

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 2092

SPONSOR: Education Committee and Senator Sullivan

SUBJECT: Trust Fund for Major Gifts

DATE: April 10, 2000 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>White</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>FP</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

Committee Substitute for Senate Bill 2092 revises the formula for how much the state will provide in matching funds for private contributions made to the Trust Fund for Major Gifts for the State University System. Private contributions between \$100,000 and \$999,999 will be eligible for a 50 percent state match. Contributions between \$1,000,000 and \$2,999,999 will be eligible for a 60 percent match. Contributions of \$3,000,000 or more will be eligible for an 85 percent match. The bill places a \$3 million cap on the amount the state will provide in any year to match a single gift. The total amount of matching funds available for any single gift will be limited to \$15 million, to be distributed in equal amounts of \$3 million per year over a period of 5 years, if funds are available. The Board of Regents will no longer authorize universities to encumber the state matching portion of a challenge grant and will not encumber state funds to match pledged contributions.

These changes should allow state funds to be spread over a larger number of gifts, encouraging more donors. Limiting the match per gift and the match per year on a single gift prevents one or two very large gifts from monopolizing the appropriation.

This Committee Substitute amends sections 240.2605 and 240.2601 of the Florida Statutes.

II. Present Situation:

The 1994 Legislature established the Trust Fund for Major Gifts in s. 240.2605, F.S., by combining Florida Endowment Trust Fund for Eminent Scholars and the Trust Fund for New Donors. The fund endows the Eminent Scholar and Major Gift Challenge Grant Programs. These programs provide an incentive for private donors by matching a portion of the donation with state funds.

The 1994 Legislature adopted the following formula for the amount of state match:

Private Contribution	Matching Grant
At least \$100,000 but no more than \$599,000	50 % of private contribution
At least \$600,000 but no more than \$1 million	70 % of private contribution
In excess of \$1 million but no more than \$1.5 million	75 % of private contribution
In excess of \$1.5 million but no more than \$2 million	80 % of private contribution
In excess of \$2 million	100 % of private contribution

This formula has always applied to the Eminent Scholars Program for private contributions of \$600,000 or more. That program establishes endowed professorships; each match requires approval by the Board of Regents. However, before the merger in 1994, the Major Gifts Program provided for a \$50,000 matching grant for each \$100,000 contributed by private sources.

Current law requires funds appropriated to the trust fund for the matching grants to be invested until the Board of Regents allocates the funds to the universities to match private donations. Any undisbursed balance and interest income accruing to the portion of the trust fund that is not matched and distributed to universities remains in the trust fund to increase the total funds available for challenge grants. The board may authorize a university to encumber the state matching portion of a challenge grant from the university's carry forward funds.

The Board of Regents must specify the process for submission, documentation, and approval of requests for matching funds, accountability for endowments and proceeds of endowments, allocations to universities, restrictions on the use of proceeds from endowments, and criteria used to determine the value of donations. In his memorandum of June 6, 1997, the Chancellor established standard procedures for evaluating and documenting eligibility of private donations and for processing distributions made from the Trust Fund for Major Gifts (*CHANCELLOR'S MEMORANDUM CM-D-13.01-06/97*).

Current law requires the Board of Regents to encumber state matching funds for any pledged contributions, pro rata, based on the requirement for state matching funds as specified for the particular challenge grant and the amount of the private donation actually received by the university for the respective challenge grant.

Each foundation establishes a challenge grant account for each challenge grant as a depository for private contributions and state matching funds to be administered on behalf of the university. State matching funds must be transferred to the university foundation upon notification that the university has received and deposited the amount specified in law in a foundation challenge grant account. The foundation is responsible for the maintenance and investment of its challenge grant account and for administration of the program on behalf of the university. Each foundation must include in its annual report to the Board of Regents information concerning collection and investment of matching gifts and donations and investment of the account.

The donations and matching grants must be invested, with the proceeds of the investment used to support libraries and instruction and research programs. Rule 6C-9.019, F.A.C., provides that

“support of libraries and instruction and research programs” includes, but is not limited to, staffing, equipment, supplies, books, subscriptions, monographs, binding, purchase of or access to technological resources such as computerized databases and other electronic media, and other legitimate expenditures in support of libraries; and expenditures for personnel, equipment, supplies and other legitimate purchases in support of the instruction and research programs with the recipient institution’s mission. Donations, state matching funds, and proceeds from endowments established under the Major Gifts Program may not be expended for the construction, renovation, or maintenance of facilities or for the support of intercollegiate athletics.

