

STORAGE NAME: h0353s1a.ree.doc
DATE: January 29, 2002

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
RULES, ETHICS & ELECTIONS
ANALYSIS**

BILL #: CS/HB 353
RELATING TO: Postsecondary Education
SPONSOR(S): Committee on Colleges & Universities and Representative Waters
TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) COLLEGES & UNIVERSITIES YEAS 12 NAYS 0
- (2) RULES, ETHICS & ELECTIONS YEAS 12 NAYS 0
- (3) COUNCIL FOR LIFELONG LEARNING
- (4)
- (5)

I. SUMMARY:

CS/HB 353 designates "*the student body president of the main campus*", rather than "a student body president", as a voting, ex-officio member of the board of trustees for each state university and clarifies that the Governor appoints the remaining 12 members of the 13-member board of trustees.

CS/HB 353 establishes a student government on the main campus of each state university and authorizes the establishment of student governments on any branch campus or center. CS/HB 353 requires that each student organization be organized and maintained by students and requires at a minimum a student body president, a legislative body, and a judiciary. CS/HB 353 also requires each student government to adopt internal procedures governing the operation and administration of student government, the execution of all other duties as prescribed to the student government by law, and the suspension and removal of an elected or appointed student government officer following the conviction of that officer of a felony. CS/HB 353 provides for a review process if a university president disapproves an internal procedure of a student government by providing that a member of the university board of trustees may request that the disapproved procedure be reviewed by the university board of trustees.

CS/HB 353 revises provisions relating to the removal or suspension of student government officers by repealing s. 240.136, F.S., which requires each state university *and community college* student government to establish a process to provide for the removal from office of a student government officer who has been *convicted of a violation of criminal law or found civilly liable for an act of moral turpitude*. CS/HB 353 requires each university student government to adopt procedures providing for the suspension and removal of an officer following a conviction of a felony. Unlike the provisions of s. 240.136, F.S., CS/HB 353 does not provide for an interim replacement procedure, nor does it require that the suspension be immediate and last for the duration of the judicial appeal process. There are no provisions in CS/HB 353 that address the suspension and removal of elected community college officers from office.

CS/HB 353 has an effective date of July 1, 2002.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

CS/HB 353 creates a student government on the main campus of each state university.

B. PRESENT SITUATION:

See SECTION-BY-SECTION ANALYSIS.

C. EFFECT OF PROPOSED CHANGES:

See SECTION-BY-SECTION ANALYSIS.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 229.003(4), F.S., relating to the composition of state university boards of trustees.

Present Situation:

Section 229.003(4), F.S., requires that the Governor appoint a 12-member board of trustees for each university. In addition to the 12-members, the statute requires that “a student body president” serve as a voting member of the board for each university.

Representatives of the Florida Student Association (FSA) feel that the current law is unclear as to which student body president will serve on each university board of trustees – some universities have more than one student body president, such as branch campus student body presidents.

Effect of Proposed Changes:

CS/HB 353 designates “the student body president of the main campus” of a state university, rather than “a student body president”, as a voting, ex-officio member of the board of trustees for each state university.

Section 2. Amends s. 229.008(1)(a), F.S., relating to the composition of state university boards of trustees.

Present Situation:

Section 229.008(1)(a), F.S., requires that the Governor appoint a 13-member board of trustees for each university in the State University System. Additionally, “a student body president” is to serve as a voting member of his or her university board of trustees.

Representatives of the Florida Student Association (FSA) feel that the current law is unclear as to which student body president will serve on each university board of trustees – some universities have more than one student body president, such as branch campus student body presidents. Additionally, FSA feels under the current s. 240.008, F.S., that it may be confusing as to whether a student body president is holding dual offices – the student body presidency and an appointed board position.

Effect of Proposed Changes:

CS/HB 353 requires “the student body president of the main campus” of a state university, rather than “a student body president”, serve as a voting, ex-officio member of the board of trustees for each state university and clarifies that the Governor appoints the remaining 12 members of the 13-member board of trustees. This clarifies which student body president is to serve on the board of trustees if a university has multiple student body presidents, such as branch campus student body presidents. CS/HB 353 also clarifies that the student body president is serving *ex-officio, as a result of his or her office*, not as an appointed member of the board of trustees.

Section 3. Creates s. 240.236, F.S., relating to university student governments.

Present Situation:

University Student Governments

A survey of student governments at state universities by the Florida House of Representatives found that an established student government exists at each of the state universities. At each university, the student government is composed of the executive branch, the legislative branch, and the judicial branch. Within each branch, there are elected and appointed positions. Although the basic structure is the same at all of the universities, the number and type of positions vary among the universities.

Section 240.235, F.S., grants each student government responsibility for the allocation and expenditure of student activity and service fee funds for purposes that benefit the student body in general. However, the president of the university may veto any line item or portion thereof within the budget submitted by the student government association legislative body. This section also requires the student body president to appoint students to a health committee and an athletic fee committee, each of which is comprised of at least half students and makes recommendations for increases in health fees and athletic fees. Additionally the student body president must also be consulted before any such fee increase may take effect.

