

**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 Higher Education Committee

**BILL:** CS/SB 1270

**INTRODUCER:** Higher Education Committee and Senator Flores

**SUBJECT:** Dan Marino Foundation Florida Vocational College

**DATE:** January 22, 2012      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harkey	deMarsh-Mathues	HE	Fav/CS
2.			BC	
3.				
4.				
5.				
6.				

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

This bill would create the Dan Marino Foundation Florida Vocational College as a public, residential, inclusionary, postsecondary school located in Broward County. The college is established as a component of the Florida College System. The organization of the school would be similar to that of the Florida School for the Deaf and the Blind in that it would be responsible for serving students with certain disabilities and be overseen by a board of trustees. The bill provides that the college will be funded through the Department of Education (DOE) subject to a specific one-time appropriation. There is no appropriation in the bill.

This bill amends ss. 1000.04, and 1001.20, Florida Statutes.

**II. Present 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.<sup>1</sup> As the state educational agency, the 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.<sup>2</sup> Section 393.063(9), 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 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 2009-2010.<sup>3</sup> Of the 7,920 students with developmental disabilities who exited school districts in 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.<sup>4</sup>

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.<sup>5</sup> 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 audit classes with nondisabled students and live in student housing.<sup>6</sup>

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<sup>1</sup> 20 U.S.C. s. 1412.

<sup>2</sup> ch. 2010-155, L.O.F. Readable at: <http://laws.flrules.org/2010/155>.

<sup>3</sup> *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. Readable at: <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=11-08>.

<sup>4</sup> *Id.*, p.2.

<sup>5</sup> *Id.*, p.3.

<sup>6</sup> *Id.*, p.5.

The federal Higher Education Opportunity Act reauthorization<sup>7</sup> creates incentives for states to provide transition to postsecondary education programs for students with intellectual disabilities. Such students are defined as 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 (IDEA).<sup>8</sup> Students 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 consortium<sup>9</sup> 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,<sup>10</sup> 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.

### **Florida College System**

The Florida College System (FCS) consists of 28 institutions serving districts that are contiguous with county boundaries,<sup>11</sup> with some institutions serving a single county and others serving multiple counties. The FCS serves the purposes of maximizing open access, responding to community needs for postsecondary academic and career degree education, and providing associate and baccalaureate degrees that best meet the state's employment needs.<sup>12</sup>

### **The Stanley G. Tate Florida Prepaid College Program**

The Stanley G. Tate Florida Prepaid College Program allows purchasers to buy prepaid contracts to pay the cost of registration and dormitory expenses of beneficiaries at Florida College System institutions and state universities, in advance of enrollment.<sup>13</sup> Beneficiaries of prepaid contracts are permitted to transfer the benefits of their contracts to any institution that qualifies as an “eligible educational institution” for a qualified tuition plan under s. 529 of the Internal Revenue Code. An eligible educational institution for such purposes would be any college, university, vocational school, or other postsecondary educational institution eligible to participate in a

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<sup>7</sup> P.L.110-315

<sup>8</sup> 20 U.S.C. § 1411 et seq.

<sup>9</sup> The Florida Consortium on Postsecondary Education Transition Programs and Intellectual Disabilities. *See* <http://fltpsinfo/>.

<sup>10</sup> P.L. 108-446 (2004).

<sup>11</sup> s. 1002.21(3), F.S.

<sup>12</sup> s. 1001.60(1), F.S.

<sup>13</sup> s. 1009.98, F.S.

student aid program administered by the U.S. Department of Education.<sup>14</sup> It includes virtually all accredited public, nonprofit, and proprietary (privately owned profit-making) postsecondary institutions.<sup>15</sup>

The value of the prepaid contract benefits that may be transferred to one of those educational institutions may not exceed the redemption value of the prepaid contract, that is, the value of the tuition or benefits at a state postsecondary or the actual cost of fees or housing, whichever is less.

### **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.<sup>16</sup> 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.<sup>17</sup>

### **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.<sup>18</sup> Dan Marino and his wife, Claire, established the Dan Marino Foundation<sup>19</sup> 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."<sup>20</sup> The foundation supports treatment programs, provides outreach services, advances scientific research, and fosters independence through employment and daily living transition programs.<sup>21</sup>

## **III. Effect of Proposed Changes:**

This bill would create the Dan Marino Foundation Florida Vocational College as a public residential postsecondary school located in Broward County. The college is established as a

<sup>14</sup> Internal Revenue Service, Publication 970 (2010), "Tax Benefits for Education," readable at: <http://www.irs.gov/publications/p970/ch08.html#d0e10949>

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

<sup>16</sup> *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. Readable at: <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=11-08>.

