

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/CS/SB 2108

SPONSOR: Appropriations Subcommittee on Education, Education Committee & Senator Pruitt

SUBJECT: Education Governance Reorganization

DATE: April 20, 2001                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	White	O'Farrell	ED	Favorable/CS
2.	Rhea	Wilson	GO	Fav/6 amendments
3.	Collins/McKee	Hickam	AED	Favorable/CS
4.			AP	
5.				
6.				

## I. Summary:

Committee Substitute for Committee Substitute for Senate Bill 2108 requires the reorganization of the governance of Florida's education system to commence July 1, 2001, and outlines specific tasks and due dates for the implementation process. Current law and the Florida Constitution establish January 7, 2003, as the date when the elected State Board of Education, including the Commissioner of Education, must be replaced by appointed officials, but they do not address transition.

The bill contains the following measures designed to increase community access to baccalaureate-level education:

- Procedures are authorized to allow a community college to obtain the authority to offer a limited number of selected baccalaureate-degree level programs.
- New College, which is currently a branch campus of the University of South Florida, is designated as the eleventh member of the State University System, while it retains its distinctive mission as the 4-year residential liberal arts honors college of the State of Florida.
- The branch campuses of the University of South Florida in Sarasota/Manatee and in St. Petersburg are converted into fiscally autonomous campuses with separate campus boards and executive officers.
  - The bill requires the University of South Florida to seek separate accreditation for the two campuses.
  - The Board of Trustees of the University of South Florida will appoint the members of the campus boards from recommendations of the President of the University of South Florida, who will appoint the campus executive officers.

The bill amends the Education Governance Reorganization Act of 2000 (part I of ch. 229, Florida Statutes) and creates new sections of statute to require the reorganization to

occur mostly by “type two transfer,” which merges an agency or governmental unit into another structure but retains all the former statutory requirements and tangible and fiscal attributes, including staff and funds. The intent is that, by creating the structural units required to implement the new system, by allowing them a year to operate under the laws, rules, and guidelines that regulated the previous units, it will become apparent which statutory changes are needed. During the interim between the 2001 and 2002 Legislative Sessions, the bill directs that amendments to rewrite the Florida School Code be drafted with the assistance of the affected organizational units.

The Committee Substitute for the Committee Substitute directs the Governor to appoint the members of the Florida Board of Education but does not abolish the elected State Board of Education. The boards will share responsibilities from July 1, 2001, until January 7, 2003. The new board will appoint a chairperson, but the elected Commissioner will be the head of the Department of Education.

The Governor will appoint the Secretary of the Florida Board of Education at the same time the appointments are made to the board. After the transition is complete, the Florida Board of Education will appoint the Commissioner, and the position of secretary will be obsolete. The Commissioner remains head of the Department of Education, while the Secretary is responsible for implementing the transition. They share many administrative responsibilities as a partnership.

The bill abolishes the following boards by a type two transfer to the appointed Florida Board of Education:

- Board of Regents
- State Board of Community Colleges
- Articulation Coordinating Committee
- Education Standards Commission

The Governor will appoint an 11-member Board of Trustees for each state university, and they will have responsibility formerly given to the state-level Board of Regents for appointment, compensation, and evaluation of the university presidents.

The following boards are abolished but merged into new boards with amended responsibilities:

- State Board of Independent Colleges and Universities
- State Board of Nonpublic Career Education
- Postsecondary Education Planning Commission

The changes in responsibility include:

- The board that replaces the Postsecondary Education Planning Commission has responsibility for K-12 education as well;
- The two boards with jurisdiction for nonpublic colleges and career schools are merged into one; and

- Certain independent colleges are not under the jurisdiction of the newly created Commission for Independent Education but under the jurisdiction of the Division of Colleges and Universities<sup>1</sup>

The Secretary of the Florida Board of Education appoints the head of the following Divisions:

- Division of Colleges and Universities
- Division of Community Colleges

The Secretary of the Florida Board of Education and the Commissioner together appoint the heads of the following Divisions:

- Division of Public Schools
- Division of Independent Education

The following units are under the Commissioner of Education, instead of within divisions: Legal; Communications; Strategic Planning and Budget Development; General Administration; Assessment and Accountability; Data Management, Education Technology and an Education Data Warehouse; Access and Opportunity; Office of Student Financial Assistance; Policy Research and Development; Personnel; Workforce and Economic Development; Educational Facilities; and Inspector General.

The SMART Schools Clearinghouse is transferred from the Department of Management Services to a newly created office in the Office of the Commissioner of Education.

In addition to the Education Governance Reorganization Transition Task Force, the bill creates the following advisory bodies or teams to assist the transition process:

- The ***Secretary's Education Reorganization Advisory Workgroup***, consisting of
  - The secretary of the Florida Board of Education
  - The commissioner
  - The chancellors of public schools, colleges and universities, and community colleges
  - The executive director of independent education
  - The Governor or designee
  - The chairman of the Education Governance Reorganization Transition Task Force,
  - A Legislator from each branch.
- The ***K-20 Education Leadership Team***, consisting of the same membership, except not the representatives of the Governor, the Legislature, or the Education Governance Reorganization Transition Task Force.

This bill amends the following sections of Florida Statutes: 229.001, 229.002, 229.003, 229.004, 229.005, 229.006, 229.085, 228.082, 240.2011, 240.3836, and 240.527.

It creates the following sections of Florida Statutes: 229.0031, 229.0061, 229.007, 229.0072, 229.0073, 229.0074, 229.008, 229.0081, 229.0082, 229.0083, and 229.0084. In addition, it creates 11 sections of law, as yet undesignated.

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<sup>1</sup> In this bill, a nonpublic college is under the jurisdiction of the Division of Universities if it is SACS accredited, 4-year baccalaureate-level, located and chartered in Florida, and not-for-profit. These are the requirements for the students at a college to be eligible for the William L. Boyd, IV, Florida Resident Access Grant, s. 240.605, F.S.

It repeals the following sections of Florida Statutes: Several subsections and paragraphs of s. 235.117, 229.0865, 240.145, 240.147, 240.209(2), 240.227, 240.307, and 240.311(4).

