

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 167 CS Postsecondary Education
SPONSOR(S): Mayfield and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 2245

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Community Colleges & Workforce Committee</u>	<u>8 Y, 0 N, w/CS</u>	<u>Thomas</u>	<u>Ashworth</u>
2) <u>Colleges & Universities Committee</u>	<u></u>	<u>Hatfield</u>	<u>Tilton</u>
3) <u>Education Appropriations Committee</u>	<u></u>	<u></u>	<u></u>
4) <u>Education Council</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

HB 167 CS revises provisions relating to community colleges offering baccalaureate degrees as follows:

- Such institutions remain under the authority of the State Board of Education (SBE) with respect to planning, coordination, oversight, and budgetary and accountability responsibilities.
- The boards of trustees of such institutions do not change.
- The boards of trustees of such institutions are authorized to set tuition and out-of-state fees consistent with law and proviso in the General Appropriations Act. However, the board of trustees can't increase tuition and out-of-state fees for upper division courses as provided in s. 1009.23(4), F.S. The bill deletes the requirement in current law that identical fees must be required for all community college resident students within a college who take a specific course regardless of the program in which they are enrolled.
- The community college must fund nonrecurring costs related to the initiation of a new program without new state appropriations unless special grant funds are designated by the SBE and subject to funding by the Legislature for that purpose. Students can't be accepted into the new baccalaureate program without recurring legislative appropriations.
- Procedures relating to site-determined baccalaureate degree access are revised to:
 - prescribe in law what must be included in formal agreements for delivery of baccalaureate degree programs by a regionally accredited college or university at a community college site; and
 - require that community college proposals to deliver baccalaureate degrees must document that the community college has notified in writing the accredited public and private colleges and universities in the community college district of its intent to seek approval to deliver the baccalaureate program. The colleges and universities have 90 days to submit in writing to the community college an alternative plan for providing the specified degree.

HB 167 CS presents several drafting issues. **See Drafting Comments.**

The fiscal impact of HB 167 CS is indeterminate. **See Fiscal Comments.**

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0167b.CU.doc
DATE: 3/20/2005

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill prescribes in law what must be included in formal agreements for delivery of baccalaureate degree programs by a regionally accredited college or university at a community college site. Current law authorizes such agreements but does not prescribe any minimum contents.

Ensure lower taxes — The bill requires that tuition and out-of-state fees for community colleges approved to offer baccalaureate degree programs must reflect that the community college has a less expensive cost structure than that of a state university. However, OPPAGA reports that thus far expenditures per credit hour for these programs have been higher than at universities. Much of the increased expense appears to be start up costs. **See Fiscal Comments.**

The bill deletes the requirement in current law that identical fees must be required for all community college resident students within a college who takes a specific course regardless of the program in which they are enrolled.

B. EFFECT OF PROPOSED CHANGES:

STATE BOARD OF EDUCATION

Present Situation

Section 1001.03, F.S., sets forth the general powers and duties of the State Board of Education (SBE), the chief implementing and coordinating body of public education in Florida. The SBE has a number of general duties including, but not limited to, the adoption of comprehensive long-range plans and short-range programs; the adoption of a coordinated K-20 budget; enforcement of system wide educational goals and policies; and the establishment of an effective information system.

With regard to the community colleges specifically, s.1001.03, F.S., requires the SBE to establish criteria for making recommendations for modifying district boundary lines for community colleges; establish criteria for making recommendations concerning all proposals for the establishment of additional centers or campuses; examine the annual administrative review of each community college; and prescribe in rule the minimum standards, definitions, and guidelines for community colleges to ensure quality of education, coordination among public postsecondary institutions, and efficient progress toward accomplishing the community college mission. At a minimum, these rules must address: personnel; contracting; program offering and classification; provisions for curriculum development, graduation requirements, college calendars, and program service areas; student admissions, conduct and discipline, non-classroom activities, and fees; budgeting; business and financial matters; student services; reports, surveys, and information systems.

