

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 403 State University Tuition and Fees  
**SPONSOR(S):** Full Appropriations on Education & Economic Development; State Universities & Private Colleges Policy Committee; Weatherford  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 762

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	State Universities & Private Colleges Policy Committee	11 Y, 0 N, As CS	Thomas	Tilton
2)	State Universities & Private Colleges Appropriations Committee	8 Y, 0 N	Smith	Trexler
3)	Full Appropriations Council on Education & Economic Development	18 Y, 1 N, As CS	Smith	Martin
4)				
5)				

### SUMMARY ANALYSIS

CS/CS/HB 403 authorizes each state university to charge a tuition differential subject to approval by the Board of Governors. In addition to the five state universities that currently charge the tuition differential—the University of Florida, Florida State University, the University of South Florida, the University of Central Florida, and Florida International University—the remaining six state universities would be authorized to establish a tuition differential, as well.

Seventy percent of the tuition differential would be used to promote improvements in undergraduate education and thirty percent would be used to provide financial aid to undergraduate students who exhibit financial need. The aggregate sum of tuition and the tuition differential could not increase by more than 15 percent of the total charged for these fees in the previous year. The total undergraduate tuition and fees per credit hour could not exceed the national average for undergraduate tuition and fees at 4-year degree-granting public postsecondary educational institutions.

The current requirements of the tuition differential would continue to apply to students, as follows:

- The tuition differential is not covered by the Bright Futures Scholarship Program;
- Students who were in attendance at the qualifying institution prior to July 1, 2007, and who maintain continuous enrollment may not be charged the tuition differential;
- A university may waive the tuition differential for students who demonstrate unmet financial need under the criteria for the Florida Public Student Assistance Grant (FSAG); and
- Beneficiaries having prepaid tuition contracts in the Prepaid College Tuition Program in effect on July 1, 2007, and which remain in effect, are exempt from the payment of the tuition differential.

The Board of Governors must issue a report to the President of the Senate, the Speaker of the House of Representatives, and the Governor regarding the implementation of the tuition differential.

Because the tuition differential is authorized, not required, and may vary by institution, the fiscal impact is indeterminate. See FISCAL COMMENTS for additional information.

The effective date of this act is July 1, 2009.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

##### **Tuition Differential**

The 2007 Legislature authorized the Board of Governors of the State University System to establish a tuition differential for research universities with a cap of 30 percent or 40 percent of tuition, depending on the classification of the institution.<sup>1</sup> The tuition differential is a supplemental fee that is charged for undergraduate instruction. Under the criteria established in 2007, Florida State University and the University of Florida met the criteria for a differential capped at 40 percent of tuition, and the University of South Florida met the criteria for a differential capped at 30 percent. The three institutions that were eligible to impose a tuition differential in 2007 delayed imposing the tuition differential for one year. The 2008 Legislature revised the eligibility criteria for the tuition differential that is capped at 30 percent, and two more universities, Florida International University and the University of Central Florida, became eligible to impose a tuition differential<sup>2</sup>. In the 2008-2009 academic year, all five universities that are authorized to do so imposed a tuition differential for undergraduate students.

<b>University</b>	<b>Criteria Met<sup>3</sup></b>	<b>Tuition Differential</b>
Florida International University	\$100 Million R&D Expenditures	\$6.96
Florida State University	Funding Level 1	\$6.96
University of Central Florida	\$100 Million R&D Expenditures	\$2.32
University of Florida	Funding Level 1	\$6.96
University of South Florida	\$100 Million R&D Expenditures	\$6.96

<sup>1</sup> Ch. 2007-225, L.O.F.; The classifications for the funding levels were based on the 2005 Carnegie Classifications for research universities.

<sup>2</sup> Ch. 2008-193, L.O.F.

<sup>3</sup> The BOG authorized universities meeting the criteria for either Funding Level 1 or \$100 million R&D expenditures to establish the 2008-2009 tuition differential at no more than \$6.96 per credit hour above the \$82.03 tuition established in the General Appropriations Act (*see* Specific Appropriation 151, § 2, ch. 2008-152, L.O.F.). This increase, combined with the six percent increase authorized by the Legislature, results in the maximum allowable 15 percent annual increase above the 2007-2008 tuition of \$77.39 per credit hour. *See* BOG Minutes of May 8, 2008, Telephone Conference Call, *available at* [http://www.flbog.org/pressroom/meeting\\_archive.php](http://www.flbog.org/pressroom/meeting_archive.php).

