

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Higher Education Appropriations Committee

BILL: CS for SB 1762

INTRODUCER: Higher Education Appropriations and Senator Lynn

SUBJECT: Distance Learning

DATE: April 2, 2008

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
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| 1. | Bryant | Hamon | HI | Fav/CS |
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I. Summary:

The bill creates the Florida Distance Learning Consortium to advocate and facilitate access to distance learning¹ courses, degree programs, and resources offered by Florida’s public postsecondary education institutions. The Consortium is governed by a board with members appointed by the Governor subject to Senate confirmation. The bill also creates the Florida Higher Education Distance Learning Catalog as an interactive, web-based single point of access to the distance learning courses, degree programs, and resources offered by public postsecondary education institutions. The bill authorizes each community college and state university board of trustees to establish a distance learning course fee that may be assessed for courses listed in the Florida Higher Education Distance Learning Catalog. The amount of the distance learning course fee assessed to students classified as resident undergraduate students for purposes of tuition may not exceed 10 percent of tuition.

The bill amends the following sections of the Florida Statutes: 1009.23 and 1009.24.

The bill creates the following sections of the Florida Statutes: 1004.09 and 1004.091.

¹ Both the State University System and the Community College System define a distance learning course as a course that is conducted without scheduled space or time requirements for 75% or more of planned instructional activities.

II. Present Situation:

Organization and Governance – In 1996, the State Board of Community Colleges (SBCC) promulgated Rule 6H-1.046, F.A.C., that established the Florida Community College Distance Learning Consortium (FCCDLC) as an advisory committee to the SBCC² for purposes of:

- Advising the SBCC on distance learning and technology policy and fiscal issues.
- Coordinating the establishment of a technology-enhanced delivery system that supported the mission of Florida’s community colleges while also increasing access to higher education for all Florida residents.
- Representing the Community College System on regional and national committees.

The FCCDLC was comprised of one representative from each of the 28 community colleges, two representatives from the Council of Presidents, and two SBCC members.

Also in 1996, the Board of Regents (BOR) and the SBCC created the Institute for Public Postsecondary Distance Learning through a Memorandum of Understanding. The primary purpose of the Institute was to encourage and facilitate the cooperative development and delivery of distance learning instruction between the state universities and the community colleges and was governed by a board comprised of an equal number of community college and state university presidents.

In 1999 the BOR and the SBCC replaced the Institute with the Florida Virtual Campus (FVC). The FVC was designed to be a full-service, one-stop shopping source for statewide public postsecondary distance learning activities, courses, programs, and services. Its mission was to assist Florida’s public postsecondary institutions in providing affordable access to quality distance learning and to facilitate a seamless distance learning experience for students.

Chapter 2002-387, LOF, created s. 1001.28, F.S., which assigned specific distance learning duties to the Department of Education, among which included the duty to “facilitate the implementation of a statewide coordinated system and resource system for cost-efficient advanced telecommunications services and distance education which will increase overall student access to education.”

In 2003, the governing bodies of the FCCDLC and the FVC decided to consolidate the two entities and create the Florida Distance Learning Consortium (FDLC). The FDLC was designed to:

- Be responsible for providing strong distance learning leadership for a K-20 educational delivery system.
- Exist as a membership organization open to any Florida accredited school district, community college, state university, or any Independent Colleges and Universities of Florida (ICUF) institution.

² Section 240.309(1), F.S., authorized the SBCC “to appoint members to such committees as it from time to time shall establish. Members of such committees may include persons who are not members of the board.” Additionally, s. 240.311(3)(b), F.S., stated that the SBCC “shall provide, through rule, for the coordination of the Florida Community College System.”

- Exist as an advisory body to the SBE in order to support the distance learning process at all educational levels and serve as a catalyst for greater collaboration and coordination.

While the FCCDLC and the FVC were informally consolidated in July 2003, neither the SBE nor the Board of Governors has taken official action to establish and formalize the FDLC.³ Since the FDLC has not been formally established within the state's postsecondary educational structure, to include the identification of clearly defined roles and responsibilities, institutional participation and use of the FDLC services and activities is voluntary.

Postsecondary Distance Learning Catalog – Given the proliferation of distance learning courses within the community college system, the FCCDLC decided students would benefit from having a single source of distance learning course information. In 1997, the FCCDLC developed the first system-wide online catalog listing the distance learning courses offered by Florida's public community colleges. All participating community colleges entered their distance learning courses into the catalog and students could search for the availability of distance learning courses by term, college, course number, or course prefix. Once a student located a course of interest, he/she would be linked to the appropriate college's website for course registration and enrollment.

