collect the fee. Revenues generated would be available to provide technology equipment and infrastructure.

The bill would provide authorization for community colleges to utilize 50 percent of technology fee revenues to enter into lease-purchase agreements. It would also authorize community colleges to utilize 100 percent of parking fee revenues as a dedicated revenue source for the repayment of debt, including lease-purchase agreements and revenue bonds.

SECTION 2. Amends section 240.319, Florida Statutes, 1998 Supplement, to revise the duties and powers of community colleges district boards of trustees; Authorizes each board of trustees to establish fee schedules for specific user fees and fines; Specifies that community colleges are not authorized to charge any fee that is not specifically authorized in statute.

Present Situation:

As mentioned in Section 1 above, responses from the community colleges to the survey distributed as a part of the Interim Project on Postsecondary Student Fees (February, 1998) identified a number of fees assessed by the community colleges for which no specific statutory authority was reported. The community colleges rely on a statute which grants them broad rulemaking authority to charge some of their fees. The final report produced as a result of the interim project included recommendations to specify in statute all fees which institutions are authorized to assess and statutorily prohibit institutions from assessing fees without specific statutory authority.

Effect of Proposed Changes:

This section conforms statutes relating to the powers and duties of the community college district boards of trustees with changes in Section 1.

SECTION 3. Amends section 240.35, Florida Statutes, 1998 Supplement, relating to fees charged for college-credit instruction; removes requirement for approval of the State Board of Community Colleges fee schedule by the State Board of Education; specifies an effective date for an alternative fee schedule provided in an appropriations act; specifies that each community college must establish fees that vary by no more than 10 percent below and 15 percent above the fee schedule established by the SBCC; provides that any amount from 10 to 15 percent above the fee schedule must be used only to support safety and security improvements; clarifies separate financial aid fees language; authorizes community colleges to establish a separate technology fee; specifies that total fees assessed for safety & security and/or technology cannot exceed 5 percent.

Present Situation:

Similar to language in s. 239.117, F.S., for workforce development fees, s. 240.35, F.S., contains provisions which apply to fees charged for college credit instruction leading to an associate degree (pursuant to s. 239.115, F.S., this does not include Associate in Applied Technology degrees or Associate in Science degrees). This includes college-preparatory courses as defined in s. 239.105, F.S.

The State Board of Community Colleges must establish matriculation and tuition fees for credit instruction which may be counted toward an associate degree. Each community college board of trustees must establish matriculation and tuition fees that vary no more than 10 percent from the fee schedule adopted by the State Board of Community Colleges. Currently, the adoption of this fee schedule by the SBCC must be reviewed and approved by the State Board of Education. The Board of Regents, however, is not subject to the same approval in adopting its fee schedule.

Each community college district board of trustees may establish a separate activity and service fee not to exceed 10 percent of matriculation.

Each community college district board of trustees may establish a financial aid fee not to exceed 5 percent of the total student tuition or matriculation fees collected.

Effect of Proposed Changes:

This bill deletes the process for review and final approval of the adopted fee schedule by the State Board of Education. The bill specifies that, if an alternative fee schedule is provided in an appropriations act, the fee schedule would take effect the subsequent fall semester. This deletes one step in a process that is already controlled by the Legislature.

The bill would change the amount which matriculation and tuition fees could vary to 10 percent below and 15 percent above the fee schedule adopted by the State Board of Community Colleges. This would allow fees to be a maximum of 5 percent higher, but locally determined. There is also a provision that specifies that any amount from 10 to 15 percent above the fee schedule would be used only to support safety and security improvements. This safety and security fee was recommended in the Florida Community College System *Strategic Plan for the Millennium 1998-2003*. It is also a fee currently being charged by some community colleges without statutory authority.

The bill would clarify language already in statute regarding the establishment of a separate financial aid fee in an amount of up to 5 percent of the total tuition and matriculation fees collected (current language says "collect" rather than "establish a separate fee").

The bill would authorize community college district boards of trustees to charge a separate technology fee to support the implementation of technology improvement plans. This fee could not exceed 5 percent of the matriculation fee for resident students and 5 percent of the matriculation and tuition fees for nonresident students. The bill specifies that the technology fee could apply to both college-credit and college-preparatory instruction.

SECTION 4. Provides for 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:

The bill provides statutory authority for fees currently in rule, authorizes an increase in certain fees, and indexes the amount of fees charged to matriculation and tuition fees. The bill does not require a change in state appropriations.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

Indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

Community colleges and school districts would be authorized to establish specific fees that can be utilized for specific purposes. The amount of money that will be generated from these fees is indeterminate at this time and will depend upon enrollment as well as matriculation and tuition costs. Increasing the ability of community college boards of trustees and school districts to generate revenue from fees, to bond certain fees, and to enter into lease purchase agreements could result in more fiscal flexibility at the local level. Also, for user fees, the students who receive services will be paying for costs.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Some students will have to pay an increase in fees. For resident students, these potential increases include up to a total of 5 percent of matriculation for either a technology fee, a safety and security fee, or a combination of the these fees.

2. Direct Private Sector Benefits:

Financially needy students will benefit from financial aid fees collected by community colleges and district school boards. User fees are limited to only those students who utilize the service.

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:

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:

On April 6, 1999, the Committee on Community Colleges and Career Prep passed HB 1697 with a strike everything amendment and two amendments to the amendment (one clarifying and one technical). Most of the provisions of the strike everything amendment were the same as the original bill with a few exceptions. The strike everything amendment limits the assessment of a separate technology fee only to those students enrolled in college preparatory and associate degree programs and courses. The strike everything amendment also provides authority for community colleges to bond 50 percent of technology fees collected. Bonding authority is also granted for parking fees and fines (100%).

The Committee did not choose to make this bill a committee substitute so the amendments will travel with the bill.

On April 20, 1999, the Committee on Education Appropriations passed HB 1697 with a substitute strike everything amendment. The bill was made into a committee substitute (CS) and the changes have been incorporated into the analysis.

VII. SIGNATURES:

COMMITTEE ON Community Colleges and Career Prep:

Prepared by:

Staff Director:

Heather R. Sherry

Stacey S. Webb

AS FURTHER REVISED BY THE COMMITTEE ON EDUCATION APPROPRIATIONS:

Prepared by:

Staff Director:

John Newman

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