

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 Policy and Steering Committee on Ways and Means

BILL: CS/CS/SB 762

INTRODUCER: Higher Education Appropriations Committee, Higher Education Committee and Senator Pruitt

SUBJECT: State University Tuition and Fees

DATE: April 10, 2009 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harkey	Matthews	HE	Fav/CS
2.	Bryant	Hamon	HI	Fav/CS
3.	Hamon	Kelly	WPSC	Favorable
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes
 B. AMENDMENTS..... Technical amendments were recommended
 Amendments were recommended
 Significant amendments were recommended

I. Summary:

This bill 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 are authorized to establish a tuition differential, as well.

Seventy percent of the tuition differential will be used to enhance undergraduate education and thirty percent, or the equivalent amount from private sources, will 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 at public universities.

The current requirements of the tuition differential continues 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.

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

This bill amends ss. 216.136, 1009.01, and 1009.24, Florida Statutes.

II. Present Situation:

State University Undergraduate Tuition and Fees

The Legislature establishes resident undergraduate tuition. Under s. 1009.24(4)(b), F.S., the resident undergraduate tuition must increase at a rate equal to inflation, as defined by the Consumer Price Index, unless otherwise provided in the General Appropriations Act. In 2008-2009, the undergraduate tuition per credit hour is \$82.03.¹ Section 1009.24, F.S., authorizes university boards of trustees to impose fees for certain purposes and many of those fees are capped at a percentage of tuition. The sum of the activity and service, health, and athletic fees may not exceed 40 percent of tuition. The financial aid fee may not exceed five percent of the tuition and out-of-state fee. Beginning in 2009-2010, university boards of trustees may impose a technology fee which may not exceed five percent of tuition. Universities may also charge user fees and fines for such things as applications, materials and supplies, parking, and lost or damaged library materials.

The Tuition Differential

The 2007 Legislature authorized the Board of Governors of the State University System to establish a tuition differential for research universities,² with a cap of 30 percent or 40 percent of tuition, depending on the classification of the institution.³ The tuition differential is a supplemental fee that is charged for undergraduate instruction. 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.⁴ In the 2008-2009 academic year, all five universities imposed a tuition differential for undergraduate students.

¹ Specific Appropriation 151, Conference Report on House Bill 5001, General Appropriations Act for Fiscal Year 2008-2009.

² ch. 2007-225, L.O.F.

³ The classifications for the funding levels were based on the 2005 Carnegie Classifications for research universities.

⁴ ch. 2008-193, L.O.F.

National Average Tuition

Both the College Board and the National Center for Education Statistics publish national average tuition rates. According to the National Center for Education Statistics, for the academic year 2007-2008, the national average of tuition and fees for resident undergraduate students at 4-year public postsecondary institutions in the United States was \$5,390.⁵ According to the College Board, the national average of tuition and fees at public 4-year colleges and universities in 2008-2009 was \$6,585.⁶ Over the past decade, published tuition and fees have risen at an average rate of 4.2 percent per year after inflation at public four-year institutions.⁷

Estimating Conferences

Sections 216.133-137, F.S., establish the consensus estimating conferences which provide official data, forecasts, and estimates for the state's planning and budgeting system. The principals of each 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. The Education Estimating Conference develops official information relating to the state's public and private educational system.⁸

III. Effect of Proposed Changes:**Expansion of the Tuition Differential**

This bill 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.

Uses of the Tuition Differential

Seventy percent of the tuition differential must be used to enhance undergraduate education and thirty percent would be used to provide financial aid to undergraduate students who exhibit financial need. Rather than using 30 percent of the tuition differential for financial aid, a university may provide an equivalent amount of need-based financial aid from private sources and use all of the tuition differential to enhance undergraduate instruction. The thirty percent of the tuition differential that must be expended for need-based financial aid may not supplant the amount of need-based financial aid the university supplied to undergraduate students in the preceding fiscal year from financial aid fee revenues, the direct appropriation for financial assistance provided to state universities in the General Appropriations Act, or from private sources.

The aggregate sum of tuition and the tuition differential may not increase by more than 15 percent of the total charged for these fees in the previous year. The total undergraduate tuition

⁵ U.S. Department of Education, National Center for Education Statistics, "Postsecondary Institutions in the United States: Fall 2007, Degrees and Other Awards Conferred: 2006-07, and 12-Month Enrollment 2006-07, First Look", p. 6.

⁶ College Board, "Trends in College Pricing", 2008, Readable at <http://www.collegeboard.com/html/costs/pricing/>

⁷ *Id.*

⁸ s. 216.136(4), F.S.

and fees per credit hour could not exceed the national average for undergraduate tuition at public universities.