By 2002 the FVC had created a similar online distance learning course catalog for the state universities. When the governing bodies of the FVC and the FCCDLC decided to consolidate, the two online distance learning course catalogs were combined to create a single comprehensive postsecondary distance learning course and degree program catalog.

Currently the FDLC hosts the online distance learning catalog and includes searchable information on distance learning courses and degree programs available from community colleges, state universities, and participating ICUF institutions. Based on a set of pre-determined data elements, each institution is responsible for entering and updating its own course and degree program information in the catalog. One data element that is not required and therefore not included in the catalog is the cost and/or fee of the distance learning course. Additionally, some of the course/degree program links are incomplete because they connect students to sections of the offering institutions' websites that do not deal with distance learning.

For 2006-2007, the FDLC reported that approximately 12,800 courses⁴ were listed in the catalog. A fall 2007 review of the 39 public postsecondary educational institutions' websites showed that only 7 community colleges and 1 state university had links on their sites to the FDLC's online distance learning catalog. Of these 8 sites, only 1 institution had placed the link along with its description on the section of its website dealing with distance learning; the other 7 institutions had placed the link under a "Helpful/Other Links" button. Since the FDLC does not currently advertise the availability of the online distance learning catalog and only a limited number of postsecondary education institutions provide a link/description about the catalog on their websites, it is unclear how students find the catalog and access its courses.

³ Chapter law 2003-392, LOF, legislatively implemented the constitutional amendment that created the Board of Governors of the State University System.

⁴ Florida Distance Learning Consortium, PowerPoint Presentation, March 13, 2008 in the Senate Committee on Higher Education Appropriations Committee.

Distance Learning Course Fee – Part II of chapter 1009 authorizes and establishes postsecondary student fees. These fees can be categorized into two broad categories: 1) general fees charged to all students, i.e., tuition fee, activity and service fee, financial aid fee, capital improvement fee, etc.; and 2) specific user fees for certain services charged only to those students receiving the service with the fee amount not exceeding the cost of the service, i.e., parking fee, laboratory fee, access or identification card fee, etc.

The overwhelming majority of community colleges and state universities charge some type of distance learning course fee; however, the amount of the fee varies depending upon the institution, the course level, the course subject matter, and resource requirements. In the Community College System, the distance learning course fee ranges from \$5 to \$75 per 3-credit course and in the State University System, the distance learning course fee ranges from \$0 to \$299 per 3-credit course.⁵

There is no specific statute that authorizes a distance learning course fee for either the community colleges or the state universities.

Community Colleges – Section 1009.23(12), F.S., authorizes each community college board of trustees to establish a fee schedule for the statutorily-established user fees and fines listed in this subsection. Additionally, this subsection states that “a community college may not charge any fee except as authorized by law or rules of the State Board of Education.” Section 1001.02(6)(e), F.S., authorizes the SBE to establish rules for the purpose of implementing statutorily-established requirements for student admissions, conduct and discipline, non-classroom activities, and fees. This rule authority, however, is for the purpose of implementing or interpreting the statutorily-established fees; it does not authorize the creation of new ones.

In establishing a fee for distance learning courses, it appears the phrase “or rules of the State Board of Education” has been interpreted to mean that the SBE has the power to expand upon the list of user fees and fines authorized in s. 1009.23(12), F.S., through the promulgation of a rule. The Division of Community Colleges cite rule 6A-14.054(6), F.A.C., as its authority for the assessment of a distance learning course fee. This rule states that “each board of trustees may establish user fees in addition to tuition fees for services that incur unusual costs. Such user fees shall not exceed the cost of the goods or services provided and shall only be charged to students or agencies receiving those goods or services.” Section 1009.23(12), F.S., is cited as the authority for this rule. While this section of statute establishes and authorizes certain user fees and fines within the community college system, a distance learning course fee is not specified.

State Universities – Section 1009.24(13), F.S., authorizes each state university board of trustees to establish the following fees with subsection (k) authorizing a fee for off-campus course offerings when the location results in specific, identifiable increased costs to the university. The State University System cites this section of statute and rule 6C-7.003 F.A.C., as its authority for the assessment of a distance learning course fee.

Section 1009.24(13)(k), F.S., provides authority for each board of trustees to establish a “fee for off-campus course offerings when the location results in specific, identifiable increased costs to

⁵ Fee amounts provided by the Board of Governors and the Division of Community Colleges.

the university.” While it appears that this section of statute was originally intended for traditional classroom-type teaching done at an off-campus site, the university boards of trustees have expanded its applicability to include courses offered through distance learning.