Effect of Proposed Changes

HB 167 CS amends s. 1001.64, F.S., which relates to powers and duties of community college boards of trustees, to provide that community colleges authorized to grant baccalaureate degrees pursuant to s. 1007.33, F.S., remain under the authority of the SBE with respect to planning, coordination, oversight, and budgetary and accountability responsibilities. The extent to which this language encompasses all of the current authority of the SBE with regard to community colleges is not clear.

COMMUNITY COLLEGE BOARDS OF TRUSTEES

Present Situation

Section 1001.64, F.S., sets forth the powers and duties of community college boards of trustees. It vests each community college board of trustees with the responsibility to govern its respective institution and with the authority necessary for the proper operation and improvement thereof in accordance with rules of the SBE; requires each board to adopt rules establishing students performance standards for the award of degrees and certificates; requires each board of trustees to establish fees pursuant to ss. 1009.22, 1009.23, 1009.25, 1009.26, and 1009.27, F.S.; and requires each board to establish the personnel program for all employees of the community college.

Section 1001.65, F.S. authorizes each community college president to award degrees.

Section 1012.82, F.S. requires each full-time member of the teaching faculty at any community college who is paid wholly from funds appropriated from the community college program funds to teach a minimum of 15 classroom contact hours per week at such institution.

Effect of Proposed Changes

HB 167 CS amends s. 1001.64, F.S. to provide that the governing authority of the community college board of trustees includes serving as the governing board for purposes of granting baccalaureate degrees. Community colleges approved to offer baccalaureate degrees may continue to award degrees, diplomas, and certificates as authorized for the college, and in the name of the college, until the college receives any necessary changes to its accreditation.

HB 167 CS authorizes the boards to establish tuition and out-of state fees for approved baccalaureate programs, consistent with law and the General Appropriations Act (GAA); however, the board of trustees can't increase tuition and out-of-state fees for upper division courses as provided in s. 1009.23(4).

Each board is required to adopt a policy ensuring that faculty who teach upper-division courses adhere to the requirements of current law that require each full-time member of the teaching faculty who is paid wholly from funds appropriated from the community college program fund to teach a minimum of 15 classroom contact hours per week.

COMMUNITY COLLEGE MISSION

Present Situation

Section 1004.65, F.S., defines the primary mission and responsibilities of community colleges to be responding to community needs for postsecondary academic education and career degree education. Their mission and responsibilities include being responsible for: providing lower level undergraduate instruction and awarding associate degrees; preparing students directly for careers requiring less than baccalaureate degrees; providing student development services; promoting economic development within a college's respective district; and providing dual enrollment instruction.

A separate and secondary role for community colleges includes providing upper level instruction and awarding baccalaureate degrees as specifically authorized by law.

Effect of Proposed changes

HB 167 CS requires community colleges that are approved to offer baccalaureate degree programs to maintain their primary mission pursuant to current law and prohibits the college from terminating associate in arts (AA) or associate in science (AS) degree programs as a result of the authorization to offer baccalaureate degree programs. Similar provisions appear in current law in s. 1007.33(4), F.S.

HB 167 CS also amends s. 1004.65(9), F.S., authorizing community colleges to provide access to and award baccalaureate degrees in accordance with law.

SITE-DETERMINED BACCALAUREATE DEGREE ACCESS

Present Situation

Section 1007.33, F.S., expresses the intent of the Legislature to expand access to baccalaureate degree programs through the use of community colleges and sets forth two ways in which a community college may expand access to baccalaureate degree programs.

- (1) The community college may enter into a formal agreement with another postsecondary institution to provide undergraduate programs. Currently, there are no statutory requirements governing the contents of such an agreement.
- (2) The community college may submit a proposal to the SBE to deliver specified baccalaureate degree programs in the district to meet local workforce needs. The proposal must show a demand for the program, that there is an unmet need for graduates of the program, and that the community college has the facilities and academic resources to deliver the program. The proposal must be submitted to the Council for Education Policy Research and Improvement (CEPRI) for review and comment. Upon approval by the SBE, the college must seek the proper accreditation for the program. If the college wants to offer additional degree programs, it must go through the same evaluation cycle for each degree request. The present language prohibits a community college from terminating an associate degree program as a result of being authorized to offer a baccalaureate degree.

