

STORAGE NAME: h1981.cu

DATE: March 22, 1999

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

BILL #: HB 1981 (PCB CU 99-08)

RELATING TO: University Student Governments and State Universities

SPONSOR(S): Committee on Colleges & Universities

COMPANION BILL(S): None

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

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I. SUMMARY:

The bill codifies into statute the establishment of a student government at each state university, permits students to remove an elected student government officer from office through a referendum, specifies the grounds for removal of a student government officer by petition, and directs student governments to develop procedures relating to the suspension and removal of an officer convicted of a felony.

The bill provides that the "modification" rather than the "increase" of a local fee (activity and service, health, and athletic) must be recommended by a fee committee and defines the term "consultation" as it relates to the role of a student body president in the modification of these fees, and as it relates to the authorization of proposed fixed capital outlay projects. With respect to both of these issues, the term is defined as an ongoing and documented dialogue between the student body president and university officials.

The bill no longer "authorizes and directs the Board of Regents to promulgate rules" for the establishment, operation, and supervision of educational research centers for child development. Instead, the Board of Regents must "adopt rules" governing the establishment, operation, and supervision of educational research centers for child development.

Finally, the bill repeals a section in statute relating to the suspension and removal from office of elected student government officials.

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

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Please see SECTION-BY-SECTION ANALYSIS.

B. EFFECT OF PROPOSED CHANGES:

Please see SECTION-BY-SECTION ANALYSIS.

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?

The bill permits each student government to adopt internal procedures governing the operation and administration of the student government; the election, appointment, and discipline of officers of the student government; and the execution of all other duties as prescribed to the student government by law.

The bill directs each student government to develop a procedure for students to petition for a referendum to remove an elected student government officer from office.

The bill directs each student government to develop procedures relating to the suspension and removal of an elected student government officer convicted of a felony.

The bill no longer authorizes and directs the Board of Regents to promulgate rules for the establishment, operation, and supervision of educational research centers for child development. Instead, the Board of Regents must adopt rules governing the establishment, operation, and supervision of educational research centers for child development.

The bill repeals section 240.136, Florida Statutes, which directs each state university and community college student government to establish a process relating to the removal of an officer from office who is convicted of a violation of criminal law or is found civilly liable for an act or moral turpitude.

(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:

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. Students have the option of removing an elected student government officer from office through a majority vote in a referendum.

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 sections 240.235, 240.295, and 240.531, Florida Statutes. Creates section 240.236, Florida Statutes. Repeals section 240.136, Florida Statutes.

E. SECTION-BY-SECTION ANALYSIS:

SECTION 1: Amends section 240.235, Florida Statutes, in order to define the term "consultation" and modify provisions related to the establishment of activity and service fees, health fees, and athletic fees.

PRESENT SITUATION-

Section 240.235, Florida Statutes, directs each university president to establish an activity and service fee, health fee, and athletic fee for students enrolled in classes on the main campus of the university. The university president may establish these fees for students enrolled in classes on any branch campus or center. An increase in the activity and service fee must be recommended by the activity and service fee committee, while an increase in the health fee and athletic fee must be recommended by the health fee committee and the athletic fee committee respectively. At least half

of each fee committee is composed of students who are appointed by the student body president. The composition of the remainder of each committee must be appointed by the university president. The university president and the student body president are responsible for appointing a chairperson to each committee. The chairperson of the committee votes only in the case of a tie. The committees' recommendations take effect only after approval by the university president, once he or she consults with the student body president. The recommendations are subject to final approval by the Board of Regents.

EFFECT OF PROPOSED CHANGES-

For the purposes of section 240.235, Florida Statutes, the bill defines the term "consultation" as an ongoing and documented dialogue with the student body president following any recommendation by a fee committee and prior to the approval of any proposal for modification of any fee. The availability of a documented dialogue between university presidents and their respective student body presidents regarding proposed modifications to the local fees increases public awareness regarding students' position on the modification of these fees.

Each proposal modifying the activity and service fee, health fee, and athletic fee must contain an attachment containing the names and affiliation of all members of the fee committees. A student government's objections and alternatives to a modification in these fees must also be attached to the proposal modifying the fees. Finally, the proposal modifying any fees must contain a statement indicating that the university president and the student government reviewed the proposal. These requirements provide students and student governments with greater involvement in the process modifying fees.