## II. Present Situation:

In November 1998, Florida voters approved changes in the State Constitution to mandate a new public education governance system led by an appointed, rather than elected, State Board of Education and Commissioner of Education. The amended section reads as follows:

Section 2. State board of education. -The state board of education shall be a body corporate and have such supervision of free public education as provided by law. The state board of education shall consist of seven members appointed by the governor to staggered 4- year terms, subject to confirmation by the senate. The state board of education shall appoint the commissioner of education.<sup>2</sup>

January 7, 2003, is the date specified in the Constitution for the new system to go into effect.

The Commissioner of Education appointed a Blue Ribbon Committee on Education Governance. Based on the Blue Ribbon Committee Recommendations, the 2000 Legislature passed HB 2263, the Florida Education Governance Reorganization Act of 2000.<sup>3</sup>

The law, part I of ch. 229, F.S., follows the constitutional directive and generally embraces the majority recommendations of the Blue Ribbon Committee on Education Governance. A Florida Board of Education is created consisting of seven citizen members appointed by the Governor to oversee education in the state and appoint a Commissioner of Education. Organizationally, the Florida Board of Education and the Commissioner of Education are to establish and operate an Office of the Board of Education consisting of subunits for state universities, community colleges, and public schools, each to be headed by a chancellor; and a unit for nonpublic and nontraditional schools to be headed by an executive director. The law also: provides for institutional boards of trustees for the 10 state universities, repeals all state level education boards and commissions and transfers their powers and duties to the Florida Board of Education, and repeals several chapters and sections of the existing School Code that create the current organizational and administrative structure of the state's education system. All of these changes are to take effect January 7, 2003, to coincide with the constitutional date for the Florida Board of Education to assume authority.

To assure a smooth transition to the new system, The Reorganization Act created the Education Governance Reorganization Transition Task Force. The task force, composed of 11 members appointed by the Governor, President of the Senate, and Speaker of the House of Representatives, and housed in the Governor's Office of Planning and Budgeting, is charged with the responsibility for making a series of recommendations to the Legislature over the next two years for statutory changes that will implement the new education system.<sup>4</sup> The first set of

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<sup>2</sup> Article IX, Section 2 of the State Constitution

<sup>3</sup> Ch. 2000-321, L.O.F.

<sup>4</sup> Florida Senate Education Committee, *Reorganization of Education Governance* (Interim Project 2001-011) November 2000.

recommendations was presented to the Legislature on March 1, 2001. Its major recommendations to the Legislature include:

- Clearly state in law the goals of the system, which are called collectively “The Vision.” The Vision includes the following guiding principles, which mandate that the new governance structure will:
  - Be a coordinated, seamless system for kindergarten through graduate school;
  - Be student centered in every facet;
  - Maximize education access and academic success for all Floridians;
  - Safeguard equity and refuse to compromise academic excellence;
  - Emphasize local control of institutions.
- Establish in law the major components of the new education system and initiate the transition effective July 1, 2001.
- On that date, give statutory authority and support to an interim Florida Board of Education to begin the implementation of the new governance structure.
- Assign to the Florida Board of Education authority to address all issues that affect education, kindergarten through graduate school (called in the bill “seamless K-20 education system”).
- Authorize the board and the commissioner to reorganize the Department of Education.
- Authorize appointment to university boards of trustees and establish duties and authority of postsecondary institutions.
- Enact a comprehensive accountability system to assess the effectiveness of the public education system.
- Manage the transition process to assure that, by January 7, 2003, a seamless, kindergarten through graduate school system of public education focuses control for day-to-day operation at the local level and limits the state to administrative and support activities.
- Reinforce the need for strong coordination, but do not place the Partnership for School Readiness in the Florida Department of Education for purposes of administration.

Revise the mission statement of the Florida on-line high school and house the school within the Division of Public Schools.<sup>5</sup>

The 1999 Legislature passed the School Readiness Act, (s. 411.01, F.S.) and created the Florida Partnership for School Readiness, which is responsible for establishing “an integrated and quality seamless service delivery system for all publicly funded early education and child care programs operating in this state.” Assigned to the Executive Office of the Governor for administrative purposes, the Partnership is responsible for determining the amount of school readiness funds a local school readiness coalition should receive and transferring the funds to each coalition that has a fully approved school readiness plan.

The 2000 Legislature created the Agency for Workforce Innovation as a fully independent administrative entity under the Department of Management Services to deliver workforce, Work and Gain Economic Self-sufficiency (WAGES) Program, and unemployment compensation services. The agency is responsible for providing employment related services, which can include childcare for working parents.

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<sup>5</sup>Education Governance Reorganization Transition Task Force, *Recommendations to the Florida Legislature*, March 1, 2001.

The 2000 Legislature also created the Legislative Budget Commission (s. 11.90, F.S.), a standing joint committee of the Legislature. The commission is responsible for reviewing and approving or disapproving agency requests to amend original approved budgets; reviewing agency-spending plans; issuing instructions and reports concerning zero-based budgeting, and taking other actions related to fiscal matters of the state.

The 1997 Legislature created s. 235.217, F.S., the *SMART (Soundly Made, Accountable, Reasonable, and Thrifty) Schools Clearinghouse*. The following activities have already been accomplished or are no longer needed:

SMART Schools Clearinghouse Board	Effort Index Grant Program
Ocoee Demonstration Project	Frugal Construction Standards

During the past 5 years, the Postsecondary Education Planning Commission has conducted several studies that document a problem with access to baccalaureate-degree programs in Florida. The state's rapid growth and the shortage of essential services – especially for teachers and health care professionals – raises the potential of expanding the offerings of some community colleges to include a limited number of baccalaureate programs. The commission also found that branch campuses of public universities have a mission similar to that of community colleges and different from that of the research university. In March of 2001, the Commission recommended that the Legislature consider authorizing a process whereby selected community colleges could offer a specific, limited number of baccalaureate degrees to meet community needs. Branch campuses that offer all 4 years of the program possibly could be more effective if they had more autonomy.

### III. Effect of Proposed Changes:

The committee substitute contains the major recommendations of the Education Governance Reorganization Transition Task Force. Because it is an omnibus act, amending and creating a number of statutes with substantive changes, the following section-by-section analysis provides a brief statement of the changes to be made to the present situation by each section of the bill.