Effect of Proposed Changes

HB 167 CS revises current statutory provisions relating to site-determined baccalaureate degree access to require the following:

- The formal agreement for a public or private college or university offering a baccalaureate degree program at a community college must include:
 - A guarantee that students will be able to complete the program at the community college district.
 - A financial commitment to development, implementation and maintenance of the degree program.
 - A plan for faculty collaboration in the development and offering of curriculum. The curriculum must be developed and approved within 6 months after the agreement with the community college and college or university is signed.

The extent to which these requirements meet or exceed the provisions of current agreements between community colleges and their partners is not known.

- A community college proposal to deliver a specified baccalaureate program must document that the community college has notified in writing the accredited public and private colleges and universities in the community college district of its intent to seek approval to deliver the baccalaureate program. The colleges and universities have 90 days to submit in writing to the community college an alternative plan for providing the specified degree. This does not appear to require that the alternative plan be sent to the SBE nor taken into consideration when the SBE makes its decision.

COMMUNITY COLLEGE FEES

Present Situation

The provisions of s. 1009.23, F.S., apply to fees charged for college credit instruction leading to an associate in arts degree, an associate in applied science degree, or an associate in science degree and noncollege credit college-preparatory courses defined in s. 1004.02., F.S. Identical fees must be required for all community college resident students within a college who take a specific course, regardless of the program in which they are enrolled.

Section 1009.23, F.S., specifies the process for establishing community college student fees. The SBE must annually establish a fee schedule for advanced and professional, associate in science degree, and college-preparatory programs. In the absence of a provision to the contrary in the appropriations act, the fee schedule takes effect the following fall. A community college board of trustees must establish tuition and out-of-state fees which vary no more than 10 percent below and 15 percent above the fee schedule adopted by the SBE and the technology fee adopted by the community college board of trustees. There is no specific reference to tuition and fees for baccalaureate programs that have been approved by the SBE.

Effect of Proposed Changes

HB 167 CS adds a reference to baccalaureate degree programs authorized by the SBE pursuant to s. 1007.33, F.S., and directs the SBE to adopt a fee schedule for such programs.

The bill deletes the requirement in current law that identical fees must be required for all community college resident students within a college who take a specific course regardless of the program in which they are enrolled. The impact of this provision on the amount students will pay as well as revenues for the community college is not known.

HB 167 CS requires tuition and out-of-state fees for upper-division courses to reflect the less expensive cost structure of the community college. Therefore, community college boards of trustees must establish tuition and out-of-state fees for upper-division courses consistent with law and proviso language in the GAA; however, boards of trustees are prohibited from applying the discretionary range provided in s. 1009.23(4), F.S., to tuition and fees for upper division courses.

FINANCIAL SUPPORT FOR COMMUNITY COLLEGES

Present Situation

Section 1011.83, F.S., specifies how community colleges are to be funded. Funding for all workforce education programs provided by community colleges must be based on cost categories, performance output measures, and performance outcome measures. All other appropriations for operational activities of the community college are to be provided through appropriations to the Community College Program Fund (CCPF).

Effect of Proposed Changes

HB 167 CS amends current statutory provisions relating to community college funding to reference colleges that have received approval from the SBE to grant baccalaureate degrees. Community colleges must fund nonrecurring costs related to the initiation of a new program without new state appropriations unless special grant funds are designated by the SBE and subject to funding by the Legislature for that purpose. A new baccalaureate degree program is prohibited from accepting students without a recurring legislative appropriation for that purpose. A college authorized by the SBE to grant baccalaureate degrees under s. 1007.33, F.S., must receive recurring operational funding as follows:

- as a community college for its workforce education programs, lower-division-level college credit courses, and programs funded in the CCPF; and
- as a baccalaureate-degree-level institution for its upper-division-level courses and programs.

