

1 A bill to be entitled
2 An act relating to state universities; creating
3 s. 1001.70, F.S.; establishing the Board of
4 Governors; providing membership and terms of
5 office; amending s. 1001.71, F.S.; revising
6 membership of university boards of trustees and
7 terms of office; amending s. 1009.24, F.S.;
8 authorizing a nonrefundable admissions deposit;
9 creating 1012.975, F.S.; defining the terms
10 "cash-equivalent compensation," "public funds,"
11 and "remuneration"; limiting the annual
12 remuneration of a state university president to
13 \$225,000 from public funds; providing certain
14 limitations on benefits for state university
15 presidents under the Florida Retirement System;
16 authorizing a party to provide cash or
17 cash-equivalent compensation in excess of
18 annual limit from nonpublic funds; eliminating
19 any state obligation to provide cash or
20 cash-equivalent compensation for state
21 university presidents under certain
22 circumstances; amending s. 17.076, F.S.;
23 providing an exception to a public records
24 exemption; amending s. 110.161, F.S.; including
25 employees of state universities in the
26 definition of "employee" for purposes of the
27 pretax benefits program; amending s. 112.215,
28 F.S.; including employees of state university
29 boards of trustees in the definition of
30 "employee" for purposes of the deferred
31 compensation program; amending s. 287.064,

1 F.S.; authorizing state universities to
2 continue to participate in the consolidated
3 equipment financing program; amending s.
4 440.38, F.S.; including state universities as
5 self-insurers for purposes of workers'
6 compensation; amending s. 1001.74, F.S.; adding
7 a cross-reference relating to pretax benefits
8 for state university employees; amending s.
9 1009.21, F.S.; revising provisions relating to
10 determination of resident status for tuition
11 purposes; providing for reclassification;
12 creating s. 1010.10, F.S.; creating the Florida
13 Uniform Management of Institutional Funds Act;
14 providing definitions; providing for
15 expenditure of endowment funds by a governing
16 board; providing for a standard of conduct;
17 providing investment authority; providing for
18 delegation of investment management; providing
19 for investment costs; providing for uniformity
20 of application and construction; amending s.
21 1011.94, F.S., relating to the Trust Fund for
22 University Major Gifts; revising provisions
23 relating to use of proceeds; replacing
24 references to State Board of Education with
25 Board of Governors; providing limitations on
26 matching funds; providing for construction of
27 the act in pari materia with laws enacted
28 during the Regular Session of the Legislature;
29 providing an effective date.

30
31 Be It Enacted by the Legislature of the State of Florida:

1 Section 1. Section 1001.70, Florida Statutes, is
2 created to read:

3 1001.70 Board of Governors.--Pursuant to s. 7(d), Art.
4 IX of the State Constitution, the Board of Governors is
5 established as a body corporate comprised of 17 members as
6 follows: 14 citizen members appointed by the Governor subject
7 to confirmation by the Senate; the Commissioner of Education;
8 the chair of the advisory council of faculty senates or the
9 equivalent; and the president of the Florida student
10 association or the equivalent. The appointed members shall
11 serve staggered 7-year terms. In order to achieve staggered
12 terms, beginning July 1, 2003, of the initial appointments, 4
13 members shall serve 2-year terms, 5 members shall serve 3-year
14 terms, and 5 members shall serve 7-year terms.

15 Section 2. Section 1001.71, Florida Statutes, is
16 amended to read:

17 1001.71 University boards of trustees; membership.--

18 (1) Pursuant to s. 7(c), Art. IX of the State
19 Constitution, each local constituent university shall be
20 administered by a university board of trustees comprised of 13
21 members as follows: 6 citizen members appointed by the
22 Governor subject to confirmation by the Senate; 5 citizen
23 members appointed by the Board of Governors subject to
24 confirmation by the Senate; the chair of the faculty senate or
25 the equivalent; and the president of the student body of the
26 university. The appointed members shall serve staggered 5-year
27 terms. In order to achieve staggered terms, beginning July 1,
28 2003, of the initial appointments by the Governor, 2 members
29 shall serve 2-year terms, 3 members shall serve 3-year terms,
30 and 1 member shall serve a 5-year term and of the initial
31 appointments by the Board of Governors, 2 members shall serve

