

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1451 Dan Marino Foundation Florida Vocational College

SPONSOR(S): Health & Human Services Committee; Diaz and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1616

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Committee	14 Y, 1 N, As CS	Prater	Gormley
2) Higher Education Appropriations Subcommittee			
3) Education Committee			

SUMMARY ANALYSIS

The bill creates the Dan Marino Foundation Florida Vocational College to provide students with disabilities aged 18-26 a postsecondary education on a college campus. The college is state-supported as a component of the delivery of public education within Florida's K-20 education system and funded through the Department of Education (DOE), subject to a specific appropriation. The college is to be established in Broward County, Florida.

The bill establishes the mission of the college, to provide an appropriate public education for students who have developmental disabilities by providing programs for attaining vocational, life, social, and independent living skills. The college is to provide students with an opportunity to develop skills fostering their independence in a caring, safe, and unique learning environment, to prepare them to be an integral part of the community, and to allow them to become significantly less dependent on government funding.

The bill creates a Board of Trustees to be made up of seven members who are appointed by the Governor, The President of the Senate, and the Speaker of the House of Representatives. The board is responsible for the overall development and management of the college.

The bill has a significant fiscal impact. See Fiscal Comments.

The bill provides an effective date of July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Exceptional Education

Federal law requires states to make a free appropriate public education available to all children with disabilities residing in the state between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school. As the state educational agency, the Department of Education (DOE) must exercise general supervision over all educational programs for children with disabilities in the state, including all programs administered by other state or local agencies, and ensure that the programs meet the educational standards of the state educational agency.

Postsecondary Education for Students with Developmental Disabilities

The 2010 Legislature directed the legislative Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct a review of postsecondary educational opportunities for individuals with developmental disabilities.¹ Section 393.063, F.S., defines developmental disability to mean “a disorder or syndrome that is attributable to retardation, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.” The legislation required the OPPAGA review to address opportunities for postsecondary education and vocational training; transitioning from school to the workforce; and best practices for providing such postsecondary education and training services, including any notable public-private partnerships. According to the report, students with developmental disabilities represent approximately 13 percent of all exceptional student education (ESE) students, or 44,113 of the 341,632 ESE students in FY 2009-2010.² Of the 7,920 students with developmental disabilities who exited school districts in FY 2007-2008, 905 enrolled in adult education programs and 734 enrolled in postsecondary vocational, college, or university programs. The remaining 6,281 students did not continue on to adult education or postsecondary programs in the year after they left high school.³

The OPPAGA review found that while all school districts provide basic transition services to help ESE students with developmental disabilities move into the workforce and live independently after they leave high school, at least 13 school districts have developed programs that provide elements of postsecondary education for students with developmental disabilities through partnerships with public and private universities and school district technical centers.⁴ The programs are funded by ESE funds, and students can participate until they receive a standard high school diploma or reach age 22.

Two postsecondary institutions, Indian River State College in Vero Beach and Brewster Technical Center in Tampa, offer Postsecondary Adult Vocational certificates of completion in specific workforce areas for students with developmental disabilities. The University of North Florida in Jacksonville provides an on-campus transition program where students with developmental disabilities attend classes with nondisabled students and live in student housing.⁵

¹ ch. 2010-155, F.S., see: <http://laws.flrules.org/2010/155>.

² *Students with Developmental Disabilities Have Limited Postsecondary Options; A New Institution Would Expand Choices but Require Additional State Funding*, Office of Program Policy Analysis and Government Accountability, Report No. 11-08, February 2011, p.2., see: <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=11-08>.

³ *Id.*, p.2.

⁴ *Id.*, p.3.

⁵ *Id.*, p.5.

The federal Higher Education Opportunity Act reauthorization⁶ creates incentives for states to provide transition to postsecondary education programs for students with intellectual disabilities—those with mental retardation or a cognitive impairment characterized by significant limitation in intellectual and cognitive functioning who are or were provided a free and appropriate public education under the Individuals with Disabilities Education Act. Student with intellectual disabilities are a subset of the population of students with developmental disabilities. Three Florida institutions—the University of South Florida, St. Petersburg (USFSP); University of North Florida (UNF); and Lynn University have received a grant, funded for \$421,000 a year for 5 years, to form a consortium⁷ to oversee the following grant activities:

- Expansion of the quality and depth of the current transition programs on the campuses of USFSP, UNF, and Lynn University;
- Support for other existing transition programs for students with intellectual disabilities at institutions of higher education across the State of Florida; and,
- Expansion of the transition programs in these institutions across Florida.

Funding for Exceptional Student Education

Exceptional Student Education (ESE) programs and services are provided by federal, state, and local funds. Under the Individuals with Disabilities Education Improvement Act (IDEA), federal special education funds are distributed through state grant programs and discretionary grant programs. Part B of the law, the main program, authorizes grants to state and local education agencies to offset part of the costs of the education needs of children with disabilities, ages 3 through 21.

