

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 974

SPONSOR: Committee on Education and Senator Childers

SUBJECT: Ad Valorem Tax/Educational Property Exemption

DATE: April 15, 1999 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hill</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Favorable/CS</u>
2.	<u>Fournier</u>	<u>Wood</u>	<u>FR</u>	<u>Favorable</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

This bill revises the ad valorem tax exemption for certain property used exclusively for educational purposes. Land is deemed owned by an educational institution, and therefore exempt from ad valorem taxation, if title to the land is held by the trustee of an irrevocable inter vivos trust and the trust grantor owns 100 percent of the entity that owns an educational institution that is using the land exclusively for educational purposes.

This bill amends section 196.198 of the Florida Statutes.

## II. Present Situation:

Article VII, section (9), of the Florida Constitution provides that counties, school districts and municipalities shall be authorized by law to levy ad valorem taxes. Article VII, section 3(a), of the Florida Constitution further provides: "Such portions of property as are used predominantly for educational, literary, scientific, religious or charitable purposes may be exempted by general law from taxation." Chapter 196, F.S., authorizes these exemptions from ad valorem taxation.

Properties exclusively used for educational purposes are totally exempt from ad valorem taxation (s. 196.192, F.S.). Section 196.198, F.S., specifies that this tax exemption is available to "...educational institutions within this state for their property used by them or by any other exempt entity or educational institution exclusively for educational purposes."

Section 196.012(5), F.S., defines "educational institution" as:

- A federal, state, parochial, church or private school, college or university conducting regular classes and courses of study required for eligibility to certification by, accreditation to, or membership in the State Department of Education of Florida, Southern Association of Colleges and Schools, or the Florida Council of Independent Schools.

- A nonprofit private school the principal activity of which is conducting regular classes and courses of study accepted for continuing postgraduate dental education credit by a board of the Division of Medical Quality Assurance.
- Educational direct-support organizations created pursuant to ss. 229.8021, 240.299 and 240.331, F.S.
- Facilities located on the property of eligible entities which will become owned by those entities on a date certain.

Like the other constitutional property tax exemptions, the property of an educational institution must be owned by an exempt entity and must be used for exempt purposes to qualify for the tax exemption. However, to qualify for the educational tax exemption, the property must be used *exclusively*, as opposed to predominantly, for the exempt purpose. Section 196.012, F.S., defines “exclusive use of property” as use of property solely for exempt purposes.

Section 196.198, F.S., provides that the following institutions are deemed to be wholly educational in purpose and use and, therefore, statutorily exempt from ad valorem taxation:

- Sheltered workshops which provide rehabilitation and retraining of disabled individuals and which are certified as exempt under s. (d) of the federal Fair Labor Standards Act of 1938, as amended.
- Properties of college fraternities and sororities which are certified by the president of the college to the appropriate property appraiser as being essential to the educational process.
- Properties used for public fairs and expositions, to the extent used for educational purposes.

Property is also deemed to be used for educational purposes, and therefore exempt from ad valorem taxation, when the institution has taken affirmative steps to prepare the property for educational use. Section 196.198, F.S., defines “affirmative steps” as environmental or land use permitting activities, creation of architectural plans or schematic drawings, land clearing or site preparation, construction or renovation activities, or other similar activities that demonstrate commitment of the property to an educational use.

As to the issue of ownership, s. 196.198, F.S., specifies that:

Property used exclusively for educational purposes shall be deemed owned by an educational institution if the entity owning 100 percent of the educational institution is owned by the identical persons who own the property.

Until 1994, property owned and used by the Florida Technical College for educational purposes was exempt from ad valorem taxation. In April 1993, the owner, Dr. Neil Euliano, placed the deed to the land upon which the Florida Technical College is situated into an irrevocable family support trust by warranty deed to the trustee, with the owner’s children as beneficiaries of the trust. The college received no interest in the trust. The trust provided that the trust estate may be divided equally among beneficiaries in the year 2003, at the option of the beneficiaries, upon a

majority vote. The beneficiaries will have the option to continue the trust for up to two additional ten year periods. The trust does not provide that the legal title to the property would ever go to the college either during the trust or upon termination of the trust.

The Orange County Property Appraiser has denied Florida Technical College an ad valorem tax exemption because the entity owning 100 percent of the educational institution is not owned by the identical persons who own the property (i.e., Dr. Euliano owns the institution and the trust now owns the land).

### **III. Effect of Proposed Changes:**

This bill narrowly expands the ad valorem tax exemption for property used by exempt entities exclusively for educational purposes. It revises s. 196.198, F.S., to provide the following:

If title to land is held by the trustee of an irrevocable inter vivos trust and if the trust grantor owns 100 percent of the entity that owns an educational institution that is using the land exclusively for educational purposes, the land is deemed to be property owned by the educational institution for purposes of this exemption.

If this bill becomes law, property that meets these criteria of ownership and exclusive use for educational purposes will be eligible for the educational property tax exemption. Property used by the Florida Technical College would meet these criteria.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

The bill reduces the property tax base of municipalities and counties, thereby reducing their authority to raise revenues in the aggregate. However, the impact of this bill is estimated to be insignificant; therefore, the bill is exempt from the constitutional mandates restriction.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

### **V. Economic Impact and Fiscal Note:**

#### **A. Tax/Fee Issues:**

This bill narrowly expands the educational property tax exemption, thereby reducing the property tax base for local governments. The owners of property occupied by the Florida Technical College would be eligible for an educational property tax exemption under this bill.

It is not known if or what other educational institutions in this state might qualify for the exemption. In 1998, Florida Technical College had a property tax liability of \$19,566.96.

**B. Private Sector Impact:**

An entity that owns land through an inter vivos trust, but does not own the educational institution that is operated upon the land will benefit from the ad valorem tax exemption for educational property. The existing ad valorem tax exemption for educational property applies only to land that: (1) is used exclusively for educational purposes, and, (2) is entirely owned by the entity that owns the educational institution operating on the land.

**C. Government Sector Impact:**

This bill does not affect state revenues. The fiscal impact on local ad valorem tax collections is negative, but is likely to be insignificant.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.