The revenue generated from the tuition differential must be spent solely for improving the quality of direct undergraduate instruction and support services.<sup>4</sup>

The tuition differential is subject to the following conditions:<sup>5</sup>

- ❖ The sum of tuition and the tuition differential may not be increased by more than 15 percent of the total charged for these fees in the preceding fiscal year.
- ❖ The tuition differential is not covered by Bright Futures Scholarships.
- ❖ Beneficiaries with prepaid tuition contracts for university plans which were in effect on July 1, 2007, and which remain in effect, are exempt from the payment of the tuition differential.
- ❖ The tuition differential may not be charged to any student who was in attendance at the university before July 1, 2007, and who maintains continuous enrollment.
- ❖ The tuition differential may be waived for students who meet the eligibility requirements for the Florida Public Student Assistance Grant.<sup>6</sup>
- ❖ A university board of trustees that has been authorized by the BOG to establish a tuition differential may establish it at a rate lower than that authorized, but may not exceed the maximum tuition differential established by the BOG.

The Prepaid College Board is authorized to offer advance payment contracts for a community college tuition plan, a university tuition plan, a community college plus university tuition plan, a university dormitory plan, a local fee plan, and a tuition differential fee plan.<sup>7</sup> Beneficiaries with prepaid tuition contracts for university plans which were in effect on July 1, 2007, and which remain in effect, are exempt from the payment of the tuition differential.<sup>8</sup>

#### Education Estimating Conference

Section 216.136(4), F.S., directs the Education Estimating Conference to provide official information relating to the state's public and private educational system as the conference determines is needed for the state's planning and budgeting system. This includes 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.<sup>9</sup> The Education Estimating Conference is one of several consensus estimating conferences defined in s. 216.133, F.S. The term "official information" means the data, forecasting, estimates, analyses, studies, and other information which the principals of a consensus estimating conference unanimously adopt for purposes of the state planning and budgeting system. The principals of the conference consist of professional staff from the Executive Office of the Governor, the coordinator of the Office of Economic and Demographic Research, and professional staff of the Senate and House of Representatives. All of the principals of a consensus estimating conference must reach unanimous consent in order to produce an official estimate. Each state agency must use the official information developed by the consensus estimating conference in carrying out their duties under the state planning and budgeting system.<sup>10</sup> For purposes of fiscal affairs of the state, appropriations acts, legislative budgets, and approved budgets, the term "state agency" is defined to mean any official, officer, commission, board, authority, council, committee, or department of the executive branch of state government.<sup>11</sup>

#### Average Tuition and Fees

Information on average tuition and fees is available from a variety of sources.

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<sup>4</sup> Section 1009.24(16)(g), F.S.

<sup>5</sup> Section 1009.24(16), F.S.

<sup>6</sup> See s. 1009.50, F.S.

<sup>7</sup> Section 1009.98(2), F.S.; see <http://www.myfloridaprepaid.com/plans> (last visited February 24, 2009).

<sup>8</sup> Section 1009.24(16)(c), F.S.

<sup>9</sup> See s. 216.136(4)(a), F.S.

<sup>10</sup> See s. 216.135, F.S.

<sup>11</sup> See s. 216.011(1)(qq), F.S.

The National Center for Education Statistics annually publishes the *Digest of Education Statistics*, which includes information on the average undergraduate tuition and required fees for full-time students in degree-granting institutions by type and control of institution and state or jurisdiction. The US average reported for in-state students at public 4-year institutions for 2006-07 was \$5,685. The average reported for Florida for in-state students at public 4-year institutions for 2006-07 was \$3,050.<sup>12</sup>

The College Board reports that the average published tuition and fees amount for in-state students at public 4-year colleges and universities was \$6,585 for 2008-09. The amount reported for Florida was \$3,792. Tuition and fee figures are based on charges to full-time students over the course of a nine-month academic year of 30 semester hours or 45 quarter hours.<sup>13</sup>

### State University Fees

Current law authorizes state universities to charge a financial aid fee to provide funds for financial aid awards. A minimum of 75 percent of funds from the financial aid fee used for new awards must provide aid based on absolute need.<sup>14</sup> According to the Board of Governors, all of the universities met the requirement for need-based financial aid awards in Fiscal Year 2006-07.<sup>15</sup>

### Effect of Proposed Changes

CS/CS/HB 403 authorizes each state university to charge a tuition differential subject to approval by the Board of Governors. In addition to the five state universities that currently charge the tuition differential—the University of Florida, Florida State University, the University of South Florida, the University of Central Florida, and Florida International University—the remaining six state universities would be authorized to establish a tuition differential, as well. The aggregate sum of tuition and the tuition differential could not increase by more than 15 percent of the total charged for these fees in the previous year. The total undergraduate tuition and fees per credit hour could not exceed the national average for undergraduate tuition and fees at 4-year degree-granting public postsecondary educational institutions.