**Section 1.** Amends s. 240.3836, F. S., so that the State Board of Education may authorize a community college to offer a limited number of baccalaureate degrees designed to meet local workforce needs. The college may pursue two methods:

1. A community college may enter into a formal agreement with the state university in its service area for the community college to deliver specified baccalaureate degree programs.
2. A community college may develop a proposal to deliver specified baccalaureate degree programs in its district.

The college's proposal must include the following information:

1. Identification of the demand for the baccalaureate degree program by the workforce development board, local businesses and industry, local chambers of commerce, and potential students.
2. Substantiation of the unmet need for graduates of the proposed degree program.
3. Verification that the community college has the facilities and academic resources to deliver the program.

The agreement must be submitted to the Postsecondary Education Planning Commission for review and comment and to the State Board of Education for approval. Upon approval of the State Board of Education, the college will pursue regional accreditation by the Commission on Colleges of the Southern Association of Colleges and Schools.

**Section 2.** *Amends s. 240.527, F.S., St. Petersburg Branch, University of South Florida*

Converts the branch campus of the University of South Florida in St. Petersburg into a fiscally autonomous campus with a separate campus board and executive officer. It requires the University of South Florida to seek separate accreditation for the University of South Florida St. Petersburg campus. The Board of Trustees of the University of South Florida will appoint the members of the Campus Board from recommendations of the President of the University of South Florida, who will appoint the Campus Executive Officer. The Campus Board consists of five residents of Pinellas County, with one member to serve jointly on the Board of Trustees of the University of South Florida and the Campus Board.

**Section 3.** *Amends s. 240.2011, F.S., State University System defined*

Adds New College of Florida to the State University System, with a designation of the 4-year residential liberal arts college of Florida, and states the fiscal autonomy of two of the University of South Florida's branch campuses, one in St. Petersburg and another named University of South Florida Sarasota/Manatee.

**Section 4.** *Creates a new section, The University of South Florida Sarasota/Manatee*

Converts the branch campus of the University of South Florida in Sarasota into a fiscally autonomous campus with a separate campus board and executive officer. The bill requires the University of South Florida to seek separate accreditation for the University of South Florida Sarasota/Manatee campus. The Board of Trustees of the University of South Florida will appoint the members of the Campus Board from recommendations of the President of the University of South Florida, who will appoint the Campus Executive Officer. The campus board will consist of three residents of Manatee County and two residents of Sarasota County. At the next vacancy of the campus board, one member will be appointed to serve jointly on the campus board and the Board of Trustees of the University of South Florida.

**Section 5.** *Creates a new section, New College of Florida*

Although the college is a member of the State University System, the bill states that it retains its unique mission as a residential liberal arts honors college. The bill provides four goals that reflect the mission:

1. Provide a quality education to students of high ability.
2. Engage in undergraduate educational reform.
3. Allow students to design their educational experience, as much as possible.
4. Challenge students to conduct original research.

The board of trustees of this college differs from the other university boards of trustees. Initially, six of its 11 members will come from the existing Board of Trustees of the foundation, and the others will be three residents of Sarasota County and two residents of Manatee County.

**Sections 6, 7, 8, 9, 10, 11, 12, and 13.** *Create undesignated laws that convert St. Petersburg Junior College to St. Petersburg College.*

This section renames St. Petersburg Junior College as “St. Petersburg College.” It requires the college to seek accreditation to grant baccalaureate degrees and provides a mission that combines the traditional functions of a community college with those of a baccalaureate-degree-level college. Funding and employment policies also will share some characteristics with community colleges and some with universities. Authority is granted for a specific list of baccalaureate-degree programs; additions are allowed after 4 years but must be approved by a coordinating board composed of the Presidents and chairpersons of the boards of the college, Pasco-Hernando Community College, and the University of South Florida. The coordinating board will also assist the Board of Trustees of the college in its deliberations about upper-division issues; the Commissioner of Education is authorized to resolve disputes.

The college is specifically required to maintain its primary mission of providing an open door to postsecondary education and access to a university education. It may not recruit students from outside Pinellas County for the upper division, except for students who have already earned an associate degree.

**Section 14.** States that the act is not supposed to adversely affect the accreditation of the University of South Florida.

**Section 15.** Changes the name of part I of ch. 229, F.S., to *Florida Education Governance Reorganization Transition Implementation Act*.

**Section 16.** Amends s. 229.002, F.S., the *declaration of policy and guiding principles*, to clarify that the public system of education does not guarantee high student achievement in every case, and that independent education institutions and home education programs maintain their independence, autonomy, and nongovernmental status.

**Section 17.** Amends s. 229.003, F.S., *Florida Education Governance Reorganization*, to:

- Delete the effective date of January 7, 2003. The effective date will be the date the bill becomes law, unless otherwise provided.
- Change the names of several divisions to be created in the Florida Board of Education.
- Change the required number of members on university boards of trustees from nine to 11, and add a student body president as a nonvoting member.
  - Members must be confirmed by the Florida Senate in the regular legislative session immediately following the appointment
  - Membership does not require state residency, but the bill encourages the Governor to consider regional representation.
  - The bill deletes a requirement that all members of the board of Florida Atlantic University must reside in the service area, with 3 from Broward County, 3 from Palm Beach County.
  - Note, however, that Section 27 of the bill requires that a board of trustees of a regional university may not have a majority of its members from a single county, and every county where the university has a physical presence must be represented on the board.
- Abolish the state-level Board of Regents and transfer its powers and duties by type two transfer to the Florida Board of Education.