Although current law recognizes the existence of student governments at state universities by assigning them duties such as those in s. 240.235, F.S., and providing for removal from office in s. 240.136, there are no specific statutory provisions providing for the establishment of such organizations.

Section 229.0082(15), F.S., grants the university presidents the power and duty to “[a]pprove the internal procedures of student governments...”

Removal of university and community college student government officers from office

Section 240.136, F.S., directs each state university *and community college* student government to establish a process in order to suspend and remove from office a student government officer who is *convicted of a violation of criminal law or found civilly liable for an act of moral turpitude*, after all available rights of judicial appeal have been exercised or waived or have expired. The process must:

- include a process for the immediate suspension of the student government official following the conviction or civil finding and during any appeal;
- provide for a temporary successor to the office pending completion of any appeal;
- include a procedure for registered students to petition for a referendum recommending to the student government association the removal of a student official from elected office. Students participating in the referendum must obtain a majority of votes in order to remove an elected officer from office.

The petition process for removal of a student government officer is similar to the petition process set forth in s. 100.361, F.S., for the removal of an elected official of a municipality or charter county. The grounds for removal are malfeasance, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform official duties, and conviction of a felony involving moral turpitude. Similarly, Section 7 of Article IV of the Florida Constitution provides that “by executive order stating the grounds and filed with the Secretary of State, the Governor may suspend from office any state officer not subject to impeachment, any officer of the militia not in the active service of the United States, or any county officer, for malfeasance, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform official duties, or commission of a felony, and may fill the office by appointment for the period of suspension.” The statutes additionally provide several instances where a professional license, such as a real estate license, may be revoked; a person’s employment contract may be dismissed (instructional personnel); a license, such as a license for a school licensed or exempt from licensure under chapter 246, may be denied for crimes or convictions of moral turpitude.

Although moral turpitude is not defined in statute, it is referenced at least 67 times in statute and once in the Florida Constitution. Black’s Law Dictionary, Abridged 7th Edition, defines moral turpitude as, “Conduct that is contrary to justice, honesty, or morality.”

Section 240.136, F.S., also calls for actions of a student government association under s. 240.136, F.S., to be subject to an appeal to the university or community college president or designee. It is unclear whether this provision provides an elected or appointed official an appeal process for being removed from office by a student referendum or for being suspended from office by the student government association for any action taken under a student government association’s processes established pursuant to this section.

Effect of Proposed Changes:

University Student Governments

CS/HB 353 creates section 240.236, F.S., which establishes a student government on the main campus of each state university and authorizes each university board of trustees to establish a student government on any branch campus or center. Each student government must:

- Be organized and maintained by students.
- Be composed of at least an elected student body president, an elected student legislative body, and a student judiciary. Interim vacancies and the student judiciary may be filled in a manner other than election in accordance with procedures set forth in the internal procedures of the student government.

- Adopt internal procedures governing the operation and administration of student government and the execution of all other duties as prescribed to the student government by law.
- Adopt internal procedures by which students may petition for a referendum to remove from office an elected or appointed officer of student government.
- Adopt internal procedures providing for the suspension and removal of an elected or appointed student government officer following the conviction of that officer of a felony.

Each student government is a part of the university at which it is established. CS/HB 353 provides for a review process if a university president disapproves an internal procedure of a student government by providing that a member of the university board of trustees may request that the disapproved procedure be reviewed by the university board of trustees.

Removal of university and community college student government officers from office

CS/HB 353 revises provisions relating to the removal or suspension of student government officers at state universities. CS/HB 353 requires that each student government adopt internal procedures by which students may petition for a referendum to remove from office an elected or appointed officer of the student government. The grounds for removal by petition are limited to: malfeasance, misfeasance, neglect of duty, incompetence, permanent inability to perform official duties, or conviction of a felony. The grounds for removal must be expressly stated in the petition. CS/HB 353 provides that any elected or appointed officer of the student government may be removed from office by the majority vote of students participating in a referendum. The referendum must be held within 60 days of the filing of the petition.

CS/HB 353 also requires each student government to adopt internal procedures for the suspension and removal of an elected or appointed student government officer following the conviction of that officer of a felony.

Unlike the provisions of s. 240.136, F.S., CS/HB 353 does not provide for an interim replacement procedure, nor does it require that the suspension be immediate and last for the duration of the judicial appeal process. CS/HB 353 references conviction of a felony rather than a criminal conviction or finding of civil liability for an act of moral turpitude. CS/HB 353 does not provide for an appeal process for any action taken under s. 240.236, F.S. There are no provisions in CS/HB 353 that address the suspension and removal of elected community college officers from office.

Section 4. Amends s. 240.5277(3), F.S., relating to the Board of Trustees for New College of Florida.

Present Situation:

Section 240.5277(3), F.S., requires that the Governor appoint 12 members to the New College Board of Trustees. In addition “a student body president” is to be a voting member of the board. New College does not have branch campuses and should only have one student body president.