HB 167 CS caps state funding for baccalaureate programs at 85% of the amount per FTE in a comparable state university program. Currently, information to assess the adequacy or appropriateness of the 85% cap is not available.

HB 167 CS requires that funds appropriated for baccalaureate programs must be used for that purpose. Reporting and funding distinctions must be maintained between programs approved by the SBE and other baccalaureate degree programs involving traditional concurrent-use partnerships.

COMMUNITY COLLEGE LEGISLATIVE CAPITAL OUTLAY BUDGET

Present Situation

Section 1013.60, F.S., requires the Commissioner of Education to submit an integrated, comprehensive budget request for education facilities construction and fixed capital outlay needs for school districts, community colleges, and state universities pursuant to the provisions of s. 1013.64, F. S., and applicable provisions of ch. 216, F.S.

The boards of trustees of each community college and state university must submit to the commissioner a 3-year plan and provide an annual estimate of the funds that will be used by community colleges and state universities in developing their 3-year priority lists pursuant to s. 1013.64, F.S.

Section 1013.64, F.S., describes the process to be used for making allocations from the Public Education Capital Outlay (PECO) and Debt Service Trust Fund to the various boards for capital outlay projects. Funds for remodeling, maintenance, repairs, and site improvement for existing satisfactory facilities must be given priority consideration for appropriations allocated to the boards from the total amount appropriated.

Community college boards of trustees and university boards of trustees receive funds for projects based on a 3-year priority list which must be updated annually and submitted by the SBE to the Legislature prior to the legislative session. The list must reflect decisions by the SBE concerning program priorities that implement the statewide plan for program growth and quality improvement in education. No new construction project may be included on the first year of a 3-year priority list unless the educational specifications have been approved by the commissioner. Any new construction project requested in the first year of the 3-year priority list which is not funded by the Legislature must be carried forward to be listed first in developing the updated 3-year priority list for the subsequent year's capital outlay budget. Should the order of the priority of the projects change from year to year, a justification for such change must be included with the updated priority list.

Effect of Proposed Changes

HB 167 CS authorizes community colleges to request capital outlay funding from PECO funds for authorized baccalaureate degree programs. Such request must be included in the 3-year priority list for community colleges submitted by the SBE in its legislative budget request. Since PECO appropriations are limited to the amount of revenue generated for PECO, these additional requests for capital outlay funding may reduce the amount of capital outlay funding available to non-baccalaureate community college programs. This impact would increase as more baccalaureate programs are approved and enrollment grows. Enrollment in approved baccalaureate degree programs must be computed into the survey of need for facilities.

Currently, s. 1004.73(7) F.S., authorizes St. Petersburg College to request funding from the PECO Trust Fund as a community college and as a university. HB 167 CS notwithstanding s. 1004.73(7), F.S., thus requiring any community college, including St. Petersburg College, to submit any request for PECO funding as a community college. According to the Department of Education (DOE), this language permits St. Petersburg College to continue to request funding as a community college and as a state university.¹ If the intent is for St. Petersburg College to continue to be able to request PECO funds as a community college and as a state university, alternative language is recommended. **See Drafting Comments.**

C. SECTION DIRECTORY:

Section 1: Amends s. 1001.64, F.S., relating to powers and duties of community college boards of trustees.

Section 2: Amends s. 1004.65, F.S., relating to the mission and responsibilities of the community college, to require community colleges that are approved to offer baccalaureate degree programs to

¹ Florida Department of Education 2005 Legislative Bill Analysis, HB 167 CS, March 11, 2005, at 3-4.

maintain their primary mission and to prohibit the termination of associate programs as a result of the authorization to offer baccalaureate degree programs.

Section 3: Amends s. 1007.33, F.S., relating to site-determined baccalaureate degree access, to require that the formal agreement between a community college and a college or university to offer a baccalaureate degree program at a community college include certain provisions; to require that a community college provide colleges and universities in its district notice of its intent to offer baccalaureate degrees; and to allow colleges and universities to submit alternative proposals.

