

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 745 State University Student Fees

**SPONSOR(S):** Policy & Budget Council; Schools & Learning Council and Precourt

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 320

---

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Schools & Learning Council	12 Y, 2 N, As CS	Thomas/Eggers	Cobb
2) Policy & Budget Council	28 Y, 4 N, As CS	Martin	Hansen
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

---

### SUMMARY ANALYSIS

CS/CS/HB 745 does the following:

- requires the Education Estimating Conference to estimate a state-level demand pool for postsecondary education.
- revises provisions relating to licensure by accreditation.
- revises provisions relating to determination of equivalency of courses for purposes of statewide course numbering.
- revises residency provisions, including requiring that a person reside in-state for 12 consecutive months immediately prior to initial enrollment in a postsecondary education program in Florida.
- revises permissive allocation provisions for use of workforce capital improvement fees to permit 15% of the fees, rather than 15 cents per credit hour, to be used for child care centers.
- revises provisions relating to community college activity and service fees and financial aid fees.
- revises provisions relating to tuition and out-of-state fees for professional programs at state universities and requires that a minimum of 75% of the funds from the student financial aid fee must be used to provide financial aid based on absolute need.
- revises the eligibility criteria for state universities approved by the Board of Governors to establish a tuition differential that does not exceed 30 percent of tuition.
- revises provisions relating to fee waivers and fee exemptions.
- establishes an excess hour surcharge providing requirements for additional payment by state university students for certain credit hours exceeding degree program requirements.

The exact fiscal impact is indeterminate. The bill may result in additional fee revenue for the state universities and community colleges, increased fees for certain students, and savings for some students. A tuition differential at University of Central Florida would generate approximately \$500,000 to \$745,000 in 2008-09; \$3.6 million to \$5.3 million in 2009-10; and \$10.4 million to \$15 million in 2010-11. If Florida International University qualifies for a tuition differential in the near

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

**STORAGE NAME:** h0745e.PBC.doc

**DATE:** 4/15/2008

future, it would generate approximately \$500,000 to \$747,000 in 2008-09; \$3.6 million to \$5.4 million in 2009-10; and \$10.4 million to \$15.2 million in 2010-11. See Fiscal Comments.

The effective date of this act is July 1, 2008.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government –

- The bill requires that revenue generated from the tuition differential must be spent solely for improving the quality of direct undergraduate instruction and support services.
- The bill requires each community college, state university, and institution that participates in a state financial aid program to determine the dependency status of students who have been admitted and affirmatively determine that applicants who have been admitted as Florida residents meet the residency requirements at the time of initial enrollment.
- The bill provides independent postsecondary institutions that are not Florida corporations a more streamlined process to obtain licensure from the Commission for Independent Education.

Ensure lower taxes –

- The bill requires certain students to pay the tuition differential fee if they attend an institution that has received approval from the Board of Governors to implement the tuition differential.
- The bill establishes an excess credit hour policy for undergraduate students attending state universities. This policy could provide incentives for efficient degree completion.
- The bill removes the 10% cap on annual adjustments to tuition for professional programs at state universities except for students who are currently enrolled in such programs and maintain continuous enrollment.
- The bill requires that a minimum of 75% of the funds from the state university student financial aid fee must be used to provide financial aid based on absolute need.

#### B. EFFECT OF PROPOSED CHANGES:

##### Background

##### **Education Estimating Conference**

Currently the Education Estimating Conference is charged with developing official information relating to the state public and private educational system, including forecasts of student enrollments, the number of students that qualified for state financial aid programs and for the Florida Resident Access Grant Program and the appropriation required to fund the full award amounts for each program, fixed capital outlay needs, and Florida Education Finance Program formula needs, as the conference determines is needed for the state planning and budgeting system.<sup>1</sup> Currently, the Education Estimating Conference also forecasts student enrollment and the number of students qualified for the

---

<sup>1</sup> See s. 216.136(4)(a), F.S.

Access to Better Learning and Education Grant Program (ABLE) although it is not required to do so by law.

Current forecasting models used for higher education in this state are geared to enrollment issues. A recent report issued by the Office of Economic and Demographic Research shows that with the current method of forecasting enrollment, there is no state-level consensus process across all delivery systems to ensure consistency in assumptions and to review for bias at the lower levels.<sup>2</sup> Continuing to use this method can cause inadequate and/or inconsistent treatment of factors like demographics, economics and state policy changes.<sup>3</sup>

### **Determination of Residency Status**

Current law requires students to be classified as residents or nonresidents for the purpose of assessing tuition in community colleges and state universities.<sup>4</sup> To qualify as a resident for tuition purposes, a student, or the student's parents if the student is a dependent, must have established legal residence in the state and maintained legal residence in the state for at least 12 months immediately prior to the student's qualification. Presence in the state must have been for the purpose of maintaining a bona fide domicile, rather than for the purpose of maintaining a mere temporary residence or abode incident to enrollment in an institution of higher education.

A 2003 OPPAGA Special Review found that although Florida law and rules are intended to enable universities and community colleges to accurately and consistently classify students for in-state and out-of-state residency, the process was substantially flawed.<sup>5</sup> OPPAGA found that institutions were using inconsistent screening criteria and procedures creating the potential for misclassifications and variations in the threshold a student must meet to qualify for residency. OPPAGA identified three costly weaknesses in the criteria and procedures used at the time in classifying students as residents for tuition purposes:

1. Current law and rules do not provide adequate criteria governing under what specific circumstances students should be reclassified as Florida residents.
2. Current criteria do not adequately specify the determination of students' dependency status.
3. Institutions are applying varying standards for documenting residency.

The 2003 report recommended that to improve the residency classification process, the Legislature should amend current law to require that students (or their parents if the students are dependents) must maintain legal residence in the state for at least 12 months immediately prior to the student's initial enrollment or registration at a Florida public postsecondary institution to be eligible for classification for in-state residency. OPPAGA also recommended that the Legislature more clearly define when a non-resident student could be eligible for reclassification as a resident.

The 2003 OPPAGA report estimated that institutions could receive an additional \$24.2 million in tuition revenues from out-of-state students if reclassifications were eliminated and these individuals remained enrolled.

