

By the Committee on Governmental Oversight and Productivity;
and Senator Lee

302-1708A-99

1 A bill to be entitled
2 An act relating to postsecondary education;
3 amending s. 240.551, F.S.; providing for the
4 transfer of Florida Prepaid College Program
5 benefits to certain applied technology diploma
6 programs and vocational certificate programs;
7 requiring the direct-support organization to
8 operate under written contract with the board;
9 providing contract requirements; requiring an
10 annual financial and compliance audit; allowing
11 the Florida Prepaid College Board to permit
12 direct-support organizations established under
13 this section to use the property, facilities,
14 and personal services of the board; providing
15 for such direct-support organizations to invest
16 funds with the moneys invested under the
17 Florida Prepaid College Trust Fund; providing
18 an effective date.

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20 Be It Enacted by the Legislature of the State of Florida:

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22 Section 1. Subsections (10) and (22) of section
23 240.551, Florida Statutes, 1998 Supplement, are amended to
24 read:

25 240.551 Florida Prepaid College Program.--
26 (10) TRANSFER OF BENEFITS TO PRIVATE AND OUT-OF-STATE
27 COLLEGES AND UNIVERSITIES AND TO AREA TECHNICAL CENTERS.--A
28 qualified beneficiary may apply the benefits of an advance
29 payment contract toward:

30 (a) ~~A qualified beneficiary may apply a community~~
31 ~~college plan, university plan, or dormitory residence plan~~

1 ~~toward~~ Any eligible independent college or university. An
2 independent college or university that ~~which~~ is located and
3 chartered in Florida, that is not for profit, that is
4 accredited by the Commission on Colleges of the Southern
5 Association of Colleges and Schools or the Accrediting
6 Commission of the Association of Independent Colleges and
7 Schools, and that ~~which~~ confers degrees as defined in s.
8 246.021, is ~~shall be~~ eligible for such application. The board
9 shall transfer, or cause to have transferred, to the eligible
10 independent college or university designated by the qualified
11 beneficiary an amount not to exceed the redemption value of
12 the advance payment contract within a state postsecondary
13 institution. If ~~In the event that~~ the cost of registration or
14 housing fees at the independent college or university is less
15 than the corresponding fees at a state postsecondary
16 institution, the amount transferred shall not exceed the
17 actual cost of registration or housing fees. A ~~No~~ transfer
18 authorized under ~~pursuant to~~ this paragraph may not ~~shall~~
19 exceed the number of semester credit hours or semesters of
20 dormitory residence contracted on behalf of a qualified
21 beneficiary.

22 (b) ~~A qualified beneficiary may apply the benefits of~~
23 ~~an advance payment contract toward~~ An eligible out-of-state
24 college or university. An out-of-state college or university
25 that ~~which~~ is not for profit and is accredited by the
26 commission on colleges of a regional accrediting association
27 is, ~~and which confers baccalaureate degrees, shall be~~ eligible
28 for such application. The board shall transfer, or cause to
29 have transferred, an amount not to exceed the redemption value
30 of the advance payment contract or the original purchase price
31 plus 5 percent compounded interest, whichever is less, after

1 assessment of a reasonable transfer fee. ~~If in the event that~~
2 the cost of registration or housing fees charged the qualified
3 beneficiary at the eligible out-of-state college or university
4 is less than this calculated amount, the amount transferred
5 shall not exceed the actual cost of registration or housing
6 fees. Any remaining amount shall be transferred in subsequent
7 semesters until the transfer value is depleted. ~~A No~~ transfer
8 authorized under ~~pursuant to~~ this paragraph may not ~~shall~~
9 exceed the number of semester credit hours or semesters of
10 dormitory residence contracted on behalf of a qualified
11 beneficiary.

12 (c) An applied technology diploma program or
13 vocational certificate program conducted by a community
14 college listed in s. 240.3031 or an area technical center
15 operated by a district school board. The board shall transfer
16 or cause to be transferred to the community college or area
17 technical center designated by the qualified beneficiary an
18 amount not to exceed the redemption value of the advance
19 payment contract within a state postsecondary institution. If
20 the cost of the fees charged by the college or center, as
21 authorized in s. 239.117, is less than the corresponding fees
22 at a state postsecondary institution, the amount transferred
23 may not exceed the actual cost of the fees. A transfer
24 authorized under this paragraph may not exceed the number of
25 semester credit hours contracted on behalf of a qualified
26 beneficiary.

27
28 Notwithstanding any other provision in this section, an
29 institution must be an "eligible educational institution"
30 under section 529 of the Internal Revenue Code to be eligible
31 for the transfer of advance payment contract benefits.