1 2-year terms, 2 members shall serve 3-year terms, and 1 member
2 shall serve a 5-year term.~~University boards of trustees shall~~
3 ~~be comprised of 12 members appointed by the Governor and~~
4 ~~confirmed by the Senate in the regular legislative session~~
5 ~~immediately following his or her appointment. In addition, the~~
6 ~~student body president elected on the main campus of the~~
7 ~~university pursuant to s. 1004.26 shall serve ex officio as a~~
8 ~~voting member of his or her university board of trustees.~~
9 There shall be no state residency requirement for university
10 board members, but the Governor and the Board of Governors
11 shall consider diversity and regional representation.

12 (2) Members of the boards of trustees shall receive no
13 compensation but may be reimbursed for travel and per diem
14 expenses as provided in s. 112.061.

15 ~~(3) The Governor may remove a trustee upon the~~
16 ~~recommendation of the State Board of Education, or for cause.~~

17 ~~(4) Boards of trustees' members shall be appointed for~~
18 ~~staggered 4-year terms, and may be reappointed for additional~~
19 ~~terms not to exceed 8 years of service.~~

20 (3)(5) Each board of trustees shall select its chair
21 and vice chair from the appointed members at its first regular
22 meeting after July 1. The chair shall serve for 2 years and
23 may be reselected for one additional consecutive term. The
24 duties of the chair shall include presiding at all meetings of
25 the board of trustees, calling special meetings of the board
26 of trustees, and attesting to actions of the board of
27 trustees, ~~and notifying the Governor in writing whenever a~~
28 ~~board member fails to attend three consecutive regular board~~
29 ~~meetings in any fiscal year, which failure may be grounds for~~
30 ~~removal.~~ The duty of the vice chair is to act as chair during
31 the absence or disability of the chair.

1 ~~(4)(6)~~ The university president shall serve as
2 executive officer and corporate secretary of the board of
3 trustees and shall be responsible to the board of trustees for
4 all operations of the university and for setting the agenda
5 for meetings of the board of trustees in consultation with the
6 chair.

7 Section 3. Subsection (13) of section 1009.24, Florida
8 Statutes, amended to read:

9 1009.24 State university student fees.--

10 (13) Each university board of trustees is authorized
11 to establish a nonrefundable admissions deposit for
12 undergraduate, graduate, and professional degree programs in
13 an amount not to exceed \$200. The admissions deposit shall be
14 imposed at the time of an applicant's acceptance to the
15 university and shall be applied toward tuition upon
16 enrollment. In the event the applicant does not enroll in the
17 university, the admissions deposit shall be deposited in an
18 auxiliary account of the university and used to expand
19 financial assistance, scholarships, and student academic and
20 career counseling services at the university. A university
21 board of trustees that establishes an admissions deposit
22 pursuant to this subsection must also adopt policies that
23 provide for the waiver of such deposit on the basis of
24 financial hardship.~~The board of trustees of the University of~~
25 ~~Florida is authorized to establish an admissions deposit fee~~
26 ~~for the University of Florida College of Dentistry in an~~
27 ~~amount not to exceed \$200.~~

28 Section 4. Section 1012.975, Florida Statutes, is
29 created to read:

30 1012.975 Remuneration of state university presidents;
31 limitations.--

1 (1) DEFINITIONS.--As used in this section, the term:

2 (a) "Cash-equivalent compensation" means any benefit
3 that may be assigned an equivalent cash value.

4 (b) "Public funds" means funds appropriated from the
5 General Revenue Fund, funds appropriated from state trust
6 funds, tuition and fees, or any funds from a state university
7 trust fund regardless of repository.

8 (c) "Remuneration" means salary, bonuses, and
9 cash-equivalent compensation paid to a state university
10 president by his or her employer for work performed, excluding
11 health insurance benefits and retirement benefits.

12 (2) LIMITATION ON COMPENSATION.--Notwithstanding any
13 other law, resolution, or rule to the contrary, a state
14 university president may not receive more than \$225,000 in
15 remuneration annually from public funds. Only compensation, as
16 such term is defined in s. 121.021(22), provided to a state
17 university president may be used in calculating benefits under
18 chapter 121.