<sup>17</sup> *Id.*

<sup>18</sup> [http://www.profootballhof.com/hof/member.aspx?PLAYER\\_ID=238](http://www.profootballhof.com/hof/member.aspx?PLAYER_ID=238).

<sup>19</sup> <http://www.danmarinofoundation.org/>.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

component of the Florida College System. While the college is described as a postsecondary institution, the bill authorizes it to admit students who have not completed high school and authorizes it to confer a diploma, which is traditionally a credential awarded for high school completion.

### **Population to be Served**

The school would serve students, ages 18 – 28, who have developmental disabilities and who have either graduated from high school or who did not graduate from high school and are no longer eligible for exceptional student education funding because they are older than 21 years of age. Students would have to meet the enrollment criteria established by the college's board of trustees. The school would provide educational programs and support services including services on an out-reach basis. The college would be required to adopt a 5-year master plan to specify the mission and objectives of the college and procedures for measuring the college's progress toward meeting its objectives.

### **Educational Program and Diploma**

The school would provide two curriculum tracks:

- An employment track would provide on-the-job training and develop an employment profile to enable the student to seek a position in his or her chosen field upon completion of the curriculum.
- A certification track would provide a student with vocational education and on-the-job training as preparation for a job in an industry requiring certification.

Upon successful completion of his or her individualized curriculum, a student would receive a Dan Marino Foundation Florida Vocational College Career and Life Skills Diploma. The bill does not specify whether the diploma would be a special, standard, or equivalency high school diploma or a postsecondary certificate. It is not clear if the diploma would be recognized by employers, postsecondary institutions, or the military.

### **Board of Trustees**

The college's seven-member board of trustees would be comprised of:

- Three members appointed by the Governor, one of whom must be a person with developmental disabilities;
- One member appointed by the President of the Senate;
- One member appointed by the Speaker of the House of Representatives;
- The chair of the Dan Marino Foundation; and
- The chief executive officer of the Dan Marino Foundation.

Board members would serve 4-year terms and could be removed by the Governor for cause.

### **College Funds**

Funds would be deposited in the State Treasury, except for those funds received as a gift, donation or bequest; collected by students; or held in accounts for individual students. The bill authorizes the board to accept Florida Prepaid College funds and state and federal scholarships and grants. However, those funds, scholarships, and grants must support students enrolled in a postsecondary institution. It is not clear whether the college as it is established in the bill is a postsecondary institution or a hybrid of secondary school and postsecondary institution.

**College Property**

The board must ensure that the college coordinates with local governing bodies for facilities construction. Property received as a gift or bequest would vest with the board of trustees, and the board could sell such property. The title to the property and assets of the college would vest in the State Board of Education.

**Personnel**

The board would be responsible for the hiring and firing of employees including the college president. The board's employees would not be state employees; their classification and pay would be set by the board, subject to approval by the college's board of trustees. Employees of the college would have to undergo a level 2 background screening under the provisions of chapter 435, F.S. The college could grant exemptions from disqualification as provided in s. 435.07, F.S. The bill provides criminal penalties for failure to disclose a material fact or for using the information obtained from the background screening for other purposes.

**Rules**

The board is authorized to adopt rules and to send them to the State Board of Education for approval or disapproval. This type of rule arrangement can cause delays in rule adoption.

**Relationship of the College to the Dan Marino Foundation**

The name of the Dan Marino Foundation is included in the name of the college, and while the educational programs at the college would appear to build on the work of the foundation, the relationship of the non-profit corporation—the foundation—to the public college is not clear.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

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

None.

**B. Private Sector Impact:**

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

the college to receive funds from the Florida Prepaid College Program, scholarships, and grants, it does not state whether students would be required to pay tuition or fees.

**C. Government Sector Impact:**

The OPPAGA study 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. Recurring operational funds for the school were estimated to be between \$1.2 million and \$40 million.<sup>22</sup> The costs would be less if students paid tuition, though tuition is not authorized in the bill. Serving a smaller student population or leasing space from an existing facility could also reduce the cost.

The bill provides that the college shall be funded through the Department of Education subject to a specific one-time appropriation. There is no appropriation in the bill. The bill does not address ongoing operational costs.

**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 Committee on January 19, 2012:**

The committee substitute establishes the residential college as an inclusionary, postsecondary school.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>22</sup> *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. Readable at: <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=11-08>.