

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Higher Education Committee

BILL: SB 1710

INTRODUCER: Senator Oelrich

SUBJECT: State University Student Fees

DATE: March 20, 2007

REVISED: 03/21/07

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harkey</u>	<u>Matthews</u>	<u>HE</u>	<u>Favorable</u>
2.	<u></u>	<u></u>	<u>HI</u>	<u></u>
3.	<u></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>
6.	<u></u>	<u></u>	<u></u>	<u></u>

I. Summary:

This bill authorizes the Board of Governors of the State University System to delegate to a university board of trustees the authority to establish a fee for an academic enhancement program. The fee is not covered by a Bright Futures Scholarship. The bill does not limit the fee.

This bill amends section 1009.24 of the Florida Statutes.

II. Present Situation:

Under s. 1009.24, F.S., all students enrolled in college credit programs at state universities must be charged fees except students who are exempt from fees or students whose fees are waived. Except as otherwise provided by law, undergraduate tuition must be established annually in the General Appropriations Act. The Board of Governors or the board's designee may establish tuition for graduate and professional programs.

A university board of trustees is authorized to collect an athletic fee, an activity and service fee, and a student health fee, and the sum of these three fees that a student is required to pay to register for a course must not exceed 40 percent of the tuition established in law or in the General Appropriations Act. A university board of trustees may collect a financial aid fee which may not exceed 5 percent of the tuition and out-of-state fee. Under s. 1009.24(7), F.S., the Capital Improvement Trust Fund Fee is established as \$2.44 per credit hour and the building fee is established at \$2.32 per credit hour per semester. The statute authorizes a university board of trustees to establish 18 other fees or fines for such things as library fines, copying, materials and supplies, and traffic and parking fines. The statute does not authorize an academic enhancement fee.

Both the Bright Futures Scholarship Program¹ and the Stanley G. Tate Florida Prepaid College Program² cover certain fees. According to the Department of Education, the Bright Futures Scholarship Program covers a fee if it is assessed to all students at the institution. The fees included in the Bright Futures Scholarship award are Health, Activity & Service, Athletic, Building & Capital Improvement, Financial Aid, Technology, Access/Transportation, and Lab.³

The Prepaid College Program university plan covers the registration fee for a specified number of undergraduate semester credit hours, not to exceed the average number of hours required for the conference of a baccalaureate degree.⁴ The student will pay the cost of any laboratory fee associated with enrollment in specific courses. The Florida Prepaid College Board may approve contracts for additional university fees delineated in s. 1009.24(8)-(11), F.S.⁵

This bill has been filed primarily at the request of the University of Florida to enable the university to fund its proposed Academic Enhancement Program. The program would lower student/faculty ratios and provide more academic advisors for undergraduate students. The university proposes to hire 200 additional undergraduate faculty members and 100 academic advisors as the program is phased in over 4 years. Each undergraduate student would be required to pay an additional fee of approximately \$500 per semester to support the Academic Enhancement Program. The university estimates that, when the program was fully implemented in 2010, the fee would generate approximately \$36 million annually.

At its November 16, 2006, meeting, the Board of Governors of the State University System heard a presentation from the University of Florida concerning the proposed academic enhancement program, and the board voted to request legislative authorization for the Board of Governors to delegate authority to a university board of trustees to implement a new student fee to support the program.

III. Effect of Proposed Changes:

This bill authorizes the Board of Governors of the State University System to delegate to a university board of trustees the authority to establish certain fees for academic enhancement. The bill exempts the fee from ss. 1009.53, 1009.534, 1009.535, and 1009.536, F.S., which govern the Florida Bright Futures Scholarship Program, Florida Academic Scholars Award, Florida Medallion Scholars award, and Florida Gold Seal Vocational Scholars award, respectively. Thus recipients of a Bright Futures Scholarship award would have to pay the fee; it would not be paid by the scholarship award.

The bill does not provide a specific exemption for the Stanley G. Tate Florida Prepaid College Program; however, the language of the bill amends section 1009.24, F. S., by establishing the program with a new fee under paragraph (12), which is not presently covered by the Prepaid

¹ ss. 1009.534-536, F.S.

² s. 1009.98, F.S.

³ Department of Education memorandum. OSFA-STATE:# 05-06:03. July 29, 2005.

⁴ In s. 1009.97(3)(g), F.S., *registration fee* is defined as the tuition fee, financial aid fee, building fee, and Capital Improvement Trust Fund fee.

⁵ These subsections establish the student activity and service fee, student health fee, and the athletic fee.