The bill provides that any modifications to the activity and service fee, health fee, and athletic fee must be recommended by the respective fee committee. Fee committees would now be able to consider recommendations to decrease fees. Presently, only increases in fees must be recommended by the fee committees.

The bill provides that the chairperson of a fee committee may vote in a committee meeting only in the instance of a tie. It appears that the chairperson can only vote in the instance of a tie, but he or she has the option of voting. Presently, the chairperson must vote only in the instance of a tie. It does not appear that he or she has the option of voting.

SECTION 2: Creates section 240.236, Florida Statutes, in order to codify the establishment of a student government at each state university, permit students to remove an elected student government officer from office through a referendum, specify the grounds for removal of a student government officer by petition, and direct student governments to develop procedures relating to the suspension and removal of an officer convicted of a felony.

PRESENT SITUATION-

According to a Florida House of Representatives interim report on student governments, an established student government exists at each of the 10 state universities. At each university, the student government is composed of the executive branch, the legislative branch, and the judicial branch. Within each of the three branches, there are elected and appointed positions. Although the basic structure is the same at all of the universities, the number and type of positions vary greatly from university to university.

The executive branch of a student government usually consists of an elected student body president and vice president, a cabinet, and several appointed administrative officers. The president administers and enforces all laws of the student body, appoints all cabinet members, possesses the power to veto or sign acts adopted by the senate with certain limitations, possesses the authority to remove from office any officer he or she appointed, and is authorized to call for a referendum subject to senate concurrence. The vice president assumes the duties of the president upon request or in his or her absence, and coordinates the efforts of the cabinet. The cabinet is responsible for assisting and advising the president.

The legislative branch of a student government is a body composed of an elected group of officials. This body is usually referred to as the senate. Leaders of the legislative body, such as the president or speaker, are elected by the legislative members. Other leadership positions, such as committee chairs, are appointed by the elected legislative leaders. The legislature is usually responsible for taking final action on the proposed Activity Fee Budget, proposing constitutional amendments,

confirming appointments of the student body president, establishing meeting times and rules of procedure, and presenting the student body president with bills passed by the senate.

The judicial branch of a student government usually consists of a supreme court. The judicial branch possesses jurisdiction over matters that involve the constitutionality of actions by student governing groups, organizations, and their representatives. The judicial branch also possesses jurisdiction over violations of student body governing documents. Most of the student governments have a judiciary that is composed of a chief justice, several associate judges, and a clerk of the court.

Section 240.136, Florida Statutes, directs each state university and community college student government to establish a process in order to suspend and remove a student government officer from office, who is convicted of a violation of criminal law or found civilly liable for an act of moral turpitude. This process must include a procedure for students to petition for a referendum recommending the removal of an elected officer from office. Students participating in the referendum must obtain a majority of votes in order to remove an elected officer from office. It should be noted that section 5 of the bill repeals section 240.136, Florida Statutes. According to the aforementioned interim report, 8 of the 10 state university student government associations possess established procedures relating to the recall and removal of elected officers from office. In addition, the Florida Student Association drafted model language which establishes procedures for the recall and removal of elected officers from office.

EFFECT OF PROPOSED CHANGES-

This section of the bill codifies into statute the establishment of a student government at each state university. Each student government must be composed of at least an elected student body president and an elected student legislative body. This requirement does not produce an administrative burden to existing state university student governments because each student government is currently composed of at least an elected student body president and an elected student legislative body. The bill also permits each student government to adopt internal procedures governing the operation and administration of the student government; the election, appointment, and discipline of officers of the student government; and the execution of all other duties as prescribed to the student government by law. Since a student government currently exists at each state university, it can be assumed that internal procedures governing each student government already exist. Codifying into statute the establishment of a student government at each state university would ensure present student governments of their existence and potential longevity.

This section of the bill stipulates that an elected student government officer may be removed from office through the majority vote of students participating in a referendum. Students participating in the referendum require a majority of votes in order to remove the elected officer from office. Each student government is directed to develop internal procedures designed for students to petition for a referendum in order to remove an elected officer from office. The grounds for removal of an elected officer from office are specifically limited to malfeasance, misfeasance, neglect of duty, incompetence, permanent inability to perform official duties, and conviction of a felony. In addition, each student government is directed to develop procedures providing for the suspension and removal from office of an elected officer convicted of a felony. In response to section 240.136, Florida Statutes, most of the student governments currently in existence have established procedures relating to the removal, suspension, and recall of elected officers. Therefore, implementing these requirements should not produce administrative burdens for most of the student governments. It is unclear whether or not two of the current student governments possess internal procedures relating to the removal, suspension, and recall of elected officers.