### Uses of the Tuition Differential

The tuition differential must be used to promote improvements in the quality of undergraduate education and to provide financial aid to students who exhibit financial need. Seventy percent of the tuition differential would be used for undergraduate education and thirty percent would be used to provide financial aid to undergraduate students who exhibit financial need.

Uses of the tuition differential for undergraduate education may include, but are not limited to, increasing course offerings, improving graduation rates, increasing the percentage of undergraduate students who are taught by faculty, decreasing student-faculty ratios, providing salary increases for faculty who have a history of excellent teaching in undergraduate courses, improving the efficiency of the delivery of undergraduate education through academic advisement and counseling, and reducing the percentage of students who graduate with excess hours. The bill prohibits using the tuition differential to pay the salaries of graduate teaching assistants.

Thirty percent of the tuition differential revenue must be expended for need-based financial aid. A university may pay the required thirty percent of revenue from new private sources. A university may not supplant the amount of need-based financial aid the university provided to undergraduate students in the preceding fiscal year from financial aid fee revenues, from the direct appropriation for financial

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<sup>12</sup> National Center for Education Statistics, Table 321 at [http://nces.ed.gov/programs/digest/d07/tables/dt07\\_321.asp](http://nces.ed.gov/programs/digest/d07/tables/dt07_321.asp) (last visited February 19, 2009).

<sup>13</sup> See Trends in College Pricing at <http://www.collegeboard.com/html/costs/pricing/introduction.html> (last visited February 24, 2009).

<sup>14</sup> Section 1009.24(7), F.S.

<sup>15</sup> Telephone conversation with Board of Governors staff (March 19, 2009).

assistance provided to state universities in the General Appropriations Act, or from existing private sources.

#### Procedures for Establishing a Tuition Differential

A university board of trustees may submit a proposal to the Board of Governors to implement a tuition differential for one or more undergraduate courses. The proposal must indicate:

- The course or courses for which the tuition differential would be assessed;
- The amount that would be assessed for each tuition differential proposed;
- The purpose of the tuition differential;
- How the revenues from the tuition differential would be used; and
- How the university would monitor the success of the tuition differential in achieving the purpose for which it is being assessed.

The Board of Governors must review each proposal and advise the university board of trustees of approval of the proposal, the need for additional information or revision to the proposal, or denial of the proposal.

By January 1, 2010, and no later than January 1 each year thereafter, the Board of Governors must submit a report to the President of the Senate, the Speaker of the House of Representatives, and the Governor that summarizes the proposals received by the board during the preceding fiscal year and the actions taken by the board in response to such proposals. The report must provide information concerning the courses for which the tuition differential was assessed, the revenues generated, waivers authorized and need-based awards provided. The report must also include data regarding changes in retention rates, graduation rates, pass rates on licensure exams, students graduating with excess hours, the number of undergraduate course offerings, the percentage of undergraduate students who are taught by faculty, student-faculty ratios, and the average salaries of faculty who teach undergraduate courses.

The current requirements of the tuition differential would continue to apply to students, as follows:

- The tuition differential is not covered by the Bright Futures Scholarship Program;
- Students who were in attendance at the qualifying institution prior to July 1, 2007, and who maintain continuous enrollment may not be charged the tuition differential;
- A university may waive the tuition differential for students who demonstrate unmet financial need under the criteria for the Florida Public Student Assistance Grant (FSAG); and
- Beneficiaries having prepaid tuition contracts in the Prepaid College Tuition Program in effect on July 1, 2007, are exempt from the payment of the tuition differential.

A state university would not be required to lower a tuition differential that was approved by the Board of Governors prior to January 1, 2009, in order to comply with the requirements of this bill.

#### The Education Estimating Conference

CS/CS/HB 403 requires the Education Estimating Conference to develop information relating to the national average of tuition and fees at public postsecondary educational institutions.

#### Financial Aid Fee

The bill requires 75 percent of financial aid fee revenues to be spent on need-based aid. According to the Board of Governors, most of the state universities would meet or exceed this requirement, based on prior year data.<sup>16</sup>

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<sup>16</sup> Telephone conversation with Board of Governors staff (March 19, 2009).