---

<sup>2</sup> Office of Economic and Demographic Research, *Higher Education Enrollment Forecasting: An Analysis Containing Recommendations for Process Improvements*, (February 2008).

<sup>3</sup> *Id.*

<sup>4</sup> See s. 1009.21, F.S.

<sup>5</sup> Report 03-29, OPPAGA Special Review, *Non-Residents Qualify Too Easily for Much Lower Resident Tuition Rates*

In 2005, OPPAGA published a progress report to inform the Legislature of actions taken in response to the 2003 report.<sup>6</sup> The progress report found that DOE, the State Board of Education (SBE), and the Board of Governors (BOG) had taken most of the actions recommended by the 2003 report.

The SBE and BOG adopted rule changes to provide additional guidance in reclassifying students from non-resident to resident status.<sup>7</sup> The rule states that a student wishing to be reclassified must provide documentation which substantiates that he or she, or if a dependent, the student's parent, or guardian, is establishing Florida as a permanent domicile and not as a mere temporary residence incident to enrollment in higher education. The rule specifies a 12-month period of legal residence in the state prior to the first day of classes for the term for which residency is sought.

The 2005 report found that the recommendation to implement periodic internal reviews of residency decisions was not implemented. DOE noted that s. 1009.21, F.S., does not assign authority to the department to specifically address this problem. State audits do not focus on residency decisions. Accreditation standards for internal audits do not explicitly address residency decisions. OPPAGA's review found that, while some institutions validate residency determinations through internal audits and random sampling techniques, most of the institutions OPPAGA interviewed did not engage in this practice. The report noted that, given the high error rates found in the review, more thorough review of residency decisions was warranted.

The general requirements for student eligibility for state financial aid<sup>8</sup> require residency in the state for no less than one year preceding the award of aid from certain state programs including: the Florida Public Student Assistance Grant Program; the Florida Public Postsecondary Career Education Student Assistance Grant Program, the Florida Private Student Assistance Grant Program; the Florida Postsecondary Student Assistance Grant Program; the Florida Bright Futures Scholarship Program; the Critical Teacher Shortage Program; the Seminole and Miccosukee Indian Scholarships; the Florida Teacher Scholarship and Forgivable Loan Program; the Minority Teacher Education Scholars Program; the grants for teachers for special training in exceptional student education; the occupational therapist or physical therapist critical shortage program; the Florida Minority Medical Education Program; the Jose Marti Scholarship Challenge Grant Program; the Mary McLeod Bethune Scholarship Program; the Ethics in Business Scholarship Program for state universities; the Florida Work Experience Program; the William L. Boyd, IV, Florida Resident Access Grant, and the Access to Better Learning and Education Grant Program. The law further requires that the resident status for purposes of receiving state financial aid awards must be determined in the same manner as resident status for tuition purposes pursuant to s. 1009.21 and rules of the State Board of Education.<sup>9</sup> Section 1009.21, F.S., does not specifically reference state financial aid programs.

## **Student Fees**

### Workforce Education Postsecondary Student Fees

Each community college board of trustees is authorized to establish a separate fee for capital improvements, technology enhancements, or equipping buildings which may not exceed 5 percent of tuition for resident students or 5 percent of tuition and out-of-state fees for nonresident students. Capital improvement fee revenues from workforce education programs must be expended to construct and equip, maintain, improve, or enhance the certificate career education or adult education facilities of

---

<sup>6</sup> Report 05-41, OPPAGA, *Department of Education Improves Rules Guiding Resident Tuition Determinations*.

<sup>7</sup> Id.

<sup>8</sup> See s. 1009.40(1)(a)2, F.S.

<sup>9</sup> Report 05-41, OPPAGA, *Department of Education Improves Rules Guiding Resident Tuition Determinations*

the community college. The fee revenues may be used as a dedicated source to the repayment of debt, including lease-purchase agreements and revenue bonds, with a term not to exceed 20 years and not to exceed the useful life of the asset being financed, only for new construction and equipment, renovation, or remodeling of facilities. A maximum of 15 cents per credit hour may be allocated from the capital improvement fee for child care centers conducted by the district school board or community college board of trustees.<sup>10</sup>

### Community College Student Fees

Current law prohibits a community college from charging any fee except as authorized by law or rule of the State Board of Education. Each community college board of trustees has specific statutory authority to establish tuition and out-of-state fees within certain parameters; an activity and service fee; a financial aid fee; a technology fee; and a separate fee for capital improvement, technology enhancements and equipping student buildings.<sup>11</sup>

Each community college board of trustees may establish an activity and service fee not to exceed 10% of tuition to provide student service and programs to benefit the student body in general. The student activity and service fee must be collected as a component part of the tuition and fees. The student activity and service fees must be paid into a student activity and service fund at the community college and must be expended for lawful purposes to benefit the student body in general. Examples of uses of these fees include student publications and grants to duly recognized student organizations.<sup>12</sup>

Each community college board of trustees may establish a financial aid fee of up to 5% of the total tuition or out-of-state fees collected. Colleges may collect an additional 2% if the total revenue generated by the financial aid fee is less than \$250,000. Up to 25% of the financial aid fee revenues or \$300,000, whichever is greater, may be used to support students who demonstrate academic merit or participate in athletics, public service, cultural arts, or other extracurricular programs or students who are identified as members of a targeted gender or ethnic minority population. A minimum of 75% of the remaining financial aid fee revenue for new awards must be awarded based on absolute need and the remainder may be used for merit and other purposes approved by the board of trustees.<sup>13</sup>

Prior to the 2007C Special Session, the provisions of s. 1009.23, F.S., applied only to fees charged for college credit instruction leading to an associate in arts degree, an associate in applied science degree, an associate in science degree, or a baccalaureate degree authorized by the State Board of Education pursuant to s. 1007.33, F.S.

Section 1004.73, F.S., establishes St. Petersburg College and includes provisions relating to legislative intent, mission, policies, student fees, degrees, boards, employees, facilities, and state funding. Section 1004.73(3)(a)3., F.S., provides that for upper-division students at St. Petersburg College, other mandatory fees and local fees must be at a level less than the fees established for University of South Florida students, regardless of program enrollment or level.