- Abolish the State Board of Community Colleges and transfer its powers and duties by type two transfer to the Florida Board of Education.
- Abolish the Postsecondary Education Planning Commission and recreate it as the “K-20 Policy and Research Council.”
  - *Note: Not a type two transfer.* The previous powers and duties are not transferred by inference. The bill provides, in this section, for the transfer of all personnel, unexpended balances of appropriations and allocations. Section 18 of the bill provides the powers and duties and membership.
  - The council will be assigned for administrative purposes to the Department of Education.
- Abolish the Articulation Coordinating Committee and the Education Standards Commission and transfer their powers and duties by a type two transfer to the Florida Board of Education.
  - The Education Practices Commission is not abolished. It remains administratively housed in the Department of Education.<sup>6</sup>
- Require the Commissioner of Education to reorganize the Department of Education by including in the office of the commissioner general areas of operation that are common to all delivery sectors, and create the following offices and divisions:
  - Offices of Technology and Information Services, Workforce and Economic Development, and Educational Facilities
  - Division of Public Schools
  - Division of Colleges and Universities
  - Division of Community Colleges
  - Division of Independent Education
  - Merge the State Board of Independent Colleges and Universities with the State Board of Nonpublic Career Education in a newly created single Commission for Independent Education administratively housed in the Division of Independent Education.
- Repeal subsection (6) of s. 229.003, F.S., which relocates the powers and duties of the current boards, divisions, and offices to the Florida Board of Education and abolishes them effective January 7, 2003.

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<sup>6</sup> The duties of the Articulation Coordinating Committee are in s. 240.115, F.S., and include a number of activities designed to eliminate barriers to student movement to a higher level of education or to another institution at the same level. The Education Standards Commission is governed by ss. 231.245 and 231.546, F.S.; the Education Practices Commission is governed by ss. 231.261 and 231.2615, F.S. These statutes remain in effect.

**Section 18.** Creates s. 229.0031, F.S., to define the powers and responsibilities of the K-20 Policy and Research Council.

- Its 11 members are appointed to 4-year staggered terms, with a student member to serve for 1 year. Each member will be approved by three members of the Florida Board of Education and confirmed by the Senate.
- It is administratively assigned to the Office of the Commissioner of Education, but it independently exercises its responsibilities.
- The council appoints its executive director.

The council will serve as a citizen board to provide state policymakers with independent policy analysis and recommendations. Specific types of information are required by the bill and include:

- A 3-year cyclic review of the activities of research centers and institutes supported with state funds. The purpose is to assess the return on the state's investment.
  - Currently, the state universities have about 450 centers and institutes, funded with over \$252 million in four categories:
    - SUS Appropriated Funds (\$7.6 million, 30.8 percent),
    - Contracts and Grants (\$146 million, 57.8 percent),
    - Fees for Service (20.7 million, 8.2 percent),
    - Private Funds and Other Funds, (\$8.1 million, 3.2 percent).
    - At Florida State University, the Leadership Board for Research and Public Service has a similar responsibility.
- An exploration of emerging issues, including successful and innovative educational programs.
- A master plan for the education system. Currently the Postsecondary Education Planning Commission produces a master plan, but it does not include education at the kindergarten – high school level. The plan will be submitted to the Commissioner, who will review and report annually on its implementation. The Commissioner may recommend revision of the Master Plan.
- Program evaluations as requested by the Legislature or the Florida Board of Education.

The council may initiate or respond to matters relating to any education sector, recommend improvement goals, and recommend rules concerning the planning and coordination of educational programs.

**Section 19.** Amends s. 229.004, F.S., the *Florida Board of Education*.

Gives the Florida Board of Education, along with its secretary, authority to enforce compliance with education policies and to issue guidelines for the development of legislative budget requests. Adds a reference to the newly created implementation process and the accountability system created in Section 23 of the bill and to conform terminology. In addition, this section provides that the members of the Florida Board of Education:

- Serve without compensation
- Do not necessarily serve part-time

**Section 20.** Amends s. 229.005, F.S., *Florida education governance officers*.

In the bill, the term “education governance officers” means the commissioner, the chancellors (of public schools, colleges and universities, and community colleges) and the executive director (of independent education). The bill gives these officials the additional title of “division vice president” to conform to the recommendation that the system should resemble a business as much as possible, instead of a bureaucracy. All of the governance officers are subject to confirmation by the Florida Board of Education.

This section of the bill deletes references to the appointed Commissioner of Education, since the elected commissioner serves until January 7, 2003. The commissioner is the chief executive officer of the seamless K-20 education system. He shares many of his responsibilities with the appointed secretary of the Florida Board of Education and is required to work with the board and its secretary to focus the work of the entire education system on achieving the goals established in section 23 of the bill.

The commissioner appoints the following education governance officers:

- The Chancellor of Public Schools
- The Executive Director of Independent Education

The secretary of the Florida Board of Education appoints the following education governance officers:

- The Chancellor of Colleges and Universities
- The Chancellor of Community Colleges

**Section 21.** Amends s. 229.006, F.S., *Education Governance Reorganization Transition Task Force*. Updates its responsibilities and deletes obsolete due dates. The bill assigns a final report to the task force, due March 1, 2003, to report the status of full implementation of the “seamless K-20 education system.”

This section also gives the Education Governance Reorganization Transition Task Force authority to suspend any implementation activity of the Florida Board of Education, the commissioner, or the secretary of the Florida Board of Education. By majority vote and report to the State Board of Education, the task force can suspend an activity. Only the State Board of Education can override this process.

**Section 22.** Creates s. 229.0061, F.S., *Florida’s K-20 education system; guidelines for implementation; guidelines for structure, functions and organization*. Some key provisions are:

- The Florida Board of Education may appoint committees to assist it or its secretary.
- Members of the Florida Board of Education are to focus on high-level policy decisions. The implication is that the day-to-day operational decisions will be delegated to staff.
- The bill acknowledges the importance of a technology plan based on common data definitions. The implication is not necessarily that definitions of terms such as “full-time-equivalent” must be identical, but that the set of data definitions be common throughout the system. For instance, a full-time-equivalent student at a university will be defined by a number of semester credit hours, and a full-time-equivalent student in a short training course will be defined by a number of clock hours, but the definitions will be common to the system.