Effect of Proposed Changes:

CS/HB 353 requires that “*the* student body president” of New College of Florida serve ex-officio as a voting member of the New College Board of Trustees.

Section 5. Repeals s. 240.136, F.S.

Present Situation:

Section 240.136, F.S., directs each state university *and community college* student government to establish a process in order to suspend and remove from office a student government officer who is *convicted of a violation of criminal law or found civilly liable for an act of moral turpitude*, after all available rights of judicial appeal have been exercised or waived or have expired. The process must:

- include a process for the immediate suspension of the student government official following the conviction or civil finding and during any appeal;
- provide for a temporary successor to the office pending completion of any appeal;
- include a procedure for registered students to petition for a referendum recommending to the student government association the removal of a student official from elected office. Students participating in the referendum must obtain a majority of votes in order to remove an elected officer from office.

Section 240.136, F.S., also calls for actions of a student government association under s. 240.136, F.S., to be subject to an appeal to the university or community college president or designee. It is unclear whether this provision provides an elected or appointed official an appeal process for being removed from office by a student referendum or for being suspended from office by the student government association for any action taken under a student government association's processes established pursuant to this section.

Effect of Proposed Changes:

CS/HB 353 revises provisions relating to the removal or suspension of student government officials by repealing s. 240.136, F.S. and providing for the removal or suspension of state university student government officials in s. 240.236, F.S., which is created in Section 3 of the committee substitute.

CS/HB 353 requires that each student government adopt internal procedures by which students may petition for a referendum to remove from office an elected or appointed officer of the student government. The grounds for removal by petition are limited to: malfeasance, misfeasance, neglect of duty, incompetence, permanent inability to perform official duties, or conviction of a felony. The grounds for removal must be expressly stated in the petition. CS/HB 353 provides that any elected or appointed officer of the student government may be removed from office by the majority vote of students participating in a referendum. The referendum must be held within 60 days of the filing of the petition.

CS/HB 353 also requires each student government to adopt internal procedures for the suspension and removal of an elected or appointed student government officer following the conviction of that officer of a felony.

Unlike the provisions of s. 240.136, F.S., CS/HB 353 does not provide for an interim replacement procedure, nor does it require that the suspension be immediate and last for the duration of the judicial appeal process. CS/HB 353 references conviction of a felony rather than a criminal conviction or finding of civil liability for an act of moral turpitude. CS/HB 353 does not provide for an appeal process for any action taken under s. 240.236, F.S. There are no provisions in CS/HB 353 that address the suspension and removal of elected community college officers from office.

Section 6. Establishes an effective date of July 1, 2002.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

CS/HB 353 does not appear to have a fiscal impact on state revenues.

2. Expenditures:

See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

CS/HB 353 does not appear to have a fiscal impact on local revenues.

2. Expenditures:

CS/HB 353 does not appear to have a fiscal impact on local expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

CS/HB 353 does not appear to have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

The Florida Student Association (FSA) reports that with the passage of this legislation the universities' student governments may need to revisit their constitutions, by-laws, statutes, and rules and procedures. However, FSA also reports, "processes are currently in place at each university to ensure these modifications are implemented." The costs related to modifying student government policies and procedures is anticipated to be minimal according to the FSA.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action which requires the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

CS/HB 353 does not appear to violate any constitutional provisions.

B. RULE-MAKING AUTHORITY:

CS/HB 353 permits each student government to adopt internal procedures governing the operation and administration of the student government; the election, appointment, removal and discipline of officers of the student government; and the execution of all other duties as prescribed to the student government by law.

CS/HB 353 directs each student government to develop a procedure for students to petition for a referendum to remove an elected student government officer from office.

CS/HB 353 directs each student government to develop procedures relating to the suspension and removal of an elected student government officer convicted of a felony.

CS/HB 353 repeals s. 240.136, F.S., which directs each state university and community college student government to establish a process relating to the removal of an officer from office that is convicted of a violation of criminal law or is found civilly liable for an act of moral turpitude.

C. OTHER COMMENTS:

There are no provisions in CS/HB 353 that address the suspension and removal of elected community college officers from office.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On January 9, 2002, the Committee on Colleges & Universities passed HB 353 as a committee substitute. CS/HB 353 does not transfer final approval of student government internal procedures from the university president to the university board of trustees as HB 353 did. CS/HB 353 instead provides for a review process if a president disapproves an internal procedure of a student government by providing that a member of the board of trustees may request that the disapproved procedure be reviewed by the board of trustees. CS/HB 353 does not require the student body president of the University of South Florida Sarasota/Manatee to be a member of the Campus Board of that institution as was required by HB 353.

VII. SIGNATURES:

COMMITTEE ON COLLEGES & UNIVERSITIES:

Prepared by:

Maria L. Eckard

Staff Director:

Betty H. Tilton, Ph. D.

AS REVISED BY THE COMMITTEE ON RULES, ETHICS & ELECTIONS:

Prepared by:

Emmett Mitchell, IV

Staff Director:

Richard Hixson