19 (3) EXCEPTIONS.--This section does not prohibit any
20 party from providing cash or cash-equivalent compensation from
21 funds that are not public funds to a state university
22 president in excess of the limit in subsection (2). If a party
23 is unable or unwilling to fulfill an obligation to provide
24 cash or cash-equivalent compensation to a state university
25 president as permitted under this subsection, public funds may
26 not be used to fulfill such obligation.

27 Section 5. Subsection (5) of section 17.076, Florida
28 Statutes, is amended to read:

29 17.076 Direct deposit of funds.--

30 (5) All direct deposit records made prior to October
31 1, 1986, are exempt from the provisions of s. 119.07(1). With

1 respect to direct deposit records made on or after October 1,
2 1986, the names of the authorized financial institutions and
3 the account numbers of the beneficiaries are confidential and
4 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.
5 I of the State Constitution. Notwithstanding this exemption
6 and the provisions of s. 119.07(3)(dd), the department may
7 provide a state university, upon request, with that
8 university's employee or vendor direct deposit authorization
9 information on file with the department in order to
10 accommodate the transition to the university accounting
11 system. The state university shall maintain the
12 confidentiality of all such information provided by the
13 department.

14 Section 6. Subsection (2) of section 110.161, Florida
15 Statutes, is amended to read:

16 110.161 State employees; pretax benefits program.--

17 (2) As used in this section, "employee" means any
18 individual filling an authorized and established position in
19 the executive, legislative, or judicial branch of the state,
20 including the employees of the State Board of Administration
21 and state universities .

22 Section 7. Subsection (2) of section 112.215, Florida
23 Statutes, is amended to read:

24 112.215 Government employees; deferred compensation
25 program.--

26 (2) For the purposes of this section, the term
27 "employee" means any person, whether appointed, elected, or
28 under contract, providing services for the state; any state
29 agency or county or other political subdivision of the state;
30 any municipality; any state university board of trustees; or
31 any constitutional county officer under s. 1(d), Art. VIII of

1 the State Constitution for which compensation or statutory
2 fees are paid.

3 Section 8. Subsections (1) through (6) of section
4 287.064, Florida Statutes, are amended to read:

5 287.064 Consolidated financing of deferred-payment
6 purchases.--

7 (1) The Division of Bond Finance of the State Board of
8 Administration and the Comptroller shall plan and coordinate
9 deferred-payment purchases made by or on behalf of the state
10 or its agencies or by or on behalf of state universities or
11 state community colleges participating under this section
12 pursuant to s. 1001.74(5) or s. 1001.64(26), respectively. The
13 Division of Bond Finance shall negotiate and the Comptroller
14 shall execute agreements and contracts to establish master
15 equipment financing agreements for consolidated financing of
16 deferred-payment, installment sale, or lease purchases with a
17 financial institution or a consortium of financial
18 institutions. As used in this act, the term "deferred-payment"
19 includes installment sale and lease-purchase.

20 (a) The period during which equipment may be acquired
21 under any one master equipment financing agreement shall be
22 limited to not more than 3 years.

23 (b) Repayment of the whole or a part of the funds
24 drawn pursuant to the master equipment financing agreement may
25 continue beyond the period established pursuant to paragraph
26 (a).

27 (c) The interest rate component of any master
28 equipment financing agreement shall be deemed to comply with
29 the interest rate limitation imposed in s. 287.063 so long as
30 the interest rate component of every interagency,state
31 university, or community college agreement entered into under

1 such master equipment financing agreement complies with the
2 interest rate limitation imposed in s. 287.063. Such interest
3 rate limitation does not apply when the payment obligation
4 under the master equipment financing agreement is rated by a
5 nationally recognized rating service in any one of the three
6 highest classifications, which rating services and
7 classifications are determined pursuant to rules adopted by
8 the Comptroller.

9 (2) Unless specifically exempted by the Comptroller,
10 all deferred-payment purchases, including those made by a
11 state university or community college that is participating
12 under this section, shall be acquired by funding through
13 master equipment financing agreements. The Comptroller is
14 authorized to exempt any purchases from consolidated financing
15 when, in his or her judgment, alternative financing would be
16 cost-effective or otherwise beneficial to the state.