III. Effect of Proposed Changes:

Section 1 creates s. 1004.09, F.S., which establishes the Florida Distance Learning Consortium and adjunctively assigns the Consortium to the Department of Education; but states the Consortium is not subject to control, supervision, or direction by the department. The Consortium is governed by a board comprised of nine members who are appointed by the Governor and subject to confirmation by the Senate.

The section authorizes a type two transfer pursuant to s. 20.06(2), F.S., of the FCCDLC and the FVC to the Florida Distance Learning Consortium.

The section also defines and prescribes the duties and responsibilities of the Florida Distance Learning Consortium. The Consortium is assigned two initial research projects for completion in FY 2008-2009:

- Recommend revenue-sharing models for distance learning course fee revenues.
- Recommend a plan for streamlining and automating the registration and transfer of credit processes for students who have been admitted to a public postsecondary education institution and who want to enroll in a course listed in the Florida Higher Education Distance Learning Catalog.

Section 2 creates s. 1004.091, F.S., which establishes the Florida Higher Education Distance Learning Catalog and assigns responsibility of the catalog to the Florida Distance Learning Consortium. The catalog is intended to assist in the coordination and collaboration of articulation and access pursuant to Part II of chapter 1007 and to provide students with an interactive, web-based point of access to distance learning courses, degree programs, and resources.

Section 3 amends s. 1009.23, F.S., to authorize each community college board of trustees to establish a distance learning course fee. For students who are classified as residents for tuition purposes, the distance learning course fee shall not exceed 10 percent of tuition. If for the 2007-2008 academic year a community college assessed resident students a fee for a distance learning course that exceeded the 10 percent cap, the community college shall calculate the difference between the two fee amounts and annually reduce the difference by 33 percent until the community college is in compliance with the 10 percent cap. The community college may only assess the distance learning course fee for courses that are listed in the Florida Higher Education Distance Learning Catalog.

Section 4 amends s. 1009.24, F.S., to authorize each state university to establish a distance learning course fee. For undergraduate students who are classified as residents for tuition purposes, the distance learning course fee may not exceed 10 percent of the tuition. If for the 2007-2008 academic year a state university assessed resident undergraduates a distance learning course fee that exceeded the 10 percent cap, the state university shall calculate the difference

between the two fee amounts and annually reduce the difference by 33 percent until the state university is in compliance with the 10 percent cap. The state university may only assess the distance learning course fee for courses that are listed in the Florida Higher Education Distance Learning Catalog.

Section 5 provides the effective date of July 1, 2008.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Students may, depending on the decisions of the local Boards of Trustees or the current level of distance learning charges, see a change in fees paid. See the discussion below.

C. Government Sector Impact:

The proposed committee substitute limits the maximum amount of the resident undergraduate distance learning course fee to 10 percent of the student's tuition. If for the 2007-2008 academic year a community college or state university assessed resident undergraduates a distance learning course fee that exceeded the 10 cap, the community college and state university must calculate the difference between the two fee amounts and annually reduce the difference by 33 percent until the community college and state university are in compliance with the 10 percent cap.

Currently nine state universities offer undergraduate distance learning courses with three of the universities showing a resident undergraduate distance learning course fee exceeding the 10 percent cap. All 28 community colleges offer distance learning courses with 17 of the colleges showing a resident student distance learning course fee exceeding the 10 percent cap. Community colleges estimate revenue from distance learning fees for resident students at \$7,168,249 for 2007-08. If all community colleges had limited their distance learning fees to 10 percent in 2007-08, revenue from resident students would

have been an estimated \$5,262,043. State universities are in the process of separating distance learning fee revenue by residency status; therefore, equivalent state university data is not currently available. Distance learning fee revenues for community colleges and universities will increase as standard tuition increases.

For these institutions that must comply with the required annual 33 percent reduction of the difference between their 2007-2008 distance learning course fee and the bill's required 10 percent fee cap for resident undergraduates, the fee amount paid by these students will be reduced.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Higher Education Appropriations Committee on April 2, 2008:

Senate Bill 1716 was originally filed as a shell bill expressing legislative intent to revise laws relating to higher education. The bill, as adopted by the Higher Education Appropriations Committee, creates the Florida Distance Learning Consortium to advocate and facilitate access to distance learning courses, degree programs, and resources offered by Florida's public postsecondary education institutions. The bill also creates the Florida Higher Education Distance Learning Catalog as an interactive, web-based single point of access to the distance learning courses, degree programs, and resources offered by public postsecondary education institutions. The bill authorizes each community college and state university board of trustees to establish a distance learning course fee that may be assessed for courses listed in the Florida Higher Education Distance Learning Catalog. The amount of the distance learning course fee assessed to students classified as resident undergraduate students for purposes of tuition may not exceed 10 percent of tuition.

- B. **Amendments:**

None.