The bill assigns levels of responsibility to the organizational units, including the Legislature, the Florida Board of Education, the education governance officers, and the local and regional boards. The Florida Board of Education has 10 responsibilities, including the duty to:

- Enforce education policies and goals.
- Recommend the education budget and authorize resources. The bill stipulates that the budget must include a multi-year plan for projects that will require state funding for more than 1 year.
- Adopt education plans.
- Enforce accountability standards and measures.
- Assess data to monitor and report performance.
- Assist and intervene when needed.
- Provide information. This provision is to assure information currently residing in the databases of the State Board of Community Colleges and the state-level Board of Regents will not be affected. This data is essential for administration, evaluation, and research conducted by the state and federal governments.
- Establish the mission of each public university, college, and community college. Currently the university missions are established by the universities and by rules and guidelines of the state-level Board of Regents.
- Approve new degree programs above the master’s degree level.
- Approve new undergraduate medical education programs or colleges, new graduate medical education programs, and Programs in Medical Sciences (PIMS) that are partnerships between two or more public higher education institutions or between public and private higher education institutions.

The bill establishes the duties of the Commissioner and requires the statewide functions to be located in his office. The duties include proposing action on issues before the board and for enforcing compliance with the mission and goals of the system. The statewide functions are also listed in s. 229.003, F.S., amended by Section 3 of the bill. The functions include:

Assessment and Accountability	Communications	Education Data Warehouse
Education Technology	Legal	Access and Opportunity
Strategic Planning & Budget Development	Data Management	Student Financial Assistance
General Administration	Personnel	Research & Development
Workforce and Economic Development;	Inspector General	Educational Facilities

The Chancellors and Executive Director of the divisions within the department are called vice presidents as well and have supervisory and administrative duties common to current division directors, and the following additional powers:

- Evaluate the performance of each education institution under the division and report widely the results of the evaluation.
- Direct governing boards to take corrective action to improve unsatisfactory performance. These directions will be pursuant to law and rules of the Florida Board of Education, so as to avoid apprehension in the field that this authority might lead to micromanaement.
- Direct and oversee the accountability system.

The community college boards of trustees, the university boards of trustees, and school boards will:

- Develop the budget and strategic plan.

- Measure and enforce performance.
- Report information that is timely and accurate.
- Report directly to the governance officers about education issues.
- Develop local policies and programs to meet needs of students, communities and area employers. These policies are to be within law and rules of the Florida Board of Education. The boards have broad latitude.
- Hold presidents and appointed superintendents responsible for institution and school performance.

The presidents and superintendents will:

- Administer budgets and programs efficiently and effectively.
- Lead the agency to accomplish its mission and goals.
- Monitor education performance.
- Report financial and performance data.
- Link the evaluations of instructional staff with student performance.

**Section 23.** Creates s. 229.007, F.S., *Florida's K-20 education performance accountability system*. States legislative intent that the accountability system be implemented to assess the effectiveness of Florida's seamless K-20 education delivery system and provide answers to the following questions:

What is the public getting in return for funds it invests in education?

How is Florida's K-20 education system performing in terms of educating its students?

How are the major delivery sectors performing to promote student achievement?

How are individual schools and postsecondary education institutions performing their responsibility to educate their students as measured by how students are performing and how much they are learning?

The bill gives the following responsibilities:

- The Florida Board of Education is to recommend to the Legislature performance standards for the system as a whole.
- The Legislature is to establish system wide performance measures and standards.
- The measures and standards are to provide Floridians with information on how well the K-20 system educates its students.
- The performance measures and performance standards must be based primarily on student achievement.

In addition to allowing for additional performance measures to be identified by law or rule, the bill establishes the following mission, goals, and measures:

**Mission** - To increase the proficiency of all students within one seamless, efficient system, by providing them with the opportunity to expand their knowledge and skills through learning opportunities and research valued by students, parents, and communities, and to maintain an accountability system that measures student progress toward the following goals:

- Highest student achievement, as measured by:

- Student FCAT performance and annual learning gains; the number and percentage of schools that improve at least one school performance grade designation or maintain a school performance grade designation of "A" pursuant to s. 229.57, F.S., graduation or completion rates at all learning levels; and other measures identified in law or rule.
- Seamless articulation and maximum access, as measured by:
  - The percentage of students who demonstrate readiness for the educational level they are entering, from kindergarten through postsecondary education and into the workforce;
  - The number and percentage of students needing remediation;
  - The percentage of Floridians who complete associate, baccalaureate, professional, and postgraduate degrees;
  - The number and percentage of credits that articulate;<sup>7</sup>
  - The extent to which each set of exit-point requirements matches the next set of entrance-point requirements.
- Skilled workforce and economic development, as measured by:
  - The number and percentage of graduates employed in their areas of preparation;
  - The percentage of Floridians with high school diplomas and postsecondary education credentials;
  - The percentage of business and community members who find that Florida's graduates possess the skills they need.
- Quality efficient services, as measured by:
  - Cost per completer or graduate;
  - Average cost per noncompleter at each educational level;
  - Cost disparity across institutions offering the same degrees;
  - The percentage of education customers at each educational level who are satisfied with the education provided.

**Section 24.** Creates s. 229.0072, F.S., *Reorganization implementation process.*

In this section, the bill reiterates the appointment processes and due dates and stipulates that the Florida Board of Education will operate under the direction of the State Board of Education until January 7, 2003. The bill provides all the necessary administrative authority and responsibility, plus the following additional responsibilities of the Florida Board of Education:

- Establish a technology plan with a month-by-month timeline and monthly progress reports. This requirement is the only one that is not to be subject to review and approval of the State Board of Education.
- Adopt rules.
  - Any rule not approved by the State Board of Education within 45 days takes effect.
- Prepare a coordinated K-20 budget for the Governor and Legislature. The budget must define the needs of the divisions within the department.
- Establish policies for the community colleges and universities to use in selecting presidents.
- Establish advisory boards.
- Advise the State Board of Education regarding the issuance of bonds.

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<sup>7</sup> The word "articulate" in this context means, "transfer to a higher level of education."

- Note: the issuance of bonds will be further addressed in the exercise of rewriting the Florida School Code, which this section of the bill requires the Florida Board of Education to recommend by January 1, 2002.
- Establish a work plan and time line for the orderly transition, including the devolution of appropriate duties to the university boards of trustees.
- Develop and review recommendations on issues of statewide importance, such as technology systems and facilities.
- By January 1, 2002, recommend a clear, concise new School Code comprised of the revision of chapters 228-246, F. S. This recommendation is to the Education Governance Reorganization Transition Task Force, the Governor, the commissioner, and the secretary of the Florida Board of Education

This section of the bill restates the responsibilities and duties of the elected commissioner as they relate to the Florida Board of Education and the reorganization process.