17 (3) The Comptroller may require agencies to enter into
18 interagency agreements and may require participating state
19 universities or community colleges to enter into systemwide
20 agreements for the purpose of carrying out the provisions of
21 this act.

22 (a) The term of any interagency or systemwide
23 agreement shall expire on June 30 of each fiscal year but
24 shall automatically be renewed annually subject to
25 appropriations and deferred-payment schedules. The period of
26 any interagency or systemwide agreement shall not exceed the
27 useful life of the equipment for which the agreement was made
28 as determined by the Comptroller.

29 (b) The interagency or systemwide agreements may
30 include, but are not limited to, equipment costs, terms, and a
31 pro rata share of program and issuance expenses.

1 (4) Each state university or community college may
2 choose to have its purchasing agreements involving
3 administrative and instructional materials consolidated under
4 this section.

5 (5) The Comptroller is authorized to automatically
6 debit each agency's or state university's funds and each
7 community college's portion of the Community College Program
8 Fund consistently with the deferred-payment schedules.

9 (6) There is created the Consolidated Payment Trust
10 Fund in the Comptroller's office for the purpose of
11 implementing the provisions of this act. All funds debited
12 from each agency, state university, and ~~each~~ community college
13 may be deposited in the trust fund and shall be used to meet
14 the financial obligations incurred pursuant to this act. Any
15 income from the investment of funds may be used to fund
16 administrative costs associated with this program.

17 Section 9. Subsection (6) of section 440.38, Florida
18 Statutes, is amended to read:

19 440.38 Security for compensation; insurance carriers
20 and self-insurers.--

21 (6) The state and its boards, bureaus, departments,
22 and agencies and all of its political subdivisions which
23 employ labor, and the state universities, shall be deemed
24 self-insurers under the terms of this chapter, unless they
25 elect to procure and maintain insurance to secure the benefits
26 of this chapter to their employees; and they are hereby
27 authorized to pay the premiums for such insurance.

28 Section 10. Subsection (19) of section 1001.74,
29 Florida Statutes, is amended to read:

30 1001.74 Powers and duties of university boards of
31 trustees.--

1 (19) Each board of trustees shall establish the
2 personnel program for all employees of the university,
3 including the president, pursuant to the provisions of chapter
4 1012 and, in accordance with rules and guidelines of the State
5 Board of Education, including: compensation and other
6 conditions of employment, recruitment and selection,
7 nonreappointment, standards for performance and conduct,
8 evaluation, benefits and hours of work, leave policies,
9 recognition and awards, inventions and works, travel, learning
10 opportunities, exchange programs, academic freedom and
11 responsibility, promotion, assignment, demotion, transfer,
12 tenure and permanent status, ethical obligations and conflicts
13 of interest, restrictive covenants, disciplinary actions,
14 complaints, appeals and grievance procedures, and separation
15 and termination from employment. The Department of Management
16 Services shall retain authority over state university
17 employees for programs established in ss. 110.123, 110.1232,
18 110.1234, ~~and~~ 110.1238, and 110.161 and in chapters 121, 122,
19 and 238.

20 Section 11. Paragraphs (a) and (b) of subsection (2)
21 of section 1009.21, Florida Statutes, are amended, and
22 paragraph (d) is added to said subsection, to read:

23 1009.21 Determination of resident status for tuition
24 purposes.--Students shall be classified as residents or
25 nonresidents for the purpose of assessing tuition in community
26 colleges and state universities.

27 (2)(a) To qualify as a resident for tuition purposes:

28 1. A person or, if that person is a dependent child,
29 his or her parent or parents must have established legal
30 residence in this state and must have maintained legal
31 residence in this state for at least 12 months immediately

1 prior to his or her initial enrollment at a Florida
2 postsecondary educational institution. For purposes of this
3 section, the term "initial enrollment" is defined as the first
4 day of class qualification.