During the 2007C Special Session, s. 1009.23(1), F.S., was amended by Senate Bill 8C to include a reference to baccalaureate programs authorized pursuant to s. 1004.73, F.S.

---

<sup>10</sup> See s. 1009.22(6), F.S.

<sup>11</sup> See s. 1009.23(12), F.S.

<sup>12</sup> See s. 1009.23, F.S.

<sup>13</sup> See s. 1009.23(8)(a), F.S.

### State University Student Fees

Current law provides that the Board of Governors, or the board's designee, has the authority to establish tuition for graduate and professional programs, and out-of-state fees for all programs at state universities.<sup>14</sup> The sum of tuition and out-of-state fees assessed to nonresident students must be sufficient to offset the full instructional cost of serving such students, but adjustments to out-of-state fees or tuition for graduate and professional programs must not exceed 10 percent in any year.<sup>15</sup>

According to a research memorandum prepared by the Office of Program Policy Analysis and Government Accountability (OPPAGA), Florida's in-state tuition for most first-professional programs tends to be slightly lower than tuition and fees charges across the nation, except for veterinary medicine.<sup>16</sup> The memo also reported that the fees for in-state students are less than the national median for all programs, and that Florida's out-of-state tuition and fees for all first-professional programs is higher than the national median.<sup>17</sup>

Each university board of trustees is authorized to collect for financial aid purposes an amount not to exceed 5 percent of the tuition and out-of-state fee. The financial aid fee revenues are to be disbursed to students as quickly as possible. A minimum of 75% of funds from the student financial aid fee for new financial aid awards must be used to provide financial aid based on absolute need. Each university is required to report annually to the Board of Governors and the Department of Education on the revenue collected, the amount carried forward, the criteria used to make awards, the amount and number of awards for each criterion, and a delineation of the distribution of such awards.<sup>18</sup> During the 2004-2005 report period, the universities collected \$36,183,836 in financial aid fee revenues; carried forward \$14,503,598 in financial aid funds from the prior year; and projected they would carry forward \$10,412,986 in unexpended financial aid fee funds to the 2005-2006 year. While all but one university met the 75% requirement for new awards, overall, the state universities reported that 68.9% of the 2004-2005 awards from financial aid fee revenues were based on need.

### University Tuition Differential

The 2007 Legislature authorized the Board of Governors of the State University System to establish a tuition differential for research universities that meet the criteria for Funding Level I or Level 2 under s. 1004.635(3), F.S.<sup>19</sup> The tuition differential is a supplemental fee that the Board of Governors could authorize research universities to charge for the purpose of improving undergraduate instruction and support services.

The Board of Governors may establish a tuition differential for Level I institutions that does not exceed 40 percent of tuition. Level I institutions are defined as meeting the following criteria:

---

<sup>14</sup> See s. 1009.24(4), F.S.

<sup>15</sup> *Id.*

<sup>16</sup> Office of Program Policy Analysis and Government Accountability, Research Memorandum, *Comparison of Tuition and Fees: First-Professional Programs*, March 20, 2008

<sup>17</sup> The definition of "fees" used in the OPPAGA memo is as follows: "fixed-sum charges that are not covered by the tuition and that are charge to the majority of students taking the program"

<sup>18</sup> See s. 1009.24(7), F.S.

<sup>19</sup> ch. 2007-225, L.O.F.

- The number of nonprofessional doctoral degrees<sup>20</sup> awarded each year must exceed 250, and at least 25 percent of the nonprofessional doctoral degrees must be in a mathematics, science, technology, engineering, or a health-related discipline;
- The number of postdoctoral appointees reported in the most recent National Science Foundation/National Institutes of Health Survey of Graduate Students and Postdoctorates in Science and Engineering must exceed 200;
- The 4-year undergraduate graduation rate must equal 40 percent or higher;
- Expenditures from externally awarded contracts and grants must be a minimum of \$100 million per year;
- The university must have a proven track record of securing patents and licenses leading to products in the marketplace over the last five years;
- At least 75 percent of the entering freshman each academic year who are classified as residents for tuition purposes must be eligible to receive Florida Bright Futures Scholarships; and
- The Basic Classification of the university, according to the 2005 Carnegie Classification, must be as a research university with very high research activity.

Currently, Florida State University and the University of Florida meet the criteria of Level 1.

The Board of Governors may establish a tuition differential that does not exceed 30 percent of tuition for all institutions that qualify as Level 2. Level 2 institutions are defined to meet the following criteria:

- Expenditures from externally awarded contracts and grants must be a minimum of \$100 million per year; and
- The Basic Classification of the university, according to the 2005 Carnegie Classification, must be as a research university with very high research activity.

The University of South Florida meets the criteria for Level 2.

The maximum tuition differential established by the Board of Governors for Level I institutions must be at least 30 percent greater than the maximum tuition differential established by the board for Level 2 institutions. The growth of tuition plus the differential cannot exceed 15 percent for any fiscal year. Revenue generated by the tuition differential must be spent solely for improving the quality of direct undergraduate instruction and support services. The tuition differential is exempt from payment under the Bright Futures Scholarship Program and does not apply to prepaid contracts issued before July 1, 2007. Effective on July 1, 2007, the Prepaid College Board was authorized to provide advance payment contracts for a tuition differential fee plan.<sup>21</sup> The differential does not apply to any student who is in attendance, and is continuously enrolled, at the institution before July 1, 2007. Finally, the differential may be waived for need-based students.

Although the tuition differential law passed in 2007, the three eligible institutions agreed to delay imposing the tuition differential for one year.

### **Authority for Fee Exemptions and Fee Waivers**

<sup>20</sup> The statute specifies that for purposes of this program, nonprofessional doctoral degrees do not include degrees awarded in law, medicine, dentistry, and veterinary medicine.

<sup>21</sup> See s. 1009.98, F.S.



Certain students are provided fee exemptions or fee waivers pursuant to statute.