In 1985, expenditures were limited to endowed professorships and required prior approval by the Board of Regents. The 1986 Legislature expanded the types of acceptable expenditures to include library resources, scientific and technical equipment, and scholarships other than athletic. The 1989 Legislature eliminated the requirement of prior approval for expenditures. The 1990 Legislature removed the authority to use funds for library resources and scientific and technical equipment. Between 1990 and 1994, acceptable expenditures were limited to endowed professorships and scholarships other than athletic.

Current law permits a donation of at least \$600,000 and associated state matching funds to be designated as an Eminent Scholar Endowed Chair.

The 1999 Implementing Bill (ch. 99-228, L.O.F.) amended s. 240.2605, F.S., to require each university president to rank each private donation to the university, giving highest priority to private donations that provide additional library resources to universities; donations that provide student assistance through scholarships, fellowships, or assistantships; donations that provide funding for existing academic programs at universities; and donations that meet the matching requirement without encumbering pledges. The Board of Regents, using the same criteria, must develop a systemwide priority list and may set restrictions on the annual amount of matching funds provided for single donations that exceed \$5 million. This provision is for the 1999-2000 year only.

All 10 universities and the Board of Regents Foundation participate in the Major Gifts program. Information provided by the State University System indicates that as of June 30, 1999, the system received 1,033 gifts totaling \$493,946,112 through the Major Gifts/Eminent Chairs programs. These gifts have resulted in the establishment of 388 professorships or chairs (227 of these are occupied), as well as additional support for libraries, institutes and centers, scholarships, fellowships, and other activities related to instruction and research. Following is a list of the total donations received through June 30, 1999 by each institution:

Institution	Total Donations
University of Florida	\$237,715,580
Florida State University	\$55,356,495
Florida A&M University	\$21,661,237
University of South Florida	\$78,718,912
Florida Atlantic University	\$32,898,578

Institution	Total Donations
University of West Florida	\$17,767,050
University of Central Florida	\$15,771,412
Florida International University	\$15,615,921
University of North Florida	\$13,890,917
Florida Gulf Coast University	\$3,550,000
Board of Regents	\$1,000,010

Information contained in Table 55 of the Senate Budget Committee Report, *Education in Florida -- 1999-2000 Edition*, indicates that during the period from 1979-1980 through 1999-2000, the Legislature appropriated \$277,459,758 to provide matching grants for the Eminent Scholars and Major Gifts programs, with \$165.6 million provided over the past 5 years. In addition, as of June 30, 1999 interest has accrued to the Major Gifts Trust Fund providing \$24,590,740 in additional funds for matching purposes.

According to staff of the Board of Regents, the success of the Major Gifts program could place it in jeopardy if some adjustments to the criteria for matching gifts are not made. Even though \$44.1 million was appropriated for FY 1999-2000, it is \$24.5 million short of meeting cash requirements for matching gifts received in 1998-99. An additional \$9.4 million was requested to encumber funds received as partial payment of pledges for 1998-1999, so the total outstanding obligation as of June 30, 1999, was \$33.9 million. The staff project that, at a minimum, \$86 million will be required to attain the break-even point July 1, 2000.

On October 5, 1999, the Chancellor of the State University System convened a meeting of legislators, major donors, foundation board chairs, university presidents, and university vice presidents for development to discuss the major gifts program. An 11-member task force was appointed to study the issue and made the following recommendations to the Board of Regents and the Legislature:

1. Place some controls on the program to assure its long-term existence.
2. Request a total of \$50 million in recurring funds and \$25 million in non-recurring funds for the matching gifts program to cover the backlog of gifts received but not matched as of July 1, 1999.
3. Prohibit encumbering.
4. Limit the amount of state dollars used to match a single gift in a given year to \$3 million.
5. Limit the total amount of match money for any single gift to \$15 million, a total of \$3 million per year for 5 years.
6. Limit bundling to programs that are pre-approved by the Board of Regents as being integral to the mission of the institution. The maximum allowed in a given project utilizing bundling would be \$500,000 with a 50 percent match. Projects currently underway should be grandfathered in under the existing criteria.
7. Permit family gifts given through family held vehicles (e.g., individual family members, a private foundation, or business interest). Do not define these types of gifts as bundling.