**Section 25.** Creates s. 229.0073, F.S., *Reorganization of the Department of Education*. The secretary's Education Reorganization Advisory Workgroup will provide oversight and direction as the department undergoes reorganization. The 10 members include:

- A member of the Senate and the House of Representatives
- The Commissioner of Education
- The secretary of the Florida Board of Education
- The Governor or his designee
- The chairman of the Education Governance Reorganization Transition Task Force
- The chancellors of the divisions of public schools, colleges and universities, community colleges, and the executive director of independent education

Both the task force and the State Board of Education have approval authority, and the task force, by majority vote, may veto any implementation activity (provided in section 21 of the bill).

Primarily, the new provisions in this section apply to the Division of Independent Education, the Office of Student Financial Assistance, the Office of Technology and Information Services, and the Office of Workforce and Economic Development.

The Office of Technology and Information Services is to:

- Develop a technology plan for the one system of education.
- Make budget recommendations to the commissioner.
- Provide data collection and management for the system.
- Coordinate services with other state, local, and private agencies.
- Develop a method to address the need for a statewide approach to planning and operations of library and information services to achieve a single K-20 education system library information portal and a unified higher education library management system.
- House the Florida Virtual High School (formerly the Florida On-Line High School).

The Division of Independent Education:

- Does not have jurisdiction over the state's 27 colleges that have the following 5 characteristics:
  - Accredited by SACS
  - Confer 4-year baccalaureate degrees
  - Located in Florida
  - Chartered in Florida
  - Not-for-profit.
- These are the requirements for the students at a college to be eligible for the William L. Boyd, IV, Florida Resident Access Grant, s. 240.605, F.S.
  - These colleges are under the jurisdiction of the Division of Colleges and Universities.
- Has the new responsibility to serve as the advocate for the identified institutions.
- The executive director will afford students and parents educational opportunities apart from the public system.
- Houses a new commission to oversee licensing of independent postsecondary institutions, consumer protection, and program improvement.
  - The commission is named and its membership specified in section 26 of the bill.
  - The commission has responsibility for all the duties and responsibilities in ch. 246, F.S., that relate to the State Board of Independent Colleges and Universities and the State Board of Nonpublic Career Education.

The Office of Workforce and Economic Development is to evaluate the role of each sector of education in Florida's workforce and economic development, assess the work skills and careers provided, and report the effectiveness of each sector to the Florida Board of Education. This responsibility addresses the dual delivery system provided by the state community colleges and the school district technical centers. The bill does not affect the dual delivery system, but requires this assessment of effectiveness.

The Office of Educational Facilities and SMART Schools Clearinghouse is to validate all educational plant surveys and verify Florida Inventory of School Houses (FISH) data. The office, staff, property, and functions of the SMART Schools Clearinghouse are transferred, by type two transfer from the Division of Management Services to this office.

The Office of Student Financial Assistance will provide access to and administer state and federal grants, scholarships, and loans pursuant to program criteria and eligibility requirements. In current law, each program assigns administrative duties either to the eligible institution or the department. These laws remain in effect.

**Section 26.** Creates s. 229.0074, F.S., *Division of Independent Education*. In addition to the responsibilities given to the division in section 11 of the bill, this section makes advocacy its primary mission: It is to serve as an advocate for the institutions and homes that provide education in nongovernmental settings. The advocacy includes necessary educational services and funds for families and schools in the independent sector.



Except for postsecondary institutions under the jurisdiction of the commission, the division has no regulatory authority. Rather, it is to guard against policies that might place regulation or mandates on the independent education community.

The executive director is to interact regularly with the providers, provide a mechanism to receive input from them in the development of articulation, strongly represent them in the department, and articulate their concerns in all relevant government settings and at all levels. This representation must be informed enough to reflect consensus or differences of opinion of the providers.

The specific duties are to establish a clearinghouse of information and to convey the best practices of independent schools for the benefit of public schools.

**Commission for Independent Education** - The Commission for Independent Education is administratively housed in the division. Its responsibilities combine those assigned in current law to the State Board of Independent Colleges and Universities (ss. 246.011-246.151, F.S.) and the State Board of Nonpublic Career Education (246.201-246.231, F.S.). Amendments to these laws will be proposed for the 2002 Legislative Session to combine the various requirements and clarify responsibilities.

Institutions under the jurisdiction of the current boards are classified in three ways: licensed, authorized, and exempt from licensure. All of the institutions under the jurisdiction of the State Board of Nonpublic Career Education are licensed. The terms “authorized” and “exempt from licensure” apply only to colleges under the jurisdiction of the State Board of Independent Colleges and Universities:

- A college is authorized without oversight by the board if all of its programs are religious.
- A college may be exempt in three categories:
  - Because of its accreditation
  - Because of its accreditation plus other requirements for eligibility for the Florida Resident Access Grant
  - Because of the acceptance of its students by accredited colleges (“credit-trading”)

In the bill, colleges that are eligible to enroll students who receive the Florida Resident Access Grant (FRAG) are removed from this oversight and included in the Division of Colleges and Universities. Of the total number of institutions under the new board’s jurisdiction, 609 are licensed, 103 authorized, and 24 exempt. The following chart shows the number of institutions currently in these categories:

Licensed		Authorized		Exempt	
Colleges*	69	Religious	103	Accredited <sup>Ψ</sup>	21
Schools <sup>§</sup>	540	Colleges <sup>Ψ</sup>		FRAG eligible <sup>Ψ</sup>	27
				Credit trading <sup>Ψ</sup>	2
<b>Total</b>	<b>609</b>	<b>Total</b>	<b>103</b>	<b>Total</b>	<b>50</b>

\*Licensed by State Board of Independent Colleges and Universities

§Licensed by State Board of Nonpublic Career Education

Ψ Not licensed

The bill establishes members for the commission and states that its membership is to be consistent with an independent rulemaking commission. In current law, that term is used to describe the State Board of Independent Colleges and Universities but not the State Board of Nonpublic Career Education.<sup>8</sup> Of the 10 members, 5 must be from colleges, 3 from schools, and 2 are lay members. The institutional representatives are:

- One from a regionally accredited college (licensed or exempt), currently 15 institutions.
- Two from a college accredited by a national accrediting agency (licensed or exempt), currently 39 institutions.
- One from one of the religious colleges or from one of the two credit-trading colleges, currently 105 institutions.
- Two from schools licensed and accredited by a national accrediting agency, currently 125 institutions.
- One from a non-accredited, licensed school, currently 408 institutions.
- One from a college that offers both degree-level programs and non-degree programs, currently 21 institutions.