Each community college is authorized to grant student fee exemptions from all fees adopted by the State Board of Education and the community college board of trustees for up to 40 full-time equivalent students at each institution.<sup>22</sup>

School districts and community colleges are authorized to waive fees for any fee-nonexempt student. The total value of fee waivers granted by the school district or community college may not exceed the amount established annually in the General Appropriations Act.

Each university board of trustees is authorized to waive tuition and out-of state fees for purposes that support and enhance the mission of the university. All fees waived must be based on policies that are adopted by university board of trustees.<sup>23</sup>

As a benefit to the employer and employees of the state of Florida each state university and community college must waive tuition and fees for state employees to enroll for up to 6 credit hours of course per term on a space-available basis. The employee fee waiver is subject to approval by the agency head or the equivalent in order to participate in the state employee fee waiver.<sup>24</sup>

### **Excess Credit Hours**

In 2006, the Office of Program Policy and Government Accountability (OPPAGA) released a report on the cost of excess hours taken by students.<sup>25</sup> According to the report:

- Most students attending the state's public universities graduate with credit hours in excess of graduation requirements, which increases state higher education costs.
- In FY 2004-05, these excess hours cost the state \$62 million.
- Florida public postsecondary institutions have taken steps to reduce time to graduation and excess hours. Because these strategies have been implemented relatively recently, it is too early to draw conclusions on their effectiveness.
- The percentage of graduates with hours in excess of 115 percent of graduation requirements varies by university.
- Similar to the findings for the 115 percent threshold, the percentage of graduates with hours in excess of 120 percent of the graduation requirement also varies considerably by institution.

In 2004, OPPAGA issued a report in response to a legislative request to identify financial incentives the Legislature could implement to decrease state higher education funding costs.<sup>26</sup> OPPAGA studied polices to encourage students to earn degrees with fewer excess credit hours. The report suggested three ways to reduce state costs:

- Charge the full cost for credit hours in excess of 115 percent of graduation requirements.
- Provide tuition rebates to students who graduate with minimal excess hours.
- Offer "locked-in" tuition, which requires students who do not graduate within four years to pay higher tuition rates.

---

<sup>22</sup> See s. 1009.25, F.S.

<sup>23</sup> See s. 1009.26, F.S.

<sup>24</sup> See s. 1009.265, F.S.

<sup>25</sup> *Excess Hours Cost State \$62 Million Annually; University Actions May Help Address Problems*, Office of Program Analysis and Government Accountability, Report No. 06-58, August 2006.

<sup>26</sup> *Stronger Financial Incentives could Encourage Students to Graduate with Fewer Excess Hours*, Office of Program Analysis and Government Accountability, Report No. 04-44, June 2004

During 2002-2003, 78 percent of all students accumulated excess hours. In fact, these students attempted 719,660 credit hours in excess of graduation requirements. The 719,660 excess hours attempted by students in 2002-2003 cost the state \$62 million. However, 20 percent of all students accounted for 57 percent of all credit hours over the minimum graduation requirements. OPPAGA identified several factors that contribute to students accumulating excess hours:

- Some students change their major frequently.
- Some students take courses that are not required for graduation.
- Some students may withdraw from or fail courses they enroll in, and may retake such classes.

### **Licensure by Accreditation**

The Commission for Independent Education is responsible for all independent postsecondary education institutions with the exception of independent nonprofit colleges or universities eligible to participate in the Florida Resident Access Grant (FRAG) program.<sup>27</sup> Each independent postsecondary educational institution must obtain licensure from the Commission for Independent Education (Commission) unless the institution is not under the Commission's purview or jurisdiction as provided in s. 1005.06, F.S. 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, and serves as a central agency for collecting and distributing information regarding these institutions.<sup>28</sup>

The Commission licensed 786 independent institutions during FY 2006-2007.<sup>29</sup> The standard licensure process for an independent postsecondary educational institution includes many standards and procedures and also has fees and expenses associated with it.<sup>30</sup>

Present Florida law affords certain independent educational institutions with a more streamlined and less expensive licensure process, titled "licensure by accreditation."<sup>31</sup> In order for an independent postsecondary educational institution to apply for a license by means of accreditation, the institution must meet the following criteria:

- The institution has operated legally in the state for at least 5 consecutive years.
- The institution holds institutional accreditation by an accrediting agency evaluated and approved by the Commission as having standards substantially equivalent to the Commission's licensure standards.
- The institution has no unresolved complaints or actions in the past 12 months.
- The institution meets minimum requirements for financial responsibility as determined by the Commission.
- The institution is a Florida corporation.<sup>32</sup>

For FY 2006-2007, 167 independent institutions were licensed through the licensure by accreditation process.<sup>33</sup>

---

<sup>27</sup> Florida House of Representatives Schools and Learning Council, Education Fact Sheets, 2008

<sup>28</sup> *Id.*

<sup>29</sup> Florida House of Representatives Schools and Learning Council, Education Fact Sheets, 2008

<sup>30</sup> See s. 1005.31, F.S.; Rule 6E-2.004, F.A.C.; and Rule 6E-4.001, F.A.C.

<sup>31</sup> See s. 1005.32, F.S.

<sup>32</sup> See s. 1005.32(1), F.S.

### **Statewide Course Number System (SCNS)**

Current law<sup>34</sup> requires the Department of Education, in conjunction with the Board of Governors, to develop, coordinate, and maintain a statewide course numbering system for postsecondary and dual enrollment education in school districts, public postsecondary educational institutions, and participating nonpublic postsecondary education institutions. The purpose of the SCNS is to facilitate student acceleration and the transfer of students and credits between public school districts, public postsecondary educational institutions, and participating nonpublic educational institutions.

Any student who transfers among postsecondary institutions that are fully accredited by a regional or national accrediting agency recognized by the United States Department of Education and that participate in the statewide course numbering system must be awarded credit by the receiving institution or courses satisfactorily completed by the student at the previous institutions. Credit must be awarded if the courses are judged by the appropriate SCNS faculty committee to be academically equivalent to courses offered at the receiving institutions, including equivalency of faculty credentials, regardless of the public or non public control of the previous institution.

### **Effect of Proposed Changes**

#### **Education Estimating Conference**

The bill requires the Education Estimating Conference to forecast the number of students that will qualify for the ABLE Grant Program, and to forecast the appropriation required to fund the full amounts of that program.