Section 4: Amends s. 1009.23, F.S., relating to community college student fees, to reference fees for baccalaureate degree programs that have been authorized by the SBE.

Section 5: Amends s. 1011.83, F.S., relating to financial support of community colleges, to revise funding provisions for community colleges that have been authorized by the SBE to offer baccalaureate degree programs.

Section 6: Amends s. 1013.60, F.S., relating to the legislative capital outlay budget request, allowing community college board of trustees to request funding for all authorized programs and requiring that enrollment in baccalaureate degree programs be computed into the survey of need for facilities.

Section 7: Provides an effective date of July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS.

2. Expenditures:

See FISCAL COMMENTS

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS

2. Expenditures:

See FISCAL COMMENTS

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See FISCAL COMMENTS

D. FISCAL COMMENTS:

The fiscal impact of the bill is indeterminate.

Community College Funding

HB 167 CS requires community colleges authorized to grant baccalaureate degrees to fund nonrecurring costs related to the initiation of a new program without new state appropriation unless special grant funds are designated by the SBE and subject to funding by the Legislature for that purpose.

HB 167 CS requires that a community college that is authorized to grant baccalaureate degrees under s. 1007.33, F.S., must receive recurring operational funding as follows:

- as a community college for its workforce development programs, lower-division-level college credit courses, and programs funded in the Community College Program Fund (CCPF); and

- as a baccalaureate-degree-level institution for its upper-division-level courses and programs.

State funding for baccalaureate programs is capped at 85% of the amount per FTE in a comparable state university program. Currently, information to assess the adequacy or appropriateness of the 85% cap is not available.

Funds appropriated for baccalaureate programs must be used for that purpose. Reporting and funding distinctions must be maintained between programs approved pursuant to s. 1007.33, F.S., and other baccalaureate degree programs involving traditional concurrent-use partnerships.

Office of Program Policy Analysis and Government Accountability (OPPAGA) Information

According to information from OPPAGA, the underlying assumption was that community colleges offering baccalaureate degree programs would be less expensive than university programs. However, thus far expenditures per credit hour have been higher than at universities (Exhibit 1). Much of the increased expense appears to be start up costs. If community colleges were able to attract enough students, the cost per credit hour may decrease. For smaller community colleges this could be problematic. For example, as indicated in Exhibit 1, Chipola has a higher cost possibly due to the smaller student population.

(Exhibit 1) Expenditures per credit hour are higher for Community College Baccalaureate Programs than for State University Programs, likely due to Start-up Costs.

Baccalaureate Degree Granting Institution	Expenditures Per Upper Division Credit Hour		
	2002-03 (Actual)	2003-04 (Actual)	2004-05 (Estimated)
State University Average	\$244	\$243	\$259
Community College Baccalaureate Program Average	\$339	\$373	\$290
• Chipola College	--	\$2,706	\$805
• Miami-Dade College	--	\$317	\$219
• St. Petersburg College	\$339	\$ 345	\$ 286

Source: OPPAGA analysis of Department of Education expenditure data.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require a city or county to spend funds or to take any action requiring expenditure of funds.

3. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

Alternative Plan

HB 167 CS requires the community college to notify the accredited public and private colleges and universities in its district and provides the colleges and universities with 90 days to submit an alternative plan to the community college. There does not appear to be any requirement for the community college to consider the alternative plan, for the community college to send the alternative plan to the SBE, or for the SBE to consider the alternative plan in its decision to approve or deny the community college proposal.

Notwithstanding

Section 1004.73(7), F.S., authorizes St. Petersburg College to request PECO funding as a community college or a state university. HB 167 CS amends s. 1013.60, F.S., and notwithstanding s. 1004.73(7), F.S., to require that a request for PECO funding by a community college with a baccalaureate degree program be submitted as a community college request for funding.

The notwithstanding of s. 1004.73(7), F.S., means St. Petersburg College will be required to request PECO funding as a community college and not as a state university.