Possible uses of the tuition differential to enhance undergraduate education include 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, reducing the percentage of students who graduate with excess hours, and other education enhancements. The bill prohibits using the tuition differential to pay the salaries of graduate teaching assistants.

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 board of trustees of each university shall strive to increase enrollment in math, science, high technology, and other high need areas when establishing tuition differentials by course. 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, and waivers authorized. 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 will 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 bill recognizes that some of the state's high level research universities have research and development of more than \$100 million per year.

The Education Estimating Conference

The bill requires the Education estimating conference to develop information relating to the national average tuition and fees at public postsecondary educational institutions. Principals from the Governor's Office, Senate, House of Representatives, and the Office of Economic and Demographic Research would have to reach consensus on the average tuition.

Other Potential Implications:

This bill changes the way university undergraduate education is funded. Universities will realize significantly more revenue as the cost of tuition and fees reaches the national average of tuition and fees.

As the amount of the tuition differential increases, the portion of the cost of an undergraduate education covered by the Bright Futures Scholarship Program will decrease. With the potential expansion of the tuition differential to all state universities, it is likely that no Florida Academic Scholar will receive 100 percent of the cost of tuition and fees. Instead, many students will find that the scholarship covered approximately half of these costs.

If the growth in resident undergraduate costs in future years happens within the tuition differential, beneficiaries of prepaid contracts in effect on July 1, 2007, will not have to pay the tuition differential at a state university, and the prepaid actuarial surplus may expand significantly. Future Florida Prepaid College Program contracts for tuition will 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 may have to buy both of those contracts, as well as a local fees contract, in order to cover the cost of a child's tuition and fees.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The Board of Governors has challenged the Legislature's authority over the state university system.⁹ One of the issues in that lawsuit is a challenge to the Legislature's authority in setting university tuition and fees.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

See Private Sector Impact.

B. Private Sector Impact:

The tuition differential is assessed in the 2008-2009 fiscal year as follows:

University of Florida (UF)	\$6.96 per credit hour
Florida State University (FSU)	\$6.96 per credit hour
University of South Florida (USF)	\$6.96 per credit hour
University of Central Florida (UCF)	\$2.32 per credit hour
Florida International University (FIU)	\$6.96 per credit hour

Under the provisions of the bill, the tuition differential can increase until the total sum of resident undergraduate tuition and fees reaches the national average tuition. Thus students at institutions that impose a tuition differential would pay a larger amount of total tuition and fees.

Assuming no increase in tuition by the Legislature and assuming the tuition differential grew 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 the current \$130.66 per credit hour to \$224.77¹⁰ per credit hour at the 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 \$210.77¹¹ per credit hour in 2013-2014.

Recipients of Bright Futures Scholarships would 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

⁹ *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.

¹⁰ This amount includes a five percent technology fee beginning in fall 2009.

¹¹ This amount includes a five percent technology fee beginning in fall 2009.

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.

C. Government Sector Impact:

The chart below shows the revenue that the tuition differential would generate for the state university in the next two fiscal years system under two scenarios: if the Legislature did not increase tuition and if the Legislature increased tuition by five percent annually:¹²

Annual tuition rate increase	2009-10 est.	2010-11 est.
0%	\$15.2M	\$52.7M
5%	\$10.1M	\$25.7M

The Florida Prepaid College Board is authorized to sell advance payment contracts for the tuition differential. Through February 12, 2009, the Board has sold 17,845 prepaid plan contracts that cover tuition differential fees. Those contracts were sold using actuarial assumptions under the existing tuition differential program. The revisions to the tuition differential in the bill could reduce the actuarial reserves in the Florida Prepaid College Trust by \$124 million.¹³ However, if the Legislature did not increase tuition, and all of the growth in resident undergraduate costs occurred in the tuition differential, the result could be an increase in the actuarial reserve.

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 on April 1, 2009:

The committee substitute:

¹² Florida Board of Governors, 2009.

¹³ 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.

- Stresses that the board of trustees of each university shall strive to increase enrollment in math, science, high technology, and other high need areas when establishing tuition differentials by course;
- Adds recognition that some of the state's high level research universities have research and development of more than \$100 million per year.

CS by Higher Education on February 18, 2009:

The committee substitute:

- Clarifies that a university would have flexibility in determining the uses of the tuition differential;
- Permits a university to use private sources to meet the requirement for 30 percent of the tuition differential to be spent on need-based financial aid, thereby allowing an equivalent amount of funds to be used to enhance undergraduate education; and
- Prohibits a university from using the tuition differential to supplant private financial aid funds it already receives.

B. Amendments:

None.