The bill requires the Education Estimating Conference to estimate a state-level demand pool for postsecondary education that includes all delivery systems, public and private. Once the demand pool is estimated, it will be used by the Conference to project enrollments in public postsecondary institutions, and these enrollments figures will be forwarded to the State Board of Education and the Board of Governors no later than 2 months prior to the start of the regular session of the Legislature for distribution to their respective institutions. This bill also provides a procedure for the postsecondary institutions to make adjustments to the initial projections.

#### **Determination of Residency Status**

The bill clarifies that a student must be classified as a resident or nonresident for the purpose of determining student eligibility to participate in the following programs: the Florida Public Student Assistance Grant Program; the Florida Public Postsecondary Career Education Student Assistance Grant Program; the Florida Private Student Assistance Grant Program; the Florida Postsecondary Student Assistance Grant Program; the Florida Bright Futures Scholarship Program; the Critical Teacher Shortage Program; the Seminole and Miccosukee Indian Scholarships; the Florida Teacher Scholarship and Forgivable Loan Program; the Minority Teacher Education Scholars Program; the grants for teachers for special training in exceptional student education; the occupational therapist or physical therapist critical shortage program; the Florida Minority Medical Education Program; the Jose Marti Scholarship Challenge Grant Program; the Mary McLeod Bethune Scholarship Program; the Ethics in Business Scholarship Program for state universities; the Florida Work Experience Program; the William L. Boyd, IV, Florida Resident Access Grant, and the Access to Better Learning and

---

<sup>33</sup> Commission for Independent Education, 2006-2007 Annual Report

<sup>34</sup> See s. 1007.24, F.S.

Education Grant Program. These programs are listed in s. 1009.401(1)(a)2., F.S., as requiring residency in the state for no less than one year preceding the award of aid or a tuition assistance grant.

The bill revises residency criteria to require that a person reside in-state for 12 consecutive months immediately prior to initial enrollment in a postsecondary education program in Florida. The term “initial enrollment” is defined as the first day of class at an institution of higher education. The bill requires that legal residence must be established by written or electronic verification that includes two or more of the following Florida documents:

- A voter information card;
- A driver’s license;
- An identification card issued by the State of Florida;
- A vehicle registration;
- A declaration of domicile;
- Proof of purchase of a permanent home;
- A transcript from a Florida high school;
- A Florida high school equivalency diploma and transcript;
- Proof of permanent full-time employment;
- Proof of 12 consecutive months of payment of utility bills;
- A domicile lease and proof of 12 consecutive months of payments; or,
- Other official state or court documents evidencing legal ties to Florida.

All of these documents must demonstrate clear and convincing evidence of continuous residence in the state for at least 12 consecutive months prior to the student’s initial enrollment in an institution of higher education.

The bill provides that a dependent child can claim residency by documentation of his or her parent’s legal residence and its duration, as well as documentation confirming his or her status as a dependent child. The documentation must provide clear and convincing evidence that residency in Florida was for a minimum of 12 months consecutive prior to the student’s initial enrollment in an institution of higher education.

A student is eligible to be reclassified from nonresident to resident if the student provides documentation that supports the student’s permanent residency in the state such as documentation of permanent full-time employment for the prior 12 months or purchase of a home in this state and residence therein for the prior 12 months. If a dependent child’s parents or parent moves to Florida while the child is in high school and the child graduates from a high school in this state, the child may become eligible for reclassification as a resident for tuition purposes when the parent qualifies for permanent residency.

The bill requires each community college, state university, and institution that participates in a state financial aid program to determine the dependency status of students who have been admitted and affirmatively determine that applicants who have been admitted as Florida residents meet the residency requirements at time of initial enrollment.

## Student Fees

### Workforce Education Postsecondary Student Fees

CS/CS/HB 745 revises permissive allocation provisions for use of workforce capital improvement fees to permit 15% of the fees, rather than 15 cents per credit hour, to be used for child care centers conducted by the district school board or community college board of trustees.

### Community College Student Fees

CS/CS/HB 745 provides a grandfather provision to address changes made during the 2007C Special Session that could impact a college's activity and service fee. No college will be required to reduce its activity and service fee to comply with the changes made during the 2007C Special Session.

The bill permits community colleges to collect up to an additional 2 percent if the total revenue generated by the financial aid fee is less than \$500,000 rather than \$250,000 as currently authorized. The bill increases the amount of financial fee revenue that may be used for academic merit, athletics, public service, cultural arts, other extracurricular program, and certain targeted populations from \$300,000 to \$600,000.

### State University Student Fees

The bill defines the terms "undergraduate tuition," "graduate tuition," and "professional program."

#### *Professional Programs*

The bill transfers the authority to set tuition and out-of-state fees for professional programs from the Board of Governors to each university's board of trustees. The bill requires the sum of tuition and the out-of-state fee assessed to nonresident students in professional programs to be sufficient to offset the full instructional cost of serving nonresident students. The bill removes the 10% cap on annual adjustments to tuition and out-of-state fees for professional programs except for students who were enrolled prior to the Fall 2008 term and maintain continuous enrollment in good academic standing.

#### *Financial Aid Fee*

The bill requires that a minimum of 75% of the financial aid fee revenues from state university students be used to provide need-based aid.

#### *Tuition Differential*

CS/CS/HB 745 revises the eligibility criteria for state universities approved by the Board of Governors to establish a tuition differential that does not exceed 30 percent of tuition. The requirement for the university to be recognized as a research university with very high research activity under the 2005 Carnegie Classification is eliminated. The bill requires that the institution have total research and development expenditures for all fields of at least \$100 million per year as reported annually to the National Science Foundation.

The 2006-2007 research expenditures of state universities reported to the National Science Foundation are as follows<sup>35</sup>:

University of Florida	\$635,956,000
University of South Florida	\$337,169,000
Florida State University	\$211,310,000

<sup>35</sup> Florida Board of Governors, 2008-03-18 NSF Summary.XLS(Total All fields)

University of Central Florida	\$141,140,000
Florida International University	\$ 89,111,000
Florida Atlantic University	\$ 27,318,000
Florida Agricultural and Mechanical University	\$ 17,695,000
Florida Gulf Coast University	\$ 11,805,000

The bill revises the prepaid tuition contract exemption. Beneficiaries having prepaid tuition contracts in effect on July 1, 2008, and which remain in effect, are exempt from the payment of the tuition differential.