5 2. Every applicant for admission to an institution of
6 higher education shall be required to make a statement as to
7 his or her length of residence in the state and, further,
8 shall establish that his or her presence or, if the applicant
9 is a dependent child, the presence of his or her parent or
10 parents in the state currently is, and during the requisite
11 12-month qualifying period was, for the purpose of maintaining
12 a bona fide domicile, rather than for the purpose of
13 maintaining a mere temporary residence or abode incident to
14 enrollment in an institution of higher education.

15 (b) However, with respect to a dependent child living
16 with an adult relative other than the child's parent, such
17 child may qualify as a resident for tuition purposes if the
18 adult relative is a legal resident who has maintained legal
19 residence in this state for at least 12 months immediately
20 prior to the child's initial enrollment at a Florida
21 postsecondary educational institution qualification, provided
22 the child has resided continuously with such relative for the
23 5 years immediately prior to the child's initial enrollment
24 qualification, during which time the adult relative has
25 exercised day-to-day care, supervision, and control of the
26 child.

27 (d) A person who is classified as a nonresident for
28 tuition purposes may become eligible for reclassification as a
29 resident for tuition purposes if that person, or if that
30 person is a dependent child, his or her parent, presents
31 documentation that supports permanent residency in this state,

1 such as documentation of permanent full-time employment for
2 the previous 12 months or the purchase of a home in this state
3 and residence therein for the prior 12 months.

4 Section 12. Effective upon this act becoming a law and
5 applicable retroactive to January 7, 2003, section 1010.10,
6 Florida Statutes, is created to read:

7 1010.10 Florida Uniform Management of Institutional
8 Funds Act.--

9 (1) SHORT TITLE.--This section may be cited as the
10 "Florida Uniform Management of Institutional Funds Act."

11 (2) DEFINITIONS.--As used in this section, the term:

12 (a) "Endowment fund" means an institutional fund, or
13 any part thereof, not wholly expendable by the institution on
14 a current basis under the terms of the applicable gift
15 instrument.

16 (b) "Governing board" means the body responsible for
17 the management of an institution or of an institutional fund.

18 (c) "Institution" means an incorporated or
19 unincorporated organization organized and operated exclusively
20 for the advancement of educational purposes, or a governmental
21 entity to the extent that it holds funds exclusively for
22 educational purposes.

23 (d) "Institutional fund" means a fund held by an
24 institution for its exclusive use, benefit, or purposes. The
25 term excludes a fund held for an institution by a trustee that
26 is not an institution. The term also excludes a fund in which
27 a beneficiary that is not an institution has an interest,
28 other than possible rights that could arise upon violation or
29 failure of the purposes of the fund.

30 (e) "Instrument" means a will; deed; grant;
31 conveyance; agreement; memorandum; electronic record; writing;

1 or other governing document, including the terms of any
2 institutional solicitations from which an institutional fund
3 resulted, under which property is transferred to or held by an
4 institution as an institutional fund.

5 (3) EXPENDITURE OF ENDOWMENT FUNDS.--

6 (a) A governing board may expend so much of an
7 endowment fund as the governing board determines to be prudent
8 for the uses and purposes for which the endowment fund is
9 established, consistent with the goal of conserving the
10 purchasing power of the endowment fund. In making its
11 determination the governing board shall use reasonable care,
12 skill, and caution in considering the following:

- 13 1. The purposes of the institution;
- 14 2. The intent of the donors of the endowment fund;
- 15 3. The terms of the applicable instrument;
- 16 4. The long-term and short-term needs of the
17 institution in carrying out its purposes;
- 18 5. The general economic conditions;
- 19 6. The possible effect of inflation or deflation;
- 20 7. The other resources of the institution; and
- 21 8. Perpetuation of the endowment.

22
23 Expenditures made under this paragraph will be considered
24 prudent if the amount expended is consistent with the goal of
25 preserving the purchasing power of the endowment fund.

26 (b) A restriction upon the expenditure of an endowment
27 fund may not be implied from a designation of a gift as an
28 endowment or from a direction or authorization in the
29 instrument to use only "income," "interest," "dividends," or
30 "rents, issues or profits," or "to preserve the principal
31 intact," or words of similar import.