Proposal for a New Postsecondary Institution for Students with Developmental Disabilities

The 2010 Legislature required OPPAGA to include in its review the feasibility and cost of establishing a residential vocational institution to provide postsecondary education and vocational training for individuals with developmental disabilities.⁸ The review found that an advantage of creating such an institution would be that it could provide postsecondary education for students with developmental disabilities beyond the age of 22, which is the current limit for programs receiving ESE funding. Students could attend even if they had not received a standard high school diploma, which is required by state colleges and universities. A potential disadvantage is that the students would be in a separate community of their disabled peers and they would not have the interaction with non-disabled students that they would have on a traditional college campus. The OPPAGA review points out that certain federal student aid programs available for students with intellectual disabilities require that the students be in a program where they participate on at least a half-time basis with individuals without disabilities.⁹

The Dan Marino Foundation

Dan Marino is an acclaimed football quarterback who played for the Miami Dolphins from 1983 to 1999. He was inducted into the Pro Football Hall of Fame in 2005.¹⁰ Dan Marino and his wife, Claire, established the Dan Marino Foundation¹¹ in Broward County in 1992 to assist children with special needs. The Foundation's stated mission is to "open doors towards independence for children with special needs, teenagers transitioning from foster care and young adults with disabilities."¹² The foundation supports treatment programs, provides outreach services, advances scientific research, and fosters independence through employment and daily living transition programs.¹³

⁶ P.L.110-315

⁷ The Florida Consortium on Postsecondary Education Transition Programs and Intellectual Disabilities.

⁸ *Students with Developmental Disabilities Have Limited Postsecondary Options; A New Institution Would Expand Choices but Require Additional State Funding*, Office of Program Policy Analysis and Government Accountability, Report No. 11-08, February 2011, p.2., see: <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=11-08>.

⁹ *Id.*

¹⁰ http://www.profootballhof.com/hof/member.aspx?PLAYER_ID=238

¹¹ <http://www.danmarinofoundation.org/>

¹² *Id.*

¹³ *Id.*

Effect of Proposed Changes

The bill creates a new section of law creating the Dan Marino Foundation Florida Vocational College, to be established in Broward County, Florida. The college is state-supported as a component of the delivery of public education within Florida's K-20 education system and funded through the DOE as specific funds are made available through the General Appropriations Act. The college is to provide students with developmental disabilities, who are 18 to 26 years of age, and who have graduated from high school, the opportunity to obtain a postsecondary education on a college campus. The college must provide educational programs and support services appropriate to meet the educational and related evaluation and counseling needs of students who have developmental disabilities and who meet the enrollment criteria.

The bill establishes the mission of the college, to provide an appropriate public education for students who have developmental disabilities by providing programs for attaining vocational, life, social, and independent living skills. The college is to provide students with an opportunity to develop skills fostering their independence in a caring, safe, and unique learning environment, to prepare them to be an integral part of the community, and to allow them to become significantly less dependent on government funding. The college is to collaborate with employers, district school boards, and community organizations. The college is to encourage input from students, staff, parents and the community.

The bill provides that the auditor general will conduct annual audits of the accounts and records of the college and that the DOE's inspector general may conduct investigations into allegations of fraud and abuse.

The bill requires the college to prepare an annual report of crime statistics relating to crimes occurring on the campus and submit it to the board and the Commissioner of Education. The college must also prepare an annual report containing the 3 preceding years crime statistics and give prospective students notice that the report is available upon request.

The Board of Trustees

The bill creates a Board of Trustees for the college to be made up of seven members. Of the seven members: one shall be the Chair of the Dan Marino Foundation; one shall be the Chief Executive Officer of the Dan Marino Foundation; three shall be appointed by the Governor and one of these three must be a person with a developmental disability; one shall be appointed by the President of the Senate; and one shall be the Speaker of the House of Representatives. Each board member must have been a Florida resident 10 years prior to their appointment. The bill gives the board the authority to adopt rules to administer the college. The rules must be approved by the State Board of Education and filed with the Department of State. Actions of the board must be consistent with all laws and rules applicable to state agencies, unless otherwise provided by law.

The board has the authority to:

- Appoint a president, faculty, teachers, and other employees, to remove them and to set their compensation;
- Procure professional services including medical, mental health, architectural, and engineering services;
- Procure legal services;
- Determine eligibility of students and admission procedures;
- Provide students with necessary bedding, clothing, food, medical attendance, and other needs without cost to their parents (except for nonresidents);
- Provide for the proper keeping of accounts and records
- Enter into contracts;
- Sue and be sued;

- Secure public liability insurance;
- Perform every other function necessary to properly support the college at the highest efficiency economically possible;
- Receive gifts, donations, and bequests of money or property;
- Deposit funds outside the State Treasury that are not received as part of any legislative appropriation and to spend such funds as the board deems to be in the best interest of the college and its students;
- Sell, convey, or deed any property upon such terms and conditions as the board deems to be in the best interest of the school and its students; and
- Invest funds in securities as allowable by Florida law, and in The Common Fund.¹⁴