### **Authority for Fee Exemptions and Fee Waivers**

CS/CS/HB 745 increases the fee exemptions that community colleges are authorized to grant. At the discretion of the community college board of trustees, each community college is authorized to grant student fee exemptions for all fees authorized in s. 1009.23, F.S., for up to 0.5 percent of the community college's prior year fee-paying full-time equivalent students or 54 full-time equivalent students whichever is greater. CS/HB 745 defines "fee-paying student" as a student enrolled in college-preparatory courses, an associate in arts degree program, an associate in science degree program, career preparatory instruction, an educator preparation institute, or a baccalaureate degree program.

The bill permits state employee fee waivers to be used for distance learning or online courses and requires the approval of the supervisor to use the waiver to take a course or courses during normal work hours. The bill also provides for purposes of implementing provisions relating to state employee fee waivers, the space available in a course is to be determined based on the number of seats or capacity remaining in the course at the end of the drop add period.

### **Excess Credit Hours**

CS/CS/HB 745 requires students enrolled in a state university to pay an excess hour surcharge equal to 50 percent of the tuition rate for each credit hour in excess of 120 percent of the number of credit hours required to complete the degree program in which he or she is enrolled. This provision applies to students entering a state university or community college for the first time in the 2008-2009 academic year and thereafter. The following hours are to be included in the excess hour calculation:

- All credit hours for courses taken at the state university from which the student is seeking a degree, including repeated courses and failed courses and courses that are dropped after the university's advertised last day of drop and add.
- All credit hours earned at another institution and accepted for transfer by the state university toward the student's undergraduate degree.

Credit hours earned under the following circumstances are not calculated as hours required to earn a degree:

- College credits earned through an articulated accelerated mechanism.
- Credit hours earned through internship programs.
- Credit hours required for certification, recertification, or certificate programs.
- Credit hours in courses from which a student must withdraw due to reason of medical or personal hardship.

- Credit hours taken by active-duty military personnel.
- Credit hours required to achieve a dual major undertaken while pursuing a degree.
- Remedial and English as a Second Language credit hours.
- Credit hours earned in military science courses (R.O.T.C.).

CS/CS/HB 745 requires postsecondary institutions to implement a process for notifying students of the excess hour surcharge upon initial enrollment and upon the student's having earned the credit hours required to complete the degree program in which he or she is enrolled. The notice must include a recommendation that each student who intends to earn credit hours at the institution beyond those required for his or her enrolled degree program meet with his or her academic advisor. The state university may grant an exemption from the excess hour surcharge based upon document extenuating circumstances.

### **Licensure by Accreditation**

The bill revises licensure by accreditation provisions to eliminate the requirement that an institution be a Florida corporation to use this process to achieve licensure.

### **Statewide Course Number System (SCNS)**

The bill amends provisions relating to the SCNS to require that credit must be awarded if a course is judged by the statewide course numbering faculty committee to be academically equivalent to a course offered at the receiving institution, including equivalency of faculty credentials, regardless of the United States Department of Education recognized accrediting agency body and public or nonpublic control of the previous institution.

## **C. SECTION DIRECTORY:**

Section 1. Amends s. 216.136, F.S.; revising provisions relating to student enrollment projections, and adjustments thereto, for the state educational system developed by the Education Estimating Conference.

Section 2. Amends s. 1005.32, F.S.; revising requirements for application for licensure by accreditation by an independent postsecondary educational institution.

Section 3. Amends s. 1007.24, F.S.; revising provisions regarding determination of equivalency of courses.

Section 4. Amends s. 1009.01, F.S.; providing definitions relating to postsecondary education.

Section 5. Amends s. 1009.21, F.S.; providing that determination of resident status applies to eligibility for state financial aid awards and tuition assistance grants; revising definitions; revising provisions relating to qualification as a resident for tuition purposes; providing for reclassification of status; providing duties of institutions of higher education.

Section 6. Amends s. 1009.22, F.S.; revising provisions relating to the workforce education postsecondary student capital improvement fee.

Section 7. Amends s. 1009.23, F.S.; providing an exemption relating to establishment of the community college activity and service student fee; authorizing an increase in the amount of fees collected for financial aid purposes; increasing the amount of financial aid fees that may be used to assist students who meet specified criteria; authorizing rulemaking.

Section 8. Amends s. 1009.24, F.S.; revising provisions relating to state university student fees; providing for the establishment of tuition and fees at the undergraduate and graduate levels and for professional programs; revising provisions relating to use of the student financial aid fee; revising provisions relating to establishment and conditions of the undergraduate tuition differential.

Section 9. Amends s. 1009.25, F.S.; revising provisions authorizing student fee exemptions by community colleges; defining "fee-paying student."

Section 10. Amends s. 1009.265, F.S.; revising conditions for the use of state employee fee waivers.

Section 11. Creates s. 1009.286, F.S.; providing requirements for additional payment by state university students for certain credit hours exceeding degree program requirements; providing criteria for calculating credit hours; authorizing an exemption.

Section 12. Amends s. 1009.98, F.S.; conforming cross-references.

Section 13. Amends s. 1011.48, F.S.; conforming cross-references.

Section 14. Provides an effective date of July 1, 2008.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

##### University Tuition Differential

According to the Board of Governors, if authorization is given to UCF for a tuition differential, it would generate approximately \$500,000 to \$745,000 in 2008-09; \$3.6 million to \$5.3 million in 2009-10; and \$10.4 million to \$15 million in 2010-11.<sup>36</sup> If FIU reached \$100 million in contracts and grant expenditures and received authorization for a tuition differential, it would generate approximately \$500,000 to \$747,000 in 2008-09; \$3.6 million to \$5.4 million in 2009-10; and \$10.4 million to \$15.2 million in 2010-11.<sup>37</sup>

#### 2. Expenditures:

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None

#### 2. Expenditures:

None

---

<sup>36</sup> Board of Governors Analysis of HB 745

<sup>37</sup> Id.



