

# 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: SB 68

SPONSOR: Senator Diaz-Balart

SUBJECT: FIU & FAMU Law Schools

DATE: February 1, 2000

REVISED: 4/24/00 \_\_\_\_\_

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

## I. Summary:

Senate Bill 68 creates two new public colleges of law, one at Florida International University and one at Florida Agricultural and Mechanical University.

The bill creates two new sections of the Florida Statutes.

## II. Present Situation:

### History of the Law School at FAMU:

The law school at FAMU enrolled students from 1951 through 1968. A 1999 article in the *Florida Bar News* says the law school was established in 1949, but the first record of state funding is in 1951. The Legislature supported the school by annual appropriations of \$97,000, but never formally created or recognized it in the Florida Statutes. Statistics supplied by the Board of Regents indicate that, between 1951 and 1963, 32 students graduated from the FAMU law school. After 1963, enrollment and completion data are misleading because discussions about closing the law school undermined its efforts and cut into its expected enrollment and outside contributions.<sup>1</sup>

In 1963, the Board of Control, the predecessor to the Board of Regents, authorized public universities to submit proposals for how to meet a newly-discovered demand for legal education. The University of Florida proposed a new law center for a maximum enrollment of 1,200 students. Florida State University proposed a new college of law with planning funds available in April, 1965, and classes beginning in September, 1968.

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<sup>1</sup>Glenda Alice Rabby, *The Pain and the Promise: the Struggle for Civil Rights in Tallahassee, Florida*, University of Georgia Press (1999), p. 189.

Representatives from FAMU did not propose a change in the role or scope of its law school. In early 1963, civil rights attorneys Tobias Simon and Howard Dixon had filed a suit with two other attorneys to close the FAMU law school, and its future was in question.<sup>2</sup>

In the summer of 1964, a team of consultants from the University of Illinois, the University of North Carolina, and New York University examined the proposals of the University of Florida and Florida State, along with FAMU's request for continuation. They concluded that the private law schools could not supply the number of lawyers needed and recommended that the law school at the University of Florida be expanded to its present capacity of 1,200 students, a law school be established at Florida State University by 1970, and the law school at FAMU be discontinued in August, 1970.

The team of consultants based the recommendation on the history of the law school at FAMU, which indicated that the small program probably would not have an appreciable effect in meeting the need for more lawyers. In the spring of 1965, the Florida Bar Association agreed with those recommendations. The 1965 Legislature transferred the funds supporting the law school at FAMU to FSU to establish and support a new law school. In response to the transfer of funds, the Board of Regents reviewed cost factors related to maintaining two law schools two miles apart and recommended that no new students be admitted to the law school at FAMU, which would be discontinued when the last students graduated in 1968.

### **Law Schools in Florida**

To date, Florida has seven accredited law schools, and one presently expecting notice of accreditation. The two public law schools, at The Florida State University and The University of Florida, do not allow part-time enrollment. Most of the law schools at the following nonpublic colleges allow a limited number of part-time students: Nova Southeastern University, Stetson University, St. Thomas University, the University of Miami, and The Florida Coastal School of Law. Barry University at Orlando Law School is eligible for ABA accreditation this spring.

### **Board of Regents Feasibility Study:**

The 1991 Florida Legislature required the Board of Regents to conduct a study to determine the feasibility of a third public law school at FAMU. The feasibility study addresses the following issues: anticipated student enrollment, projected operating and capital costs, effects on minorities, and expanding minority access to legal education.

#### ***Enrollment***

Based on public law school data, the Board of Regents estimated 500 FTE students would be needed to justify creating a third public law school. Fewer FTE students would not result in a substantial reduction of expenditures because "substantial capital and operating costs must be incurred in order to create an appropriate academic infrastructure, whether a critical mass is being served or not."

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<sup>2</sup>*Ibid.*,p. 190.