1 (c) The provisions of paragraph (a) shall not apply to
2 instruments if the instrument so indicates by stating, "I
3 direct that the expenditure provision of paragraph (a) of
4 subsection (3) of the Florida Uniform Management of
5 Institutional Funds Act not apply to this gift" or words of
6 similar import.

7 (d) This subsection does not limit the authority of a
8 governing board to expend funds as permitted under other law,
9 the terms of the instrument, or the charter of the
10 institution.

11 (e) Except as otherwise provided, this subsection
12 applies to instruments executed or in effect before or after
13 the effective date of this section.

14 (4) STANDARD OF CONDUCT.--

15 (a) Members of a governing board shall invest and
16 manage an institutional fund as a prudent investor would, by
17 considering the purposes, distribution requirements, and other
18 circumstances of the fund. In satisfying this standard, the
19 governing board shall exercise reasonable care, skill, and
20 caution.

21 (b) A governing board's investment and management
22 decisions about individual assets shall be made not in
23 isolation but in the context of the institutional fund's
24 portfolio of investments as a whole and as a part of an
25 overall investment strategy that provides risk and return
26 objectives reasonably suited to the fund and to the
27 institution.

28 (c) Among circumstances that a governing board shall
29 consider are:

30 1. Long-term and short-term needs of the institution
31 in carrying out its purposes;

- 1 2. Its present and anticipated financial resources;
2 3. General economic conditions;
3 4. The possible effect of inflation or deflation;
4 5. The expected tax consequences, if any, of
5 investment decisions or strategies;
6 6. The role that each investment or course of action
7 plays within the overall investment portfolio of the
8 institutional fund;
9 7. The expected total return from income and the
10 appreciation of its investments;
11 8. Other resources of the institution;
12 9. The needs of the institution and the institutional
13 fund for liquidity, regularity of income, and preservation or
14 appreciation of capital; and
15 10. An asset's special relationship or special value,
16 if any, to the purposes of the applicable gift instrument or
17 to the institution.
18 (d) A governing board shall make a reasonable effort
19 to verify the facts relevant to the investment and management
20 of institutional fund assets.
21 (e) A governing board shall diversify the investments
22 of an institutional fund unless the board reasonably
23 determines that, because of special circumstances, the
24 purposes of the fund are better served without diversifying.
25 (f) A governing board shall invest and manage the
26 assets of an institutional fund solely in the interest of the
27 institution.
28 (5) INVESTMENT AUTHORITY.--In addition to an
29 investment otherwise authorized by law or by the applicable
30 gift instrument, and without restriction to investments a
31 fiduciary may make, the governing board, subject to any

1 specific limitations in the applicable gift instrument or in
2 the applicable law, other than law relating to investments by
3 a fiduciary:

4 (a) Within a reasonable time after receiving property,
5 shall review the property and make and implement decisions
6 concerning the retention and disposition of the assets, in
7 order to bring the portfolio of the institutional fund into
8 compliance with the purposes, terms, distribution
9 requirements, and other circumstances of the institution, and
10 with the requirements of this section;

11 (b) May invest in any kind of property or type of
12 investment consistent with the standards of this section;

13 (c) May include all or any part of an institutional
14 fund in any pooled or common fund maintained by the
15 institution; and

16 (d) May invest all or any part of the institutional
17 fund in any other pooled or common fund available for
18 investment, including shares or interests in regulated
19 investment companies, mutual funds, common trust funds,
20 investment partnerships, real estate investment trusts, or
21 similar organizations in which funds are commingled and
22 investment determinations are made by persons other than the
23 governing board.

24 (6) DELEGATION OF INVESTMENT MANAGEMENT.--

25 (a) Except as otherwise provided by applicable law
26 relating to governmental institutions or funds, a governing
27 board may delegate investment and management functions that a
28 prudent governing body could properly delegate under the
29 circumstances. A governing board shall exercise reasonable
30 care, skill, and caution in:

31 1. Selecting an agent;

1 2. Establishing the scope and terms of the delegation,
2 consistent with the purposes of the institutional fund; and

3 3. Periodically reviewing the agent's actions to
4 monitor the agent's performance and the agent's compliance
5 with the terms of the delegation.