## C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

### University Tuition Differential

Students would have to pay the tuition differential unless: 1) they were in attendance at the university before July 1, 2007, and remained continuously enrolled; 2) they were the beneficiary of a prepaid tuition contract in the Stanley G. Tate Florida Prepaid College Program that was in effect on July 1, 2008, and remained in effect; or 3) they were eligible for the Florida Public Student Assistance Grant and the university waived the fee. Also, the tuition differential is not covered by the Bright Futures Scholarship Program.

The extension from July 1, 2007, to July 1, 2008, of the grandfather provision for Florida Prepaid beneficiaries may result in less revenue for the three state universities that are eligible under current law to charge the differential tuition; however, the exact amount is indeterminate. The extension of the grandfather provision will provide tuition savings to an additional cohort of Prepaid beneficiaries that enroll in one of the state universities that are eligible to charge the differential tuition.

Effective on July 1, 2007, the Prepaid College Board was authorized to provide advance payment contracts for a tuition differential fee plan. If the tuition differential fee plan is purchased for a beneficiary and the beneficiary decides to attend a public university that does not charge a tuition differential fee, a refund will be returned to the purchaser in an amount not to exceed the redemption value of the plan.

### Licensure by Accreditation

Independent postsecondary institutions that are not Florida corporations would be able to use a more streamlined process to obtain licensure in Florida, which may lower the overall costs to such institutions to obtain licensure.

## D. FISCAL COMMENTS:

### Postsecondary Education Estimating Conference

The postsecondary education enrollment estimates will assist the Legislature in allocating resources in a cost effective manner to the appropriate delivery systems in order to maximize student access to postsecondary education.

### Determination of Residency Status

To the extent the more rigorous residency requirements included in the bill result in fewer out-of-state students being reclassified as Florida residents, there may be cost savings to the state. Currently, the state provides approximately 75 percent of the cost for instruction of Florida residents enrolled in public postsecondary educational institutions, with students paying the balance with tuition. However, non-Florida residents are required to pay the full cost of instruction. In addition, the state provides funding for a number of student financial assistance programs for Florida residents, including the Florida Student Assistance Grant Program and the Florida Resident Access Grant Program. The exact fiscal impact is indeterminate.

## **Increase in Community College Financial Aid Fee Revenue Threshold from \$250,000 to \$500,000**

According to the Department of Education, ten community colleges are projected to collect less than \$500,000 in Fiscal Year 2008-09 from the financial aid fee and will be eligible to charge an additional 2 percent surcharge as provided in this bill.<sup>38</sup> The colleges are:

### **Colleges Eligible to Assess 2% Surcharge under Current Law Threshold of \$250,000**

1. Chipola College;
2. Florida Keys Community College; and
3. North Florida Community College.

### **Additional Colleges Eligible to Assess 2% Surcharge under Proposed Threshold of \$500,000**

1. Gulf Coast Community College;
2. Lake City Community College;
3. Lake Sumter Community College;
4. Okaloosa Walton College;
5. Polk Community College;
6. St. John's River Community College; and
7. South Florida Community College.

According to the Department, if all the eligible colleges choose to increase the financial aid fee by the additional 2 percent authorized in the bill, an additional \$939,000 in financial aid fee revenues may be generated by the colleges. This additional revenue provides the capacity for the community college system to award an estimated 112 additional scholarships in Fiscal Year 2008-09.

To the extent the additional seven colleges implement the 2 percent surcharge, the cost to students enrolled at these colleges may increase by approximately \$1.20 per credit hour. Additionally, the Department of Education estimates that the cost for the Bright Futures Scholarship Program may increase by approximately \$130,000 to pay for the additional 2 percent surcharge at these additional eligible colleges.

## **Increase in Community College Financial Aid Fee Revenue that Can Be Expended on Non-Need Based Financial Aid**

According to the Department of Education, increasing the amount of the financial aid fee revenues that can be used for non-need based financial aid will generate an estimated additional \$7.3 million for merit, athletic, public service, cultural arts, or other non-need based scholarships. Additionally, the statutorily required expenditure for financial aid based on absolute need would decrease an estimated \$4.6 million.

### **State University Professional Programs**

The bill authorizes the boards of trustees to establish the tuition and out-of-state fee for each professional program at the institution and removes the current statutory 10 percent cap on annual increases for such programs. A grandfather provision is included in the bill, which maintains the 10 percent cap on annual increases for students who enroll in a professional program prior to fall 2008 and maintain continuous enrollment in good academic standing.

---

<sup>38</sup> Information in the fiscal comments relating to the community college financial aid fee was provided by the Department of Education on April 8, 2008.

The bill may result in additional revenue for the state universities; however, the exact impact is indeterminate. The chart below details the tuition and out-of-state fees that are in effect in Fiscal Year 2007-2008 for professional programs at state universities.

**FY 2007-08 Tuition and Out-of-State Fees for Professional Programs<sup>39</sup>**

<b>Florida Residents</b>	<b>Law</b>	<b>Medicine</b>	<b>Dentistry</b>	<b>Veterinary Medicine</b>	<b>Pharmacy</b>
University of Florida	\$8,646.73	\$23,095.18	\$21,150.15	\$18,401.50	\$11,481.44
Florida State University	\$8,615.76	\$17,881.98			
Florida A&M University	\$5,960.00				
University of South Florida		\$21,192.20			
Florida International University	\$7,635.04				
<b>SYSTEM AVERAGE</b>	<b>\$7,714.38</b>	<b>\$20,723.12</b>	<b>\$21,150.15</b>	<b>\$18,401.50</b>	<b>\$11,481.44</b>
<b>Nonresidents</b>	<b>Law</b>	<b>Medicine</b>	<b>Dentistry</b>	<b>Veterinary Medicine</b>	<b>Pharmacy</b>
University of Florida	\$24,138.72	\$52,335.42	\$47,630.90	\$39,376.70	\$34,624.90
Florida State University	\$24,625.68	\$52,433.17			
Florida A&M University	\$21,497.60				
University of South Florida		\$53,066.29			
Florida International University	\$18,662.56				
<b>SYSTEM AVERAGE</b>	<b>\$22,231.14</b>	<b>\$52,611.63</b>	<b>\$47,630.90</b>	<b>\$39,376.70</b>	<b>\$34,624.90</b>