### *Costs*

In all, in 1991 dollars, the projected operating and capital costs for a new public law school totaled \$35.9 million:

Assuming that a site would be donated, the Board of Regents estimated that planning, constructing, and equipping a new law school would cost about \$13.7 million. These costs were based on the average costs associated with three different sites.<sup>3</sup> The average cost to stock a law library was approximately \$92 per volume for a total of \$13.8 million for 150,000 books. The board projected operating costs of \$8.4 million.<sup>4</sup>

### *Effects on Minorities*

Over the decade between 1981 and 1991, 90 percent of the graduates of Florida public law schools were white, non-Hispanic. Only 4 percent were Hispanic and 4 percent African-American. There is no evidence of discrimination in admissions because about the same proportion of applicants were admitted by all races. The problem was with recruitment of minority students in their undergraduate years -- the need is to increase the number of applicants.<sup>5</sup>

### *Expanding Minority Access to Legal Education*

The feasibility study recommended expanding the Virgil Hawkins Fellowships, contracting with private law schools, and granting fee waivers. The fellowships should emulate the McKnight Program by providing centralized recruiting, substantial support services, and placement procedures for Hispanic and African-American students.

### **Minority Participation in Legal Education Program:**

The Board of Regents' Master Plan for 1993-1998 proposed a scholarship program to provide financial, academic, and other support services to minority law students. In response, the Legislature created s. 240.498, F.S., the Minority Participation in Legal Education (MPLE) Program. Its purpose is to increase by 200 the number of minority students enrolled in law schools in the state. Students participating in the MPLE Program agree to take the Florida Bar Examination and to practice law in the state for at least 3 years if they pass it.

The pre-law component of the MPLE program is supposed to improve the opportunity of minority students to prepare for law school. That program selects minority students in undergraduate school and pays for their fees, room and board, supplies, and academic and other support services. In return, the students agree to enter a Florida law school within two years after graduation or repay the scholarship loan.

### *MGT of America Study of the MPLE Program*

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<sup>3</sup>These costs equated to \$2.6 million for classrooms, \$5.2 million for a library, \$4.1 million for offices, \$0.4 million for auditoriums, \$0.3 million for student services, and \$1.2 million for infrastructure expenses.

<sup>4</sup>This amount equated to \$5.8 million for Instruction and Research, \$0.2 million for Student Services, \$0.5 million for Library Staffing, \$1.0 million for Library Resources, and \$0.9 million for Administrative Direction and Support Services.

<sup>5</sup>Between 1979 and 1989, 22,925 applicants were Caucasian, 2,192 applicants were Hispanic, and 1,487 were African-American.

Questions about the effectiveness of the program led to a 1999 study by MGT of America, Inc. The report reveals that the program has yet to meet its goal of increasing the total number of minority law school students by 200, but not that it has been a failure. The number of minority students enrolled in a Florida law school increased by 120 from 1993-1994 to 1997-1998 (from 983 minority students to 1,103). This increase is due to Hispanic enrollments, not to African-Americans.

One way of analyzing the statistics places Florida ahead of the nation -- the percentage increase in minority law school enrollments exceeded the national average by 2.5 percent from the 1990-1991 school year to 1996-1997. However, some of that increase occurred during 1990-1993, before the MPLE program began.

#### ***PEPC Study of the MPLE Program***

The 1999 Legislature directed the Postsecondary Education Planning Commission to recommend the most appropriate entity to administer the MPLE program and to assess the degree to which the program has affected the increase in minority law school enrollments and practicing lawyers in Florida.

Looking only at the years since 1993, when MPLE was implemented, the total number of minority students increased by 17 percent, but the increase is attributed to Hispanic enrollments. The number of Hispanic students increased by 42 percent, but the number of African-American students decreased by 17 percent. The 426 African-American students enrolled in 1998-1999 was less by 71 students than in 1993-1994.

Among the Commission's recommendations is to redirect the program to focus more on increasing African-American participation, not just minorities in general.

#### **Feasibility Study by FAMU:**

In summer of 1999, FAMU submitted a feasibility study relating to the establishment of a law school. According to the study, FAMU's history as the only public Historically Black University in Florida gives it a unique mission to meet the educational needs of African-Americans and other ethnic minorities. Most traditional postsecondary education institutions are unable to recruit, retain, and graduate African-American law students at an adequate rate. The study reports that FAMU's mission to serve ethnic minority students is likely to have a significant impact on the feasibility of establishing a law school at the university.

The feasibility study suggests that another reason is the demand for part-time legal education. Many citizens of the state cannot afford a legal education without maintaining full-time employment. Others want a legal education to advance a different career goal.

