

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HJR 1359 Board of Governors/Student Body President

**SPONSOR(S):** Education Committee; K-20 Innovation Subcommittee; Williams, A. and others

**TIED BILLS:** **IDEN./SIM. BILLS:** SJR 1706

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-20 Innovation Subcommittee	14 Y, 0 N, As CS	Beagle	Sherry
2) Education Committee	17 Y, 1 N, As CS	Beagle	Klebacha

### SUMMARY ANALYSIS

The joint resolution proposes to amend the Florida Constitution to revise the membership of the Board of Governors (BOG) of the State University System (SUS), as follows:

- The Florida Student Association (FSA) president is removed as a BOG member;
- The number of members appointed by the Governor is increased from 14 to 15; and
- One of the 15 members appointed by the Governor must be a state university student body president.

The state university student body president will serve a one-year term and is not subject to confirmation by the Florida Senate. A state university student body president is ineligible for appointment if the student body president appointed to the BOG in the previous year was from the same university. The joint resolution contains a ballot summary that notifies voters regarding the contents of the proposed amendment.

The joint resolution, if adopted by three-fifths vote of the membership of each house of the Legislature, would place the proposed amendment on the ballot of the next general election or an earlier special election if specifically authorized for that purpose. The proposed amendment must be approved by 60 percent of the voters in order to take effect.

As set forth in the Florida Constitution, state-level governance of the SUS is provided by the BOG and Legislature. The BOG is comprised of 17 members – the Commissioner of Education, the chair of the Advisory Council of Faculty Senates, the FSA president, and 14 members appointed by the Governor. Members appointed by the Governor must be confirmed by the Florida Senate.

See Fiscal Analysis and Economic Impact Statement.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **The Board of Governors of the State University System**

As set forth in the Florida Constitution, state-level governance of the state university system (SUS) is provided by the Board of Governors (BOG) and Legislature.<sup>1</sup> The BOG's responsibilities include, but are not limited to, defining the distinctive mission of each SUS institution and its articulation with public schools and Florida College System institutions, ensuring the well-planned coordination and operation of the system, and avoiding wasteful duplication of facilities or programs.<sup>2</sup> Among other things, the BOG is responsible for:

- Accounting for the expenditure of state funds.
- Submitting a legislative budget request for each SUS institution.
- Adopting strategic plans.
- Approving, reviewing, and terminating degree programs.
- Governing admissions to SUS institutions.
- Complying with and enforcing all applicable local, state, and federal laws.<sup>3</sup>

The BOG's oversight of the SUS is subject to the Legislature's power to appropriate funds and establish tuition, fee, and financial aid policies, as well as the Legislature's responsibility to provide for the establishment, maintenance, and operation of institutions of higher learning and other public education programs that the needs of the people may require.<sup>4</sup>

The BOG may establish policies through rulemaking or the adoption of regulations. When acting pursuant to statutory authority derived from the Legislature, the BOG must adopt rules under the Administrative Procedure Act,<sup>5</sup> unless expressly authorized by law to adopt regulations. The BOG may also adopt regulations when implementing its constitutional duties and responsibilities.<sup>6</sup>

The BOG is comprised of 17 members – the Commissioner of Education, the chair of the Advisory Council of Faculty Senates, the Florida Student Association (FSA) president, and 14 members appointed by the Governor. Members appointed by the Governor serve staggered seven-year terms and must be confirmed by the Florida Senate.<sup>7</sup>

FSA is comprised of the student body presidents of Florida A & M University, Florida Atlantic University, Florida Gulf Coast University, Florida International University, New College of Florida, University of Central Florida, University of Florida, University of North Florida, University of South Florida, and University of West Florida. Florida State University is not represented by FSA.<sup>8</sup> Participating institutions pay membership dues, which are based upon Fall semester student enrollment.<sup>9</sup>

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<sup>1</sup> Section (7)(d), Art. IX of the State Constitution; s. 1001.705(2), F.S.

<sup>2</sup> Section (7)(d), Art. IX of the State Constitution; ss. 1001.705(3) and 1001.706, F.S.