According to the DOE, the notwithstanding clause of HB 167 CS does not override the provision in s. 1004.73(7), F.S., and permits St. Petersburg College to continue to request PECO funding as a community college and a university.² If this is the intent, the notwithstanding language in HB 167 CS, should be changed to “Except as otherwise provided in s. 1004.73, F.S.,”

Binding a Future Legislature

On lines 234-273, the CS states: “A community college that is authorized to grant baccalaureate degrees under s. 1007.33, F.S., must receive recurring operational funding.” This statement appears to be binding a future Legislature.

This bill requires that an agreement between a public or private university offering a baccalaureate degree program at a community college must **guarantee** that students will be able to complete the degree in the community college district.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 8, 2005, the Community Colleges and Workforce Committee adopted a strike-all amendment to the bill. HB 167 CS differs from the original bill as follows:

Powers and duties of community college boards of trustees

- HB 167 CS replaces the requirement that community colleges authorized to grant baccalaureate degrees remain under the authority of the SBE “in accordance with current statutory provisions relating to community colleges as defined in s. 1000.21, F.S.”, with a requirement that community colleges remain under the authority of the SBE “with respect to planning, coordination, oversight, and budgetary and accountability responsibilities.”

Tuition and Fees

- HB 167 CS prohibits the board of trustees for community colleges with approved baccalaureate degree programs from increasing tuition and out-of-state fees by the amount allowed pursuant to s. 1009.23(4) F.S. [Section 1009.23(4) F.S. allows community colleges to vary from 10 to 15 percent above the established fee schedule and tuition and fees.]

² Florida Department of Education 2005 Legislative Bill Analysis, HB 167 CS, March 11, 2005, at 3-4.

- HB 167 CS deletes requirements in current law for identical fees for all community college resident students within a college who take a specific course, regardless of the program in which they are enrolled.

Site-determined baccalaureate access

- With regard to proposals submitted by community colleges to deliver baccalaureate programs, HB 167 requires:
 - That baccalaureate degree programs meet critical workforce needs.
 - That the baccalaureate degree program must expand access to postsecondary education; enhance articulation; or provide the means for obtaining a baccalaureate degree in a manner that is most cost-efficient to students and the state.
 - The DOE to conduct a formal assessment of the proposal.
 - The SBE to review the formal assessment and approve, deny or require revisions to proposals.
 - The SBE approve only those proposals that are in full compliance and represent the most efficient and cost-effective manner to provide access to the degree.
 - Joint letters of agreement between the SBE and the community colleges offering approved baccalaureate degree programs.
 - The SBE adopt by rule, policies that address baccalaureate programs at community colleges, including reporting policies and performance accountability requirements.
 - community colleges to not offer graduate programs.

HB 167 CS removes all of those requirements.

- HB 167 CS does not strike the requirement in current law for proposals to be submitted to CEPRI.
- HB 167 CS requires that a formal agreement between a community college and a college or university offering a baccalaureate degree program at the community college must include:
 - A guarantee that students will be able to complete the program at the community college district.
 - A financial commitment to development, implementation and maintenance of the degree program.
 - A plan for faculty collaboration in the development and offering of curriculum. The curriculum must be developed and approved within 6 months after the agreement with the community college and college or university is signed.
- HB 167 CS requires that a proposal submitted by a community college to offer baccalaureate degrees must include:
 - Documentation that the community college has notified in writing the accredited public and private colleges and universities in the community college district of its intent to seek approval to deliver the baccalaureate program.
 - The colleges and universities have 90 days to submit in writing to the community college an alternative plan for providing the specified degree. This does not appear to require that the alternative plan be sent to the SBE.

Public Education Capital Outlay (PECO) Funding

- HB 167 CS authorizes community colleges to request capital outlay funding from PECO funds for authorized baccalaureate degree programs. Such request must be included in the 3-year priority list for community colleges submitted by the SBE in its legislative budget request. Enrollment in approved baccalaureate degree programs must be computed into

the survey of need for facilities. The CS notwithstanding the provision in s. 1004.73(7), F.S., which currently authorizes St. Petersburg College to request PECO funding as a community college and a state university. **See Drafting Issues** section of this analysis.