

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1501 Commission for Independent Education
SPONSOR(S): Patterson
TIED BILLS: **IDEN./SIM. BILLS:** SB 2536

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Postsecondary Education</u>	<u>8 Y, 0 N</u>	<u>Thomas</u>	<u>Tilton</u>
2) <u>Schools & Learning Council</u>	<u>11 Y, 3 N, As CS</u>	<u>Thomas</u>	<u>Cobb</u>
3) <u>Policy & Budget Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

CS/HB 1501 revises and increases the membership of the Commission for Independent Education (Commission) and removes the Department of Education (Department) as the administrative agent for the Commission.

The Commission will be housed within the Department for administrative purposes. The Department is required to provide the Commission certain support services. The Commission will not be subject to control, supervision, or direction by the Department.

The Commission is authorized to appoint, review, and fix the salary of the executive director who works at the pleasure of the Commission. The executive director will administer all activities necessary to fulfill the Commission's statutory responsibilities.

CS/HB 1501 authorizes the Commission to adopt rules pursuant to Chapter 120, F.S., to administer the provisions of Chapter 1005, F.S. The Commission is no longer required to submit its rules to the State Board of Education (SBE) for approval or disapproval.

CS/HB 1501 requires the Commission to prepare a legislative budget request and submit it through the State Board of Education for inclusion in the K-20 legislative budget request.

CS/HB 1501 directs the Chief Financial Officer to payout all moneys and funds as directed under Chapter 1005, F.S., upon vouchers approved by the executive director of the Commission for all lawful purposes necessary to administer Chapter 1005, F.S.

CS/HB 1501 removes the State Board of Education (SBE) as the recipient of the annual report by the Commission, replacing SBE with the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives.

The effective date of the bill is July 1, 2007.

See Fiscal Comments for the fiscal impact of the bill.

On April 4, 2007, the Schools and Learning Council adopted the bill as amended by the Committee on Postsecondary Education on March 27, 2006 and reported the bill favorably as a Council Substitute. (See IV Amendments/Council Substitute Changes)

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

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FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Background

The Commission for Independent Education (Commission) was created by the 2001 Legislature as a result of combining and transferring to a single board the powers and duties of the State Board of Independent Colleges and Universities and the State Board of Nonpublic Career Education. The Commission is responsible for all independent postsecondary education institutions with the exception of those independent nonprofit colleges or universities eligible to participate in the Florida Resident Access Grant (FRAG) program.¹

The Commission is comprised of seven members who are residents of this state:

- Two representatives of independent colleges or universities licensed by the Commission.
- Two representatives of independent, nondegree-granting schools licensed by the Commission.
- One member from a public school district or community college who is an administrator of career and technical education.
- One representative of a religious college that meets the criteria of s. 1005.0(1)(f), F.S., and thus can operate without governmental oversight.
- One lay member who is not affiliated with an independent postsecondary educational institution.

The members are appointed by the Governor and subject to confirmation by the Senate.

For the independent postsecondary institutions under its jurisdiction, the Commission:

- sets licensure standards.
- reviews applications for and issues licenses.
- monitors the consumer practices of these institutions.
- serves as a central agency for collecting and distributing information regarding these institutions.

Section 1005.35, F.S., directs the Commission to annually establish a fee schedule to generate, from fees, the amount of revenue appropriated for its operation and requires the Commission to submit its fee revenue through the Department of Education (Department) for deposit into the Institutional Assessment Trust Fund. The Institutional Assessment Trust Fund, established in s. 1010.83, F.S., consists of all fees and fines imposed upon nonpublic colleges and schools pursuant to this chapter and chapter 1005, including all fees collected from nonpublic colleges and schools for participation in the Student Protection Fund and the statewide course numbering system. The Department must maintain separate accounts for the operation of the Commission and the Student Protection Fund and the Department.

Effect of proposed changes

CS/HB 1501 revises and increases the number of members on the Commission from seven to nine by adding a member who is either an owner or employee of an independent non-accredited school

¹ Section 1005.21, F.S.

licensed by the Commission and a member who is either an owner or employee of an independent college or school licensed by the Commission.

CS/HB 1501 removes the Department as the administrative agent for the Commission. The Commission will be housed within the Department for administrative purposes. The Department is required to provide the following support services for the Commission: accounting, procurement, legal counsel, printing, computer and Internet support, personnel and human resources support, support for accountability initiatives, support for agency inspector general activities, and administrative support as needed for trust funds utilized for Commission activities. The Commission will not be subject to control, supervision, or direction by the Department, but will exercise independently all powers, duties and functions prescribed by law.

The Commission is authorized to appoint, review, and fix the salary of the executive director who works at the pleasure of the Commission. The duties of the executive director are to supervise, direct, coordinate, and administer all activities necessary to fulfill the Commission's statutory responsibilities and hire the staff necessary to assist in fulfilling these responsibilities. The Department is directed to provide the Commission sufficient salary rate and positions to enable the Commission to administer provisions of Chapter 1005, F.S.

CS/HB 1501 authorizes the Commission to adopt rules to administer the provisions of Chapter 1005, F.S. The Commission is no longer required to submit its rules to the State Board of Education for approval or disapproval.