The board is directed to:

- Prepare and submit legislative budget requests for operations and fixed capital outlay, to the DOE for review and approval;
- Approve and administer an annual operation budget;
- Require all state funds received to be deposited into the State Treasury and expended as authorized in the General Appropriations Act;
- Require all purchases to be in accordance with Chapter 287, F.S., relating to fair competition and proper procurements, except for purchases made with funds received as gifts, etc.;
- Administer and maintain personnel programs for all employees of the board and the college (the classification and pay plan for academic personnel and academic administrative personnel of the school shall be set by the board, subject only to the approval of the State Board of Education);
- Give preference in appointment and retention in positions of employment as provided in s. 295.07(1), F.S., relating to veterans;
- Ensure that the college coordinates planning with local governing bodies for education facility construction;
- Ensure that the college complies with Florida law relating to per diem and travel expenses of public officers, employees, etc; and
- Adopt a master plan that specifies the mission and objectives of the college (the plan shall be implemented for a period of 5 years and shall be reviewed for modification every 2 years).

The board has the following additional responsibilities:

- Provide for the content and custody of student and employee personnel records;
- Provide legal services for officers and employees of the board who are charged with civil or criminal actions arising out of and in the course of the performance of assigned duties and provide for reimbursement of reasonable expenses for legal services (unless found guilty or pleads nolo contendere);
- Require all employees and applicants for employment to undergo personnel screening and level 2 security background investigations (payment for the background screenings will be paid by the college);
- Review the records of the employees or applicants and request additional information, if necessary; and
- Employ police officers for the school (police officers must meet the minimum standards established by the Criminal Justice Standards and Training Commission of the Department of Law Enforcement and take an oath of office).

B. SECTION DIRECTORY:

Section 1: Creates an unnumbered section of law relating to the Dan Marino Foundation Florida Vocational College.

¹⁴ See: <http://www.commonfund.org/pages/default.aspx> (last viewed on April 11, 2011).

- Section 2:** Amends s. 1000.04, F.S.
Section 3: Amends s. 1001.20, F.S.
Section 4: Provides an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
None.
2. Expenditures:
See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
None.
2. Expenditures:
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent that adults with developmental disabilities became employed, they would enjoy the benefits of an income and would contribute to the economy.

D. FISCAL COMMENTS:

\$1 million in general revenue has been allocated for this legislation in the 2011 House General Appropriations Act.

The OPPAGA study¹⁵ estimated that if the state paid the full cost of construction for a residential college serving 600 students, such as the one proposed in this bill, the cost would be \$36 million. This cost estimate includes classrooms and a residence hall. However, the cost could be reduced through the use of bonds to finance the construction of the residence hall and students could be charged fees for room and board which would then be used to make the bond payments. Recurring operational funds for the school were estimated to be between \$1.2 million and \$40 million. The smaller recurring cost projection would be for a smaller institution that uses leased space instead of new construction. Other cost variables include the number of students enrolled, the number of staff, and the amount of tuition and fees charged (if any).

The Florida School for the Deaf and Blind serves 600 students with disabilities and the state provided almost \$40 million in Fiscal Year 2010-11 for general operations.¹⁶ Students at the school for the Deaf and Blind do not pay tuition or fees.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

¹⁵ *Students with Developmental Disabilities Have Limited Postsecondary Options; A New Institution Would Expand Choices but Require Additional State Funding*, Office of Program Policy Analysis and Government Accountability, Report No. 11-08, February 2011, pp. 7-8. Readable at: <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=11-08>.

¹⁶ *Id.*

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On April 13, 2011, the Health & Human Services Committee adopted one strike-all amendment to HB 1451. The strike-all made the following changes:

- Provided that students eligible to attend the Dan Marino Foundation Florida Vocational College are students who are aged 18 to 26 years old and who have either graduated high school or who are no longer eligible for exceptional student education funding due to age. The original bill only included students aged 18 to 26 years old that graduated high school.
- Clarified that the college will be funded through the Department of Education only if a specific appropriation is made.
- Provided that the Board of Trustees must include: the Chief Executive Officer of the Dan Marino Foundation; the Chair of the Dan Marino Foundation; three members appointed by the Governor, one of which must be a person with a developmental disability; one member appointed by the Speaker of the House of Representatives; and one member appointed by the President of the Senate. In the original bill, the Governor was responsible for appointing all seven members of the Board and one of the seven members was required to be a person with a developmental disability.
- Removed a provision allowing the members of the board of trustees to be reimbursed for travel expenses pursuant to s. 112.061, F.S.
- Removed a provision that classified the employees of the college as state employees and added language specifically stating that the employees of the college may not be state employees.
- Removed a provision subjecting employees of the college to provisions of law that grant authority to the Department of Management Services for state employees.

The bill was reported favorably as a Committee Substitute. The analysis reflects the Committee Substitute.