1 (22) DIRECT-SUPPORT ORGANIZATION; AUTHORITY.--

2 (a) The board may establish a direct-support
3 organization which is:

4 1. A Florida corporation, not for profit, incorporated
5 under the provisions of chapter 617 and approved by the
6 Secretary of State.

7 2. Organized and operated exclusively to receive,
8 hold, invest, and administer property and to make expenditures
9 to or for the benefit of the program.

10 3. An organization which the board, after review, has
11 certified to be operating in a manner consistent with the
12 goals of the program and in the best interests of the state.
13 Unless so certified, the organization may not use the name of
14 the program.

15 ~~4. Subject to an annual postaudit by an independent~~
16 ~~certified public accountant in accordance with rules~~
17 ~~promulgated by the board. The annual audit shall be submitted~~
18 ~~to the State Board of Administration and the Auditor General~~
19 ~~for review. The State Board of Administration and Auditor~~
20 ~~General shall have the authority to require and receive from~~
21 ~~the organization or its independent auditor any detail or~~
22 ~~supplemental data relative to the operation of the~~
23 ~~organization.~~

24 (b) The direct-support organization shall operate
25 under written contract with the board. The contract must
26 provide for:

27 1. Approval of the articles of incorporation and
28 bylaws of the direct-support organization by the board.

29 2. Submission of an annual budget for the approval of
30 the board. The budget must comply with rules adopted by the
31 board.

1 3. An annual financial and compliance audit of its
2 financial accounts and records by an independent certified
3 public accountant in accordance with rules adopted by the
4 board.

5 4. Certification by the board that the direct-support
6 organization is complying with the terms of the contract and
7 in a manner consistent with the goals and purposes of the
8 board and in the best interest of the state. Such
9 certification must be made annually and reported in the
10 official minutes of a meeting of the board.

11 5. The reversion to the board, or to the state if the
12 board ceases to exist, of moneys and property held in trust by
13 the direct-support organization for the benefit of the board
14 or program if the direct-support organization is no longer
15 approved to operate for the board or if the board ceases to
16 exist.

17 6. The fiscal year of the direct-support organization,
18 which must begin July 1 of each year and end June 30 of the
19 following year.

20 7. The disclosure of material provisions of the
21 contract and of the distinction between the board and the
22 direct-support organization to donors of gifts, contributions,
23 or bequests, and such disclosure on all promotional and
24 fundraising publications.

25 (c) An annual financial and compliance audit of the
26 financial accounts and records of the direct-support
27 organization must be performed by an independent certified
28 public accountant. The audit must be submitted to the board
29 for review and approval. Upon approval, the board shall
30 certify the audit report to the Auditor General for review.
31 The board and Auditor General shall have the authority to

1 require and receive from the organization or its independent
2 auditor any detail or supplemental data relative to the
3 operation of the organization.

4 (d) The identity of donors who desire to remain
5 anonymous shall be confidential and exempt from the provisions
6 of s. 119.07(1) and s. 24(a), Art. I of the State
7 Constitution, and such anonymity shall be maintained in the
8 auditor's report. Information received by the organization
9 that is otherwise confidential or exempt by law shall retain
10 such status. Any sensitive, personal information regarding
11 contract beneficiaries, including their identities, is exempt
12 from the provisions of s. 119.07(1) and s. 24(a), Art. I of
13 the State Constitution.

14 (e)~~(b)~~ The chair and the executive director of the
15 board shall be directors of the direct-support organization
16 and shall jointly name three other individuals to serve as
17 directors of the organization.

18 (f) The board may authorize the direct-support
19 organization established in this subsection to use program
20 property, except money, and use facilities and personal
21 services subject to the provisions of this section. If the
22 direct-support organization does not provide equal employment
23 opportunities to all persons regardless of race, color,
24 religion, sex, age, or national origin, it may not use the
25 property, facilities, or personal services of the board. For
26 the purposes of this subsection, the term "personal services"
27 includes full-time personnel and part-time personnel as well
28 as payroll processing as prescribed by rule of the board. The
29 board shall adopt rules prescribing the procedures by which
30 the direct-support organization is governed and any conditions

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1 with such a direct-support organization must comply to use
2 property, facilities, or personal services of the board.

3 (g) The board may invest funds of the direct-support
4 organization which have been allocated for the purchase of
5 advance payment contracts for scholarships with receipts for
6 advance payment contracts.

7 Section 2. This act shall take effect July 1, 1999.

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9 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
10 COMMITTEE SUBSTITUTE FOR
11 SB 288

12 Authorizes benefits of a contract to be used at an
13 out-of-state college that does not confer baccalaureate
14 degrees, if it is regionally accredited by a commission on
15 colleges.

16 Clarifies language regarding the investment of funds of the
17 direct-support organization.

18 Adds standard organizational and contract requirements for
19 direct-support organizations to ensure accountability.
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