**B. SECTION DIRECTORY:**

- Section 1. Amends s. 216.136, F.S., requiring the Education Estimating Conference to develop information relating to the national average of tuition and fees.
- Section 2. Amends s. 1009.01, F.S., revising the definition of the term “tuition differential.”
- Section 3. Amends s. 1009.24, F.S. revising provisions relating to the use of the student financial aid fee; deleting obsolete provisions; revising provisions relating to the establishment of a tuition differential; providing requirements for the assessment and expenditure of a tuition differential; authorizing the use of private funds to meet the thirty percent need-based provision; providing requirements for a university board of trustees to submit a proposal to the Board of Governors to implement a tuition differential; requiring the Board of Governors’ review and approval of a proposal; requiring the Board of Governors to report specified information annually to the Legislature and the Governor.
- Section 4. Provides an effective date of July 1, 2009.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

- 1. Revenues:  
See FISCAL COMMENTS
- 2. Expenditures:  
See FISCAL COMMENTS

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

- 1. Revenues:  
See FISCAL COMMENTS
- 2. Expenditures:  
See FISCAL COMMENTS

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

**D. FISCAL COMMENTS:**

The bill authorizes university boards of trustees to establish a tuition differential upon receipt of approval from the Board of Governors. There is no requirement that a university board of trustees establish a tuition differential.

The bill caps the sum of undergraduate tuition and fees per credit hour at the national average. Universities that impose the differential to the maximum extent allowable would realize significantly more revenue as the cost of tuition and fees reached the national average of tuition and fees.

Assuming no increase in tuition by the Legislature and assuming the tuition differential grows by the maximum 15 percent of the total of tuition and the tuition differential each year, by the year 2013-2014 the cost per credit hour would increase from \$130.66 per credit hour to \$224.77<sup>17</sup> per credit hour at the

<sup>17</sup> This amount includes a five percent technology fee beginning in fall 2009.

five universities that currently have a tuition differential. If the six universities that do not currently impose a tuition differential did so and increased it by 15 percent each year, students at those universities, who now pay \$123.70 per credit hour, would pay \$210.77<sup>18</sup> per credit hour in 2013-2014. Recipients of Bright Futures Scholarships could bear increasing responsibility for the cost of their education. If the tuition differential increased by 15 percent per year, by 2013-2014, Bright Futures Academic Scholars would pay approximately 45 percent of the cost of their education at UF, FSU, USF, FIU, and UCF. At the other six state universities, they would pay approximately 41 percent of the cost of their education.

Other Potential Implications:

The Florida Prepaid College Board is authorized to provide advance payment contracts for the tuition differential. As of February 12, 2009, the board has sold 17,845 prepaid contracts to cover the cost of the tuition differential. Those contracts were sold using actuarial assumptions under the existing tuition differential program.<sup>19</sup> The revisions to the tuition differential in the bill could reduce the actuarial reserves in the Florida Prepaid College Trust Fund by \$124 million.<sup>20</sup>

Future Florida Prepaid College Program contracts for tuition would not cover the cost of the tuition differential. The cost of the tuition differential contract eventually could be as high as the cost of the tuition contract, and parents would have to buy both contracts in order to cover the cost of a child's education.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

2. Other:

The Board of Governors has challenged the Legislature's authority over the State University System.<sup>21</sup> One of the issues in that lawsuit is a challenge to the Legislature's authority in setting university tuition and fees.

#### B. RULE-MAKING AUTHORITY:

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

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<sup>18</sup> This amount includes a five percent technology fee beginning in fall 2009.

<sup>19</sup> Florida Prepaid College Board analysis of HB 403.

<sup>20</sup> As of February 16, 2009, the Florida Prepaid College Board and the Board of Governors have entered into a tentative agreement concerning the payment of tuition, tuition differential fees, local fees and dormitory fees for pre-existing prepaid contracts. The agreement is contingent upon ratification by the Florida Prepaid College Board and the Board of Governors and legislative enactment authorizing the Florida Prepaid College Board to pay the amounts specified in the agreement to the state universities attended by beneficiaries of pre-existing prepaid contracts. If the agreement's payment provisions are enacted by the Legislature, the Florida Prepaid College Board staff states that this bill would have no actuarial impact upon the Florida Prepaid College Trust Fund. However, according to the board, in the absence of that agreement becoming effective, the board's actuary, Ernst & Young, estimates that the bill would reduce the actuarial reserve of the Florida Prepaid College Trust by approximately \$124 million.

<sup>21</sup> *Bob Graham et al v. Ken Pruitt, President of the Florida Senate and Marco Rubio, Speaker of the Florida House of Representatives*, Case No. 2007-CA-1818.

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

On March 3, 2009, the State Universities & Private Colleges Policy Committee adopted one amendment to HB 403 and reported the bill favorably as a committee substitute. The amendment clarifies that a university would have flexibility in determining the uses of the tuition differential.

On March 23, 2009, the Full Appropriations Council on Education and Economic Development adopted two amendments to CS/HB 403 and reported the bill favorably as a council substitute. The first amendment clarifies that the thirty percent of the tuition differential that is required to be spent on need-based aid may come from the tuition differential or from new private sources. The second amendment requires the Board of Governors to include need-based eligibility and award data and the amount of need-based aid that was provided through private sources in the annual report to the Legislature and the Governor.