College tuition plan or under the Prepaid College local fee plan. If the academic enhancement fee were adopted by a university board of trustees, the Florida Prepaid College Board would have two options in relation to current contracts: not to cover the fee as part of the original contract and subject the board to possible litigation or to cover the fee at no additional charge to the student at an indeterminate cost to the board.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Opponents of the fee may challenge the imposition of the fee by alleging that the bill is an unlawful delegation of legislative authority under Article II, Section 3, of the State Constitution.

When the Legislature has authorized a university board of trustees to impose a fee, the Legislature has imposed a cap either on that particular fee, as with the financial aid fee, or on that fee relative to tuition, as with the athletic fee, activity and service fee, and student health fee. The academic enhancement fee authorized by this bill is not capped, thus giving a university board of trustees the authority to impose a fee of any amount. By authorizing an executive branch agency to impose an unlimited fee at a state university, it may be alleged that the Legislature is relinquishing its power to determine the cost of education at a public university in Florida. In *Askew v. Cross Key Waterways* (372 So.2d 913 (Fla. 1978)), the Florida Supreme Court addressed the issue of the constitutionality of legislative policy delegation:

...until the provisions of Article II, section 3 of the Florida Constitution are altered by the people we deem the doctrine of non delegation of legislative power to be viable in this State. Under this doctrine fundamental and primary policy decisions shall be made by members of the legislature who are elected to perform those tasks, and administration of legislative programs must be pursuant to some minimal standards and guidelines ascertainable by reference to the enactment establishing the program.⁶

This bill does not provide a standard, in the form of a limit or cap, for the academic enhancement fee.

⁶ *Askew v. Cross Key Waterways*, 372 So.2d 913, 925 (Fla. 1978).

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

None.

B. Private Sector Impact:

All undergraduate students at a state university which imposed an Academic Enhancement Fee would have to pay the fee. Students whose tuition and fees were completely paid or largely paid through a Bright Futures Scholarship award would incur the cost of the Academic Enhancement Fee if they attended an institution whose board of trustees imposed such a fee.

While the bill does not cap the fee, the University of Florida proposes a fee of \$500 per student per semester. Of the 34,646 undergraduates enrolled at the University of Florida in 2004-2005, 74 percent were recipients of a Bright Futures Scholarship. Of those Bright Futures recipients, 13,206 students received the Florida Academic Scholars award which paid tuition, fees, and \$600 for college-related expenses annually; 12,400 students received the Florida Medallion Scholars award which paid 75 percent of tuition and fees; 67 students received the Florida Gold Seal Vocational Scholars award which paid 75 percent of tuition and fees.

C. Government Sector Impact:

The bill does not limit the academic enhancement fee that a university board of trustees might impose. The University of Florida proposes assessing a fee of \$500 per semester and estimates that when fully implemented in 2010, the Academic Enhancement Fee would generate an additional \$36 million for the university annually.

According to the Board of Governors of the State University System, in 2004-05, there were 8,638 full-time, new undergraduates enrolled in one or both of the non-summer terms at the University of Florida, with a little over 4 percent of those enrolled full-time for only one of those two terms and therefore paying only \$500 in an academic year under this proposed program. The remaining 96 percent of full-time, new undergraduates enrolled both terms.

Therefore, with 8,263 students paying \$1000 (for a total of \$8,263,000) and 375 students paying \$500 (for a total of \$187,500), the total generated in the first year by this plan would be \$8,450,500.

If the new undergraduate enrollment remained constant in the next two years (i.e., without assuming enrollment growth), the additional funds generated in subsequent years would be \$16,901,000 in the second year the fee was assessed, and \$25,351,500 in the third year.

The Florida Prepaid College Board requested Ernst & Young, an independent accounting and actuary firm, to determine the fiscal impact the academic enhancement fee would

have on the Prepaid College Trust Fund if the Board is required to cover the fee for existing customers.

According to Ernst & Young, if the proposed \$500-per-semester academic enhancement fee is implemented statewide and the Board was required to pay the fee for existing customers, the liability would total \$1.450 billion. The actuarial reserve of the Prepaid College Trust Fund would be reduced from \$586 million to a negative \$864 million.

If the proposed \$500-per-semester academic enhancement fee is implemented only at the University of Florida and the Board is required to pay the fee for existing customers, the liability would total \$326 million. The actuarial reserve of the Prepaid College Trust Fund would be reduced from \$586 million to \$260 million.

If the proposed \$500-per-semester academic enhancement fee is implemented statewide and the Board included the fee in the price of contracts sold to prospective customers, the price of a university tuition plan would increase from \$11,717 to \$17,580, representing a 50 percent increase in contract prices over current year prices.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