<sup>3</sup> Section 1001.705(2), F.S.

<sup>4</sup> Sections 1(a) and 7(d), Art. IX of the State Constitution; s. 1001.705(3), F.S.

<sup>5</sup> Chapter 120, F.S.

<sup>6</sup> Section 1001.706(2), F.S. If the BOG adopts regulations, it must comply with its regulation development procedure, rather than Administrative Procedure Act rulemaking requirements. *Id.*

<sup>7</sup> Section (7)(d), Art. IX of the State Constitution; s. 1001.70(1), F.S.

<sup>8</sup> Florida Student Association, <http://myfsa.org/> (last visited March 29, 2011).

<sup>9</sup> Florida Student Association, *Constitution and Bylaws of the Florida Student Association*, at 2 (Jan. 1, 2011), available at, [http://myfsa.org/includes/files/FSA\\_Bylaws\\_January\\_1\\_2011.pdf](http://myfsa.org/includes/files/FSA_Bylaws_January_1_2011.pdf).

## **Effect of Proposed Changes**

The joint resolution proposes to amend the Florida Constitution to revise the membership of the BOG of the SUS, as follows:

- The FSA president is removed as a BOG member;
- The number of members appointed by the Governor is increased from 14 to 15; and
- One of the 15 members appointed by the Governor must be a state university student body president.

The state university student body president will serve a one-year term and is not subject to confirmation by the Florida Senate. A state university student body president is ineligible for appointment if the student body president appointed to the BOG in the previous year was from the same university. The joint resolution contains a ballot summary that notifies voters regarding the contents of the proposed amendment.

The joint resolution, if adopted by three-fifths vote of the membership of each house of the Legislature, would place the proposed amendment on the ballot of the next general election or an earlier special election if specifically authorized for that purpose.<sup>10</sup> The proposed amendment must be approved by 60 percent of the voters in order to take effect.<sup>11</sup>

### **B. SECTION DIRECTORY:**

As this legislation is a joint resolution proposing a constitutional amendment, it does not contain bill sections. The joint resolution proposes to amend Section 7 of Article IX of the Florida Constitution, relating to the state university system.

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

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

#### **1. Revenues:**

None.

#### **2. Expenditures:**

The Florida Constitution requires the proposed amendment to be published, once in the tenth week and once in the sixth week immediately preceding the week of the election, in one newspaper of general circulation in each county where a newspaper is published.<sup>12</sup> The Department of State executes this requirement and has projected a non-recurring fiscal impact of \$50,522.64 for the publication.<sup>13</sup>

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

#### **1. Revenues:**

None.

#### **2. Expenditures:**

None.

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<sup>10</sup> Section 1 an 5, Art. XI of the State Constitution

<sup>11</sup> Section 5(a) and (e), Art. XI of the State Constitution.

<sup>12</sup> Section 5(d), Art. XI of the State Constitution

<sup>13</sup> Email, Florida Department of State, Division of Elections (March 22, 2011).

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 28, 2011, the K-20 Innovation Subcommittee adopted one amendment and reported the joint resolution favorably as a committee substitute. The amendment:

- Increases the number of BOG members appointed by the Governor from 14 to 15. The original joint resolution removed the FSA president as a BOG member, but did not provide a replacement to maintain the BOG's total membership at 17 members.
- Provides that the state university student body president appointed by the Governor will serve a one-year term and is not subject to confirmation by the Florida Senate. The original joint resolution would have this BOG member serve a seven-year term, subject to Senate confirmation.

The ballot summary is amended to reflect the changes made by the amendment. Because publication costs are determined on a per word basis, the amendment may result in a slight increase in publication costs.

On April 20, 2011, the Education Committee adopted one amendment and reported the joint resolution favorably as a committee substitute. The amendment adds provisions stating that a state university student body president is ineligible for appointment if the student body president appointed to the BOG in the previous year was from the same university. The ballot summary is amended to reflect this change. Because publication costs are determined on a per word basis, the amendment may result in a slight increase in publication costs.