6 (b) In performing a delegated function, an agent owes
7 a duty to the governing board to exercise reasonable care to
8 comply with the terms of the delegation.

9 (c) The members of a governing board who comply with
10 the requirements of paragraph (a) are not liable for the
11 decisions or actions of the agent to whom the function was
12 delegated.

13 (d) By accepting the delegation of an investment or
14 management function from a governing board of an institution
15 that is subject to the laws of this state, an agent submits to
16 the jurisdiction of the courts of this state in all actions
17 arising from the delegation.

18 (7) INVESTMENT COSTS.--In investing and managing trust
19 assets, a governing board may only incur costs that are
20 appropriate and reasonable in relation to the assets and the
21 purposes of the institution.

22 (8) RELEASE OF RESTRICTIONS ON USE OR INVESTMENT.--

23 (a) With the written consent of the donor, a governing
24 board may release, in whole or in part, a restriction imposed
25 by the applicable instrument on the use or investment of an
26 institutional fund.

27 (b) If written consent of the donor cannot be obtained
28 by reason of the donor's death, disability, unavailability, or
29 impossibility of identification, a governing board may
30 release, in whole or in part, a restriction imposed by the
31 applicable instrument on the use or investment of an

1 institutional fund if the fund has a total value of less than
2 \$100,000 and if the governing board, in its fiduciary
3 judgment, concludes that the value of the fund is insufficient
4 to justify the cost of administration as a separate
5 institutional fund.

6 (c) If written consent of the donor cannot be obtained
7 by reason of the donor's death, disability, unavailability, or
8 impossibility of identification, a governing board may apply
9 in the name of the institution to the circuit court of the
10 county in which the institution is located for release of a
11 restriction imposed by the applicable instrument on the use or
12 investment of an institutional fund. The Attorney General
13 shall be notified of the application and shall be given an
14 opportunity to be heard. If the court finds that the
15 restriction is unlawful, impracticable, impossible to achieve,
16 or wasteful, it may by order release the restriction in whole
17 or in part. A release under this subsection may not change an
18 endowment fund to a fund that is not an endowment fund.

19 (d) A release under this subsection may not allow a
20 fund to be used for purposes other than the educational
21 purposes of the institution affected.

22 (e) This subsection does not limit the application of
23 the doctrine of cy pres.

24 (9) UNIFORMITY OF APPLICATION AND CONSTRUCTION.--This
25 act shall be applied and construed so as to effectuate its
26 general purpose to make uniform the law with respect to the
27 subject of this act among those states which enact it.

28 Section 13. Section 1011.94, Florida Statutes, is
29 amended to read:

30 1011.94 Trust Fund for University Major Gifts.--
31

1 (1) There is established a Trust Fund for University
2 Major Gifts. The purpose of the trust fund is to enable each
3 university and New College to provide donors with an incentive
4 in the form of matching grants for donations for the
5 establishment of permanent endowments and sales tax exemption
6 matching funds received pursuant to s. 212.08(5)(j), which
7 must be invested, with the proceeds of the investment used to
8 support university priorities as established by the university
9 board of trustees ~~libraries and instruction and research~~
10 ~~programs, as defined by the State Board of Education.~~ All
11 funds appropriated for the challenge grants, new donors, major
12 gifts, sales tax exemption matching funds pursuant to s.
13 212.08(5)(j), or eminent scholars program must be deposited
14 into the trust fund and invested pursuant to s. 18.125 until
15 the Board of Governors ~~State Board of Education~~ allocates the
16 funds to universities to match private donations.
17 Notwithstanding s. 216.301 and pursuant to s. 216.351, any
18 undisbursed balance remaining in the trust fund and interest
19 income accruing to the portion of the trust fund which is not
20 matched and distributed to universities must remain in the
21 trust fund and be used to increase the total funds available
22 for challenge grants. Funds deposited in the trust fund for
23 the sales tax exemption matching program authorized in s.
24 212.08(5)(j), and interest earnings thereon, shall be
25 maintained in a separate account within the Trust Fund for
26 University Major Gifts, and may be used only to match
27 qualified sales tax exemptions that a certified business
28 designates for use by state universities and community
29 colleges to support research and development projects
30 requested by the certified business. The Board of Governors
31 ~~State Board of Education~~ may authorize any university to

1 encumber the state matching portion of a challenge grant from
2 funds available under s. 1011.45.