8. Use the 1998-1999 criteria to determine eligibility for matching gifts. Do not reintroduce the requirement that presidents must prioritize the types of projects or the other provisions contained in the 1999 implementing bill.
9. Revise the matching dollars formula to the following:

Contribution Level	Percentage of Match
\$100,000 - \$999,999	50 percent
\$1,000,000 - \$2,999,999	60 percent
\$3,000,000 or more	85 percent

If these changes had been in place last year, the state required match would have been reduced by 15 - 20 percent, according to analyses by the Board of Regents staff. They suggest that the reduction would allow the remaining funds to be used over several years to pay off the backlog of gifts received and eventually to match a greater number of donations across all universities. Their recommendation is that the Major Gifts matching program should continue as an economic incentive for donations without eroding base level education and general funding for the operating budgets of universities.

Section 240.2601, F.S., establishes the Alec B. Courtelis State University System Facility Enhancement Challenge Grant Program and Trust Fund. This program provides assistance for facilities to be constructed to support high priority instructional and research activities. The term "high priority" is not defined, but the law requires the projects to be included in the State University System 5-year Capital Improvement Plan, and they must receive prior approval of the Board of Regents and the Legislature. The university foundations are responsible for soliciting private funds for the projects, and the state matches the funds when enough have been received and placed in the trust fund to pay half the cost of a project. The Legislature must actually appropriate the matching funds before construction begins on a project, and it may take several years before all funds are matched by appropriations.

All of these provisions together mean that the Legislature has more control over the level of funding expected for this program than for the Major Gifts Program, but there is considerable pressure on the state to appropriate the matching funds: If the state does not match the private donations, the law provides for the project to be terminated and the funds returned to the donors. The projects also require continuing state appropriations for maintenance and operating costs. The program would benefit from the additional accountability of a report stating how the university system established the priority for the projects and how much the state will be expected to pay in future years for operation and maintenance of the facilities.

III. Effect of Proposed Changes:

The Committee Substitute under consideration amends s. 240.2605, F.S., to revise the formula for matching private funds under the Trust Fund for Major Gifts. Contributions between \$100,000 and \$999,999 will be eligible for a 50 percent state match. Contributions between \$1,000,000 and

\$2,999,999 will be eligible for a 60 percent match. Contributions of \$3,000,000 or more will be eligible for an 85 percent match.

The amount of matching funds used to match a single gift in any given year is capped at \$3 million. The total amount of matching funds available for any single gift will be limited to \$15 million, to be distributed in equal amounts of \$3 million per year over a period of 5 years, subject to availability of funds.

The bill deletes:

- ▶ The authority for the Board of Regents to permit a university to encumber the state matching portion of a challenge grant from carry forward funds.
- ▶ The requirement that state matching funds be encumbered for pledged contributions.

It makes permanent the 1-year requirement that university presidents and the Board of Regents must report the donations for eminent scholars, major gifts, and challenge grants, and must explain their consistency with the master plan. The donations must be placed in order of priority, but matching funding does not necessarily follow the priority list. It has been customary to use state matching funds to the first donations first, and any gifts for which state funds are insufficient are retained at the top of the list for the next year.

The Committee Substitute also amends s. 240.2601, F.S., to make the same reporting requirement for the Alec P. Courtelis Facility Enhancement Challenge Grant Program. The report must state the projected cost to the state for the operation and maintenance of the facility. The priority rank is for major renovations to existing facilities and new space requirements as identified by the space utilization model.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Board of Regents analysis concludes that applying the new percentages to the 1998-1999 donations reduces the required state matching dollars by 15 percent to 20 percent. The change in matching percentages should also allow matching funds to be spread over a larger number of gifts, encouraging more donors. Limiting the match per gift and the match per year on a single gift prevents one or two very large gifts from monopolizing the appropriation in a given year.

VI. Technical Deficiencies:

None.

VII. Related Issues:

In July 1996 and August 1998, the Office of Program Policy Analysis and Government Accountability (OPPAGA) issued reports on the Eminent Scholar and Major Gift Challenge Grant Programs. In the 1996 report, OPPAGA recommended that the Legislature amend s. 240.2605, F.S., to require university foundations to annually report fees charged for the management and administration of these endowments in sufficient detail to allow for review by the BOR. In the 1998 report, OPPAGA noted that the Legislature has not made the recommended change, the Board of Regents requires the reporting of administrative fees assessed by the university foundations (*Chancellor's Memorandum CM D-13.01-06/97*).

VIII. Amendments:

None.