CS/HB 1501 requires the Commission to prepare a legislative budget request and submit it through the State Board of Education for inclusion in the K-20 legislative budget request.

CS/HB 1501 directs the Chief Financial Officer to payout all moneys and funds as directed under Chapter 1005, F.S., upon vouchers approved by the executive director of the Commission for all lawful purposes necessary to administer Chapter 1005, F.S.

CS/HB 1501 removes the State Board of Education (SBE) as the recipient of the annual report by the Commission. The Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representative replace the SBE as recipients of the annual report.

CS/HB 1501 deletes an obsolete reference to the Council for Education Policy Research and Improvement.

C. SECTION DIRECTORY:

Section 1. Amends s. 1005.21, F.S., revising provisions relating to the powers and duties of the commission; revising and increasing commission membership; revising provisions relating to the administration of the commission; requiring the Department of Education to provide the commission certain support services; requiring the department to provide the commission certain salary rate and positions.

Section 2. Amends s. 1005.22, F.S., revising powers and duties of the commission relating to rulemaking, budget request, expenditure of funds and reporting.

Section 3. Provide an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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None.

2. Expenditures:

(See Fiscal Comments)

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

CS/HB 1501 requires the Department to provide certain support services for the Commission. The Department of Education reports that the Commission uses fee revenue (deposited into the Institutional Assessment Trust Fund) to pay its salaries and expenses related to legal counsel. The estimated 2006-2007 cost to the Department for administrative purposes is \$175,392 and includes the following services: grants management, budgeting, comptroller, personnel management, human relations, and technology. (See chart for details)²

**Department of Education
Commission for Independent Education (CIE)
Analysis of Pro-rated and Direct Costs**

	2006-07 CIE	Support Function FTE	CIE FTE/Support FTE	2006-07 Budgeted Expenditures	2006-07 Prorated Cost of Support to CIE
Chief Education Financial Officer	16.00	2,637.50	0.6066%	872,402	5,292
Grants Management Services	16.00	2,637.50	0.6066%	3,199,240	19,407
Office of K-12 Budgets	16.00	1,255.00	1.2749%	1,057,070	13,477
Office of the Comptroller	16.00	2,637.50	0.6066%	3,388,316	20,554
Office of General Services	16.00	1,255.00	1.2749%	1,880,820	23,979
Office of Personnel Mgt	16.00	2,637.50	0.6066%	821,348	4,982
Human Relations	16.00	2,637.50	0.6066%	350,183	2,124
Chief Technology Officer	16.00	2,637.50	0.6066%	14,107,679	85,577
Sub-total Prorated Costs*				25,677,058	175,392.00
Commission on Independent Education	16.00	16.00	100.0000%	3,448,643	3,448,643
General Counsel Position and Related Cost	0.50	0.50	100.0000%	47,113	47,113

² Department of Education Analysis of House Bill 1501
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Sub-total Direct Costs				3,495,756	3,495,756
Total Cost				29,172,814	3,671,148

*This total is used to reflect the administrative costs attributed to the Department of Education's budget because of support functions provided to the Commission for Independent Education. It is derived by applying the ratio of CIE employees to all full time equivalent employees of the department to the budgets of the offices that provide the listed support services.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

The bill does not appear to reduce the authority that municipalities or counties have to raise revenues in the aggregate.

This bill does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Commission is no longer required to submit its rules to the State Board of Education for approval or disapproval.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 27, 2007, the Committee on Postsecondary Education adopted a strike-all amendment to HB 1501.

The strike-all amendment retains these provisions from HB 1501:

- The Commission is housed within the Department of Education for administrative purposes only.
- The membership of the Commission is revised and increased.
- The Commission is authorized to appoint, review, and fix the salary of the executive director who works at the pleasure of the Commission.
- The Commission is no longer required to submit its rules to the State Board of Education for approval or disapproval.
- The executive director is directed to administer all activities necessary to fulfill the Commission's statutory responsibilities.
- An obsolete reference to the Council for Education Policy Research and Improvement is deleted.

- The State Board of Education (SBE) is removed as the recipient of the annual report by the Commission. The President of the Senate and the Speaker of the House of Representatives replace the SBE as recipients of the report.

The strike-all amendment differs from the original bill in the following ways:

- The amendment does not establish the Commission as a separate budget entity.
- The representative from a religious college that is not subject to governmental oversight is retained as a member of the Commission.
- The amendment includes one member, rather than two, who represents an independent college or school licensed by the Commission.
- The amendment requires the Department to provide the Commission sufficient salary rate and positions to enable the Commission to administer Chapter 1005, F.S.
- The amendment restores language relating to the payment of vouchers by the Chief Financial Officer.
- The amendment requires the Commission to prepare a legislative budget request and submit it through the SBE as part of the K-20 legislative budget request.
- The amendment includes the Executive Office of the Governor as a recipient of the Commission's annual report.

On April 4, the Schools and Learning Council adopted the bill as amended by the Committee on Postsecondary Education and reported the bill favorably as a Council Substitute.