No later than July 1, 2001, The Governor must appoint the new members to 3-year staggered terms.

**Section 27.** Creates s. 229.008, F.S., *Boards of trustees of the state universities*. In addition to the provisions elsewhere in the bill, this section provides that:

- The members receive no compensation but may be reimbursed for expenses.
- The Governor may remove a regent upon the recommendation of the Florida Board of Education or for cause.
- There is no state residency requirement, except that a majority may not be from any one county.
- Terms are 4 years, members may be reappointed once.
- Chairpersons serve 2 years and may be reselected for one additional consecutive term.
- A member who is absent three consecutive meetings may be removed.
- The university president is the executive officer and corporate secretary of the board, is responsible for the operation of the university, and sets the agenda for meetings in consultation with the chairperson.

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<sup>8</sup> Section 246.031, F.S.

As soon as they are appointed, the boards of trustees will commence professional orientation, training, and development activities. They must submit to the Florida Board of Education action plans and timelines for the devolution of duties to them.

**Section 28.** Creates s. 229.0081, F.S., *Powers and duties of university boards of trustees*. Notwithstanding the provisions of chapter 240, F.S., this section gives the boards of trustees authority to govern and set policy for the universities.

Beginning July 1, 2002, the boards of trustees will establish student fees, including matriculation fees, tuition, and other fees, within proviso in the General Appropriations Act and law. Matriculation fees and tuition may vary no more than 10 percent below and 15 percent above the established fee in the General Appropriations Act.

The boards of trustees will select, evaluate, and establish compensation for the presidents.

- The task force recommended that the selection of the presidents be exempt from the Sunshine Law, but that provision is not in the bill. According to Article I, s. 24(c) of the Florida Constitution, any bill that contains an exemption may not contain other substantive provisions.
- Section 10 of the bill requires the Florida Board of Education to establish policies for boards of trustees to use in selecting presidents.

In addition to the responsibilities stated in other sections, the boards of trustees will:

- Approve undergraduate and graduate degree programs up to and including the master's degree level.
  - The Florida Board of Education will adopt criteria.
- Deal with real property in accordance with provisions of the Florida Board of Education.
- Establish codes of student conduct.
- Evaluate the student judicial system using a committee of at least 50 percent students.
- Administer the personnel program.
- Govern admission of students.
- Maintain a personnel exchange program.
- Assure that any challenge grant program to be matched with state funds is consistent with the mission of each institution.
- Approve state matching funds for private contributions.
- Work with the other universities, community colleges, and district school boards.
- Authorize the rent or lease of parking facilities under certain conditions, notwithstanding s. 216.262(1), F.S., which states that a state agency may not provide or sell perquisites without the approval of the Division of Management Services.
- Implement the university facilities plan.
- Establish a procurement program for goods, materials, equipment, and services.
- Supervise faculty practice plans for the academic health science centers.
- Establish policies relating to credit and non-credit educational offerings.

The boards conduct the following activities in consultation with the President:

- Define and develop a strategic plan including goals and objectives.
- Provide for academic freedom and academic responsibility.
- Submit to the Chancellor a budget request including fixed capital outlay.

**Section 29.** Creates s. 229.0082, F.S., *university presidents; powers and duties*. In addition to provisions included elsewhere in the bill, this section requires each president to:

- Recommend rules consistent with the university mission.
- Prepare a budget request and operating budget.
- Administer personnel procedures.
- Govern admissions.
- Handle contracts under certain conditions that are in current law.
- Be custodian of university property.
- Establish the internal academic calendar
- Administer the athletics program.
- Recommend establishment and termination of programs at the undergraduate and master's degree level.
- Award degrees.
- Recommend a schedule for matriculation fees, tuition, and other fees.
- Approve internal procedures of student government organizations.
- Maintain pertinent data and information.

The bill gives authority for the president to adjust property records and dispose of state-owned tangible personal property. The university will retain money received from disposition of property and may use it to acquire property or for operating expenses.

**Section 30.** Notwithstanding any provision of law to the contrary, the Florida Partnership for School Readiness, prekindergarten program, migrant prekindergarten, Florida First Start program, subsidized child care programs, child care executive partnership program, and child care resource and referral program are transferred by a type two transfer to the Agency for Workforce Innovation (AWI). The agency must prepare a plan for distribution and expenditure of school readiness funds and submit the plan to the Governor and the Legislative Budget Commission for approval. Upon approval, the Legislative Budget Commission will authorize the transfer of funds to AWI for distribution in accordance with the school Readiness Act (s. 411.01, F.S.).

**Section 31.** Creates s. 228.0084, F.S., a statement that schools, school districts, nor the state may guarantee that students will avail themselves of the opportunities provided to attain high academic achievement.

**Section 32.** Amends s. 228.082, F.S., the *Florida On-Line High School*.

- Renames the high school the Florida Virtual High School. Houses it in the commissioner's office for administrative purposes. The Orange County District School Board is the temporary fiscal agent.
- The school will serve any student in the state who meets "the profile for success in the educational delivery context," especially:
  - Students who do not have access to higher-level courses.

- Students seeking the early award of a high school diploma.
- By FY 2003-2004, rather than being funded in the category of a grant-in-aid, the bill requires self-sufficiency through the Florida Education Finance Program.
- Requires the board of trustees to raise funds to support future endeavors.

**Section 33:** Requires an annual report that addresses the expenditures of indirect overhead generated from federal grants. The Division of Public Schools and the state's public colleges and universities will provide the report to the Governor and legislative leaders.