The feasibility study projects costs of approximately \$27.3 million. These costs equate to \$19.2 million for construction, \$1.5 million for utilities and infrastructure expenses, \$1.9 million for planning the law school, \$1.9 million for equipping and furnishing the law school, and \$2.8 million for initial operating expenses.

#### **Feasibility Study by FIU:**

Florida International University's feasibility study gives the following reasons for establishing a law school there:

- ▶ The state needs a public law school in the state's largest metropolitan area (South Florida).
- ▶ Since Florida International University is located in an ethnically diverse metropolitan area, a law school should contribute to an increase in the number of African-American and Hispanic attorneys.
- ▶ The law school will permit students to enroll on a part-time basis.
- ▶ The only South Florida access to legal education is at private law schools with extremely high tuition rates. Students who attend law school at Nova Southeastern University or the University of Miami can expect to accumulate approximately \$75,000 in debt.

The feasibility study projects costs of approximately \$2.1 million. These costs equate to \$1.1 million for instruction and research, \$0.8 million for a library collection, and \$0.2 million for other expenses. No construction costs are included because the university expects to house the law school within the existing University Park Campus.

The Board of Regents rejected both feasibility studies.

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

The legislation under consideration authorizes a college of law at the Florida International University and at the Florida Agricultural and Mechanical University and requires them to comply with the standards approved by nationally recognized associations for accredited colleges of law.

The bill also directs the Board of Regents to commence the planning of the colleges of law and authorizes the board to pursue federal and private funds for the new colleges of law. Classes must commence by January 1, 2001. (Note: Amendment #4, by the Education Committee, delays this date by one year, to January 1, 2002. Amendments # 2 & 3 require the Board of Regents to take action either to close the law schools or to adopt conditions for continuation, if the schools fail to become accredited after three applications. Any building constructed for a law school that ceases operations will become owned and managed by the Board of Regents. )

### **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:

Students interested in law education would benefit from two more public law schools to choose from.

C. Government Sector Impact:

FAMU submitted the following estimate:

	FY 2000-01	FY 2001-02	FY 2002-03
Construction	\$19,200,000		
Utilities & Infrastructure	1,500,000		
Planning	1,950,000		
Furniture & Equipment	1,900,000		
<b>Total Capital Expenses</b>	<b>\$24,550,000</b>		
Operating Expenses	850,000	\$1,910,000	\$2,927,000
Library Acquisitions	2,000,000	1,000,000	750,000
<b>Total Operating Expenses</b>	<b>\$2,750,000</b>	<b>\$2,910,000</b>	<b>\$3,677,000</b>
<b>TOTAL COSTS</b>	<b>\$27,300,000</b>	<b>\$2,946,413</b>	<b>3,677,000</b>

FIU submitted the following estimate:

Instruction & Research	\$1,146,770	\$1,709,350	\$2,437,445
Library Staffing	38,883	77,766	116,648
Library Books	800,000	800,000	800,000
Administrative Support	126,394	252,788	379,181
Student Services	53,255	106,509	159,764
<b>TOTAL COSTS</b>	<b>\$2,165,302</b>	<b>\$2,946,413</b>	<b>\$3,893,038</b>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The Florida Bar voted to oppose the creation of new public law schools after a report found that Florida's six existing law schools more than meet the state's need for lawyers. The report was prepared by the National Center for Higher Education Management Systems and recommended that scholarships are the best way to increase the number of minority members of the Bar. FAMU's feasibility study disputed these findings based on the assertion that many black graduates of legal education programs do not practice law but use legal education as an entree to government service, business, education, and other professions.

**VIII. Amendments:****#1 by Education:**

Adds a "whereas" clause reflecting the absence of part-time programs at public law schools and the fact that part-time study programs attract minority law school students.

**#2 by Education:**

Pertaining to the college of law at The Florida International University, provides conditions that apply if the college of law fails to attain accreditation after three applications and if the Board of Regents requires the college of law to cease operations. Buildings constructed from capital outlay funds appropriated by the Legislature will become owned by the Board of Regents if the law school closes. Authorizes the college of law to accept students with scholarships from the law school scholarship program of the Florida Education Fund, notwithstanding that program's requirement that scholars attend accredited law schools.

**#3 by Education:**

Same as amendment #2, pertaining to the college of law at Florida Agricultural and Mechanical University.

**#4 by Education:**

Delays by one year, until January 1, 2002, the date by which classes must commence at the two new colleges of law.