Finally, this section of the bill provides that university presidents are responsible for the administration of student governments and possess ultimate approval authority for internal procedures adopted by their respective student governments. In essence, a university president may overturn the procedures and policies adopted by his or her respective student government.

SECTION 3: Amends subsection 240.295(3), Florida Statutes, in order to define the term "consultation" and modify provisions related to the authorization of fixed capital outlay projects.

PRESENT SITUATION-

Section 240.295, Florida Statutes, authorizes fixed capital outlay projects for the State University System. These projects may include the construction of new buildings or the remodeling of existing

buildings not funded from state monies; the replacement of buildings destroyed by fire or other calamities; the construction of new facilities or the remodeling of existing facilities intended to meet the needs of research; the construction of projects financed through bonds or other forms of indebtedness pursuant to the State Bond Act; and the construction of facilities or the remodeling of existing facilities intended to meet the needs of a university, as long as the amount of funds required does not exceed \$500,000.

Section 240.295, Florida Statutes, also provides that a fixed capital outlay project proposed by a state university which is to be funded from Capital Improvement Trust Fund fees or building fees can not be submitted to the Board of Regents for approval without prior consultation with the university's student government.

According to rule 6C-14.0025, Florida Administrative Code, a fixed capital outlay project proposed by a state university which is to be funded from Capital Improvement Trust Fund fees or building fees must be approved by the university president after consultation with the university's student government. The term "consultation" is defined as an ongoing dialogue with the student body president prior to developing the university proposal. The rule further provides that an attachment containing any objections and alternatives, and stating that both the university president and the student government have reviewed the project must be included in the proposal.

EFFECT OF PROPOSED CHANGES-

For the purposes of subsection 240.295(3), Florida Statutes, the bill defines the term "consultation" as an ongoing and documented dialogue with the student body president regarding each proposed project. The consultation between the student body president and the university must commence prior to the university developing its proposal. Each fixed capital outlay project proposed by a university which requires approval from the Board of Regents and funding from Capital Improvement Trust Fund fees and building fees must contain an attachment containing a student government's objections and alternatives to each project. Finally, the proposal must contain a statement indicating that the university president and the student government reviewed each proposed project.

This bill codifies into statute the definition of the term "consultation" as it currently appears in the aforementioned rule and increases the awareness of the position of student governments regarding the construction and renovation of proposed fixed capital outlay projects.

SECTION 4: Amends section 240.531, Florida Statutes, in order to provide technical modifications that conform to other sections of the bill and clarify the rulemaking authority of the Board of Regents relating to the establishment, operation, and supervision of educational research centers for child development.

PRESENT SITUATION-

Section 240.531, Florida Statutes, authorizes and directs the Board of Regents to promulgate rules for the establishment, operation, and supervision of educational research centers for child development.

EFFECT OF PROPOSED CHANGES-

The Board of Regents is no longer authorized and directed to promulgate rules for the establishment, operation, and supervision of educational research centers for child development. Instead, the Board of Regents must adopt rules governing the establishment, operation, and supervision of educational research centers for child development.

SECTION 5: Repeals section 240.136, Florida Statutes, relating to the suspension and removal from office of elected student government officials.

PRESENT SITUATION-

Section 240.136, Florida Statutes, directs each state university and community college student government to establish a process in order to suspend and remove a student government officer from office, who is convicted of a violation of criminal law or found civilly liable for an act of moral turpitude. This process must include a procedure for students to petition for a referendum recommending the removal of an elected officer from office. Students participating in the referendum must obtain a majority of votes in order to remove an elected officer from office.

EFFECT OF PROPOSED CHANGES-

Provisions contained in section 240.136, Florida Statutes, relating to the suspension and removal of elected state university and community college student government officers from office are repealed. Provisions addressing the suspension and removal of elected state university officers from office are contained in section 2 of the bill. There are no provisions that address the suspension and removal of elected community college officers from office.

SECTION 6: 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:

None.

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

None.

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D. FISCAL COMMENTS:

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

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:

None.

VII. SIGNATURES:

COMMITTEE ON COLLEGES & UNIVERSITIES:

Prepared by:

Staff Director:

Daniel Furman

Betty H. Tilton, Ph.D.