**Section 34.** Effective June 30, 2002, repeals s. 229.8065, F.S., which exempts the Knott Data Center and Projects, Contracts, and Grants Programs from s. 216.023, F.S., which requires an agency to submit a legislative budget request. On that date, those programs will be required to submit a budget request, and the Legislature will appropriate their funds.

**Section 35.** Amends s. 229.085, F.S., *Custody of educational funds*

Current law authorizes an employee to be omitted when personnel are counted against the limits imposed on an agency by the Appropriations Act, if the employee is paid from the Projects, Contracts, and Grants Trust Fund. In this section of the bill, that authority is eliminated. All employees working in an agency will count toward the limit, even if their salaries are paid by the trust fund.

**Section 36.** Repeals several parts of s. 235.217, F.S., the *SMART (Soundly Made, Accountable, Reasonable, and Thrifty) Schools Clearinghouse*. The repealed paragraphs and subsections relate to activities that have already been accomplished or that are no longer needed:

SMART Schools Clearinghouse Board	Effort Index Grant Program
Ocoee Demonstration Project	Frugal Construction Standards
Small County Assistance Program	

**Section 37.**

Repeals:

- Section 240.145, F.S., which relates to the Postsecondary Education Planning Commission.
- Section. 240.147, F.S., which relates to the appointment of an Executive Director of the community college system.
- Section. 240.209(2), F.S., which relates to the powers and duties of the commission.
- Section. 240.227, F.S., which relates to the Board of Regents appointment of a Chancellor of the State University System.
- Section. 240.307, F.S., which relates to powers and duties of university presidents.
- Section. 240.311(4), F.S., which relates to the appointment of members of the State Board of Community Colleges.

**Section 38.** Provides an effective date of upon becoming a law, except as otherwise provided.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

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

The bill provides on page 46, lines 2 and 3, that each board of trustees is transitioning from operating as a state agency to a “. . . body corporate employer without state agency status.” That these boards are not intended to have state agency status under the bill would not appear to exempt them from open government requirements. The courts apply a “totality of factors” test in determining if an entity is subject to public records and meetings requirements. In *News and Sun-Sentinel Company v. Schwab, Twitty & Hanser Architectural Group, Inc.*,<sup>9</sup> the Florida Supreme Court noted that the totality of factors test presents a mixed question of fact and law. The factors taken into consideration include: (1) the level of public funding; (2) commingling of funds; (3) whether the activity was conducted on publicly-owned property; (4) whether services contracted for are an integral part of the public agency’s chosen decision-making process; (5) whether the entity is performing a governmental function or a function which a public agency otherwise would perform; (6) the extent of the public agency’s involvement with, regulation of, or control over a private entity; (7) whether the private entity was created by a public agency; (8) Whether the public agency has a substantial financial interest in the private entity; and (9) for whose benefit the private entity is functioning. The boards would meet many of the provisions contained in the totality of factors test and, as a result, it would appear that open government requirements would apply.

**C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

The systematic changes in the governance structure could eventually affect the fees required of institutions to support governmental operations, such as the fees assessed independent postsecondary education institutions for licensing, but the effect cannot be determined at this time.

**B. Private Sector Impact:**

Beginning July 1, 2002, the bill authorizes the university boards of trustees to set student fees for university students, within proviso in the General Appropriations Act and law. The fees may vary as much as 15 percent above and 10 percent below the amount established in

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<sup>9</sup> 596 So.2d 1029 (Fla. 1992).

the General Appropriations Act. This authority could require some students to pay higher fees, and some lower.

Residents of Sarasota, Manatee, and Pinellas Counties will benefit from easier access to baccalaureate degree level education.

**C. Government Sector Impact:**

University boards of trustees may set student matriculation and tuition fees which vary as much as 15 percent above and 10 percent below the amount established in the General Appropriations Act. Each one percent increase in university matriculation fees will result in an additional \$900,000 being required for Bright Futures.

The bill changes many functions primarily to relocate, rather than to create, governmental duties. Some of the changes may generate additional costs to the state, but they cannot yet be predicted.

To become accredited, the University of South Florida Sarasota/Manatee and the University of South Florida St. Petersburg will need to make improvements, particularly in their library and faculty. The Senate’s proposed General Appropriations Act contains \$1,355,000 for the University of South Florida branch campuses in Sarasota and \$2,436,000 for the USF branch campus in St. Petersburg. An additional \$5 million is in the Senate’s proposed budget for “Targeted Baccalaureate Degrees”; from these funds \$500,000 is specifically for New College and \$1 million is for St. Petersburg College. Additional funds could be allocated from this appropriation for these improvements.

New College will also need to establish accreditation apart from the University of South Florida, but the cost will not be prohibitive because the academic programs, library, and faculty already meet accreditation standards. It is more complicated, however, to estimate the cost of severing the college from the facilities and services it now shares with the University of South Florida, plus the cost of continuing operation as a freestanding university.

In fiscal year 2000-2001, the University of South Florida reports that \$6.8 million of its budget is exclusively dedicated to New College for direct costs. That figure includes \$300,000 in scholarship funds. A separate budget item of \$928,000 is provided for scholarships for students at New College. These scholarship funds are crucial for New College to continue its unique mission.

The University of South Florida provides the following cost breakdown for 2000-2001 (in millions):

<b>Sarasota/Manatee</b>			<b>New College</b>			<b>Shared Services</b>		
<i>Direct</i>	<i>Indirect</i>	<i>Total</i>	<i>Direct</i>	<i>Indirect</i>	<i>Total</i>	<i>Direct</i>	<i>Indirect</i>	<i>Total</i>
\$3.988	\$0.960	\$4.949	\$6.782	\$1.110	\$7.892	\$4.849	\$0.440	\$5.289

If this bill becomes a law, and it is assumed that, in 2001-2002, all of the indirect costs for central services and the current operating budget for New College will be moved from the

University of South Florida's budget to New College, there will be a funds transfer of \$7.9 million direct and indirect funding and one-half of the shared services funding totaling \$2.6 million, for a grand total of \$10.5 million. New College has identified an additional \$5.6 million in recurring funding and \$2.0 million in non-recurring funding needed to begin the development of a free-standing institution. According to the Campus Dean, these funds will be needed to obtain an integrated computer system, fund anticipated enrollment growth, and address campus infrastructure needs.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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