**Average Tuition and Required Fees for Professional Programs<sup>40</sup>**

<b>Program<sup>41</sup></b>		<b>2006-2007<sup>42</sup></b>	<b>2007-2008<sup>43</sup></b>
Law	Resident	\$7,247.58	\$7,714.38
	Non-resident	\$21,764.28	\$22,231.14
Medicine	Resident	\$19,400.89	\$20,723.12
	Non-resident	\$51,071.32	\$52,611.63
Veterinary Medicine	Resident	\$16,775.16	\$18,401.50
	Non-resident	\$37,750.36	\$39,376.70
Dentistry	Resident	\$19,273.92	\$21,150.15
	Non-resident	\$45,754.68	\$47,630.90
Pharmacy	Resident	\$10,479.54	\$11,481.44
	Non-resident	\$33,623.00	\$34,624.90

**State University Financial Aid Fee**

The bill provides that 75 percent of the revenue generated from the student financial aid fee shall be used to provide need-based financial assistance. In Fiscal Year 2006-07, the financial aid fee

<sup>39</sup> FY 2007-08 Tuition and Required Fees Chart available at <http://www.flbog.org/about/budget/current.php>

<sup>40</sup> Florida Board of Governors website, <http://www.flbog.org/about/budget/current.php>

<sup>41</sup> Full-time students

<sup>42</sup> Tuition and Fee amounts are the average of all professional programs offered across the state.

<sup>43</sup> See footnote 2.

generated approximately \$47 million for the system. Based on the 75 percent requirement in the bill, the amount available for need-based would have been \$35.3 million in 2006-07.

#### University Tuition Differential

The fiscal impact of the bill is indeterminate because the university tuition differential is authorized rather than required. The Board of Governors is authorized to establish a uniform maximum undergraduate tuition differential that does not exceed 30 percent, which leaves a range that the fee could fall between.

### **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:**

#### **B. RULE-MAKING AUTHORITY:**

CS/CS/HB 745 clarifies rule-making authority of the State Board of Education with regard to community college user fees.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

#### **D. STATEMENT OF THE SPONSOR**

Waived by the sponsor due to time constraints.

### **IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

CS/HB 745 was adopted by the Schools and Learning Council on April 1, 2008 and differs from HB 745 in the following ways:

- CS/745 requires the Education Estimating Conference to estimate a state-level demand pool for postsecondary education that includes all delivery systems, public and private.
- CS/745 revises licensure by means of accreditation provisions to eliminate the requirement that an institution be a Florida corporation to use this process.
- CS/745 defines additional terms for purposes of assessing tuition at state universities including "undergraduate tuition," "graduate tuition," and "professional programs."

- CS/745 revises provisions relating to residency:
  - Ties residency determination to a student's initial enrollment in a postsecondary institution and provides criteria for documenting residency – to qualify as a resident for tuition purposes the student must have been a resident as least 12 months prior to initial enrollment.
  - Provides guideline for reclassification of residency status.
  - Clarifies that these provisions also apply to eligibility requirements for state financial aid programs and tuition assistance grants.
- CS/HB 745 revises permissive allocation provisions for use of workforce capital improvement fees to permit 15% of the fees, rather than 15 cents per credit hour, to be used for child care centers.
- CS/HB 745 revises provisions relating to community college fees.
  - Adds a grandfather provision to address changes made during the 2007C Special Session that could impact a college's activity and service fee. No college will be required to reduce its activity and service fee to comply with the changes made during the 2007C Special Session.
  - Clarifies rule-making authority of the State Board of Education with regard to community college user fees.
  - Increases the fee exemptions that community colleges are authorized to grant.
- CS/HB 745 revises provisions relating to state university fees.
  - Removes the 10 percent cap on annual increase in tuition and out-of-state fees for students in professional programs except for currently enrolled students.
  - Makes technical and conforming changes to provisions relating to tuition and out-of-state fees for undergraduate and graduate courses.
  - Requires that a minimum of 75% of financial aid fee revenue be used for need-based aid.
  - Establishes an excess hour policy for undergraduate students at state universities to provide incentives for efficient degree completion.
    - Requires students to pay an excess hour surcharge of 50% of tuition for each credit hour in excess of 120% of the number of credit hours required to complete that student's degree program.
    - Applies to students entering a state university or community college for the first time in the 2008-2009 academic year and thereafter.
    - Specifies the hours to be included in the excess hour calculations.
    - Specifies the hours that are not included in the excess hour calculations.

- Requires institutions to notify students of the policy upon initial enrollment and upon earning the number of hours required to complete that degree program.
- Provides for exemptions to the excess hours policy.

CS/CS/HB 745 was adopted by the Policy & Budget Council on April 10, 2008 and differs from CS/HB 745 in the following way:

- CS/CS/HB 745 permits community colleges to collect up to an additional 2 percent if the total revenue generated by the financial aid fee is less than \$500,000 rather than \$250,000 as currently authorized. The bill increases the amount of financial fee revenue that may be used for academic merit, athletics, public service, cultural arts, other extracurricular program, and certain targeted populations from \$300,000 to \$600,000.
- CS/CS/HB 745 amends provisions relating to the Statewide Course Numbering System to require that credit must be awarded if a course is judged by the statewide course numbering faculty committee to be academically equivalent to a course offered at the receiving institution, including equivalency of faculty credential, regardless of the accrediting body and public or nonpublic control of the previous institution.
- CS/CS/HB 745 permits state employee fee waivers to be used for distance learning or online courses and provides that the space available in a course is to be determined based on the number of seats or capacity remaining in the course at the end of the drop-add period.
- CS/CS/HB 745 amends provisions relating to an exemption to the tuition differential. The bill provides that beneficiaries that have prepaid tuition contracts which were in effect on July 1, 2008 and which remain in effect are exempt from the payment of the tuition differential.