3 (2) The Board of Governors ~~State Board of Education~~
4 shall specify the process for submission, documentation, and
5 approval of requests for matching funds, accountability for
6 endowments and proceeds of endowments, allocations to
7 universities, restrictions on the use of the proceeds from
8 endowments, and criteria used in determining the value of
9 donations.

10 (3)(a) The Board of Governors ~~State Board of Education~~
11 shall allocate the amount appropriated to the trust fund to
12 each university and New College based on the amount of the
13 donation and the restrictions applied to the donation.

14 (b) Donations for a specific purpose must be matched
15 in the following manner:

16 1. Each university that raises at least \$100,000 but
17 no more than \$599,999 from a private source must receive a
18 matching grant equal to 50 percent of the private
19 contribution.

20 2. Each university that raises a contribution of at
21 least \$600,000 but no more than \$1 million from a private
22 source must receive a matching grant equal to 70 percent of
23 the private contribution.

24 3. Each university that raises a contribution in
25 excess of \$1 million but no more than \$1.5 million from a
26 private source must receive a matching grant equal to 75
27 percent of the private contribution.

28 4. Each university that raises a contribution in
29 excess of \$1.5 million but no more than \$2 million from a
30 private source must receive a matching grant equal to 80
31 percent of the private contribution.

1 5. Each university that raises a contribution in
2 excess of \$2 million from a private source must receive a
3 matching grant equal to 100 percent of the private
4 contribution.

5 6. The amount of matching funds used to match a single
6 gift in any given year shall be limited to \$3 million. The
7 total amount of matching funds available for any single gift
8 shall be limited to \$15 million, to be distributed in equal
9 amounts of \$3 million per year over a period of 5 years.

10 (c) The Board of Governors ~~State Board of Education~~
11 shall encumber state matching funds for any pledged
12 contributions, pro rata, based on the requirements for state
13 matching funds as specified for the particular challenge grant
14 and the amount of the private donations actually received by
15 the university for the respective challenge grant.

16 (4) Matching funds may be provided for contributions
17 encumbered or pledged under the Eminent Scholars Act prior to
18 July 1, 1994, and for donations or pledges of any amount equal
19 to or in excess of the prescribed minimums which are pledged
20 for the purpose of this section.

21 (5)(a) Each university foundation and New College
22 Foundation shall establish a challenge grant account for each
23 challenge grant as a depository for private contributions and
24 state matching funds to be administered on behalf of the Board
25 of Governors ~~State Board of Education~~, the university, or New
26 College. State matching funds must be transferred to a
27 university foundation or New College Foundation upon
28 notification that the university or New College has received
29 and deposited the amount specified in this section in a
30 foundation challenge grant account.

31

1 (b) The foundation serving a university and New
2 College Foundation each has the responsibility for the
3 maintenance and investment of its challenge grant account and
4 for the administration of the program on behalf of the
5 university or New College, pursuant to procedures specified by
6 the Board of Governors ~~State Board of Education~~. Each
7 foundation shall include in its annual report to the Board of
8 Governors ~~State Board of Education~~ information concerning
9 collection and investment of matching gifts and donations and
10 investment of the account.

11 (c) A donation of at least \$600,000 and associated
12 state matching funds may be used to designate an Eminent
13 Scholar Endowed Chair pursuant to procedures specified by the
14 Board of Governors ~~State Board of Education~~.

15 (6) The donations, state matching funds, or proceeds
16 from endowments established under this section may not be
17 expended for the construction, renovation, or maintenance of
18 facilities or for the support of intercollegiate athletics.

19 Section 14. If any law that is amended by this act was
20 also amended by a law enacted at the 2003 Regular Session of
21 the Legislature, such laws shall be construed as if they had
22 been enacted during the same session of the Legislature, and
23 full effect should be given to each if that is possible.

24 Section 15. Except as otherwise expressly provided in
25 this act, this act shall take effect July 1, 2003.