

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 61 Public Broadcasting Program System  
**SPONSOR(S):** K-20 Competitiveness Subcommittee and Clarke-Reed  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 120

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-20 Competitiveness Subcommittee	14 Y, 0 N, As CS	Beagle	Ahearn
2) PreK-12 Appropriations Subcommittee			
3) Education Committee			

### SUMMARY ANALYSIS

The bill expands eligibility for state funding for educational television to include television stations that are owned and operated by a school board and licensed by the Federal Communications Commission (FCC) as full-power educational television stations as of January 1, 2012. Funds provided to such stations must be used for educational television, e.g., curriculum-based instructional programming and other public interest programming. Funds may not be provided to full-power educational broadcast stations that provide programming designed to further the principles of a particular religion.

Based upon FCC data regarding Florida television stations licensed as full-power educational television stations, the net impact of the bill is the addition of one television station to the 14 stations that currently receive state funding for educational television.

The Florida Public Broadcasting System (PBS) is administered by the Florida Department of Education (DOE). The law authorizes DOE to provide state funding for educational television to stations that receive federal funds from the Corporation for Public Broadcasting (CPB) or new stations that are not CPB-funded, but meet the qualifications for CPB funding. New television stations have been unable to demonstrate that they meet CPB's funding qualifications because CPB only awards grants to prior grant recipients. Thus, if a station is not already receiving CPB funding, it is not CPB-qualified.

In addition to meeting CPB's funding qualifications, new stations must also demonstrate that they will reach a new audience or provide a "significant new program service" as defined by State Board of Education rule. DOE interprets state law as authorization to limit further expansion of the PBS after achieving statewide coverage. Florida's 14 PBS television stations already provide 99 percent coverage to the state. Furthermore, the state board has not adopted a rule defining "new program service." Therefore, no criteria exist for determining if a station provides a "significant new program service." Thus, new stations have been unable to meet existing eligibility criteria for state funding for educational television. By expanding eligibility for state funding for educational television to school board owned and operated full-power educational television stations, the bill enables these stations to bypass existing eligibility requirements.

The bill does not have a fiscal impact on state or local governments; however, it expands eligibility for state funding for educational television to include additional stations. If new stations are determined to be eligible, the bill will reduce the total amount of funding received by each eligible television station. See Fiscal Comments.

The bill takes effect July 1, 2012.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### **Public Television Broadcasting**

The federal Public Broadcasting Act establishes the Corporation for Public Broadcasting (CPB) to support, among other things, the establishment of a national system of public television broadcasting.<sup>1</sup> CPB receives an annual appropriation from Congress and provides federal grants to eligible television stations.<sup>2</sup> Stations that receive CPB grants comprise the national public television broadcasting system. In order to qualify for a FY 2012 CPB grant, a television station must have received a grant in FY 2011 and operate under a “noncommercial educational license granted by the Federal Communications Commission (FCC).” CPB’s requirement that television stations be prior grant recipients, in effect, limits further expansion of the national public television broadcasting system.<sup>3</sup>

Florida law establishes a statewide public broadcasting system (PBS) to provide state support for, among other things, educational television. The PBS is administered by the Florida Department of Education (DOE).<sup>4</sup> DOE is authorized to provide equipment, funding, and other services to eligible television stations.<sup>5</sup> The law requires DOE to provide support to:

- Educational television stations currently funded by CPB; and
- New stations, i.e., stations that are not funded by CPB, which meet CPB’s qualifications for funding. In addition to meeting CPB’s funding qualifications, a new station must provide:
  - A first service to an audience not currently served by PBS; or
  - A significant new program service as defined by State Board of Education rule.<sup>6</sup>

Florida’s PBS consists of 14 television stations, each of which is an existing CPB-funded educational television station.<sup>7</sup> DOE interprets state law as authorization to limit further expansion of the PBS “after having determined a sufficient number of stations exist [to achieve] statewide coverage.”<sup>8</sup> Florida’s 14 PBS television stations provide 99 percent coverage to the state. Three such stations serve

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<sup>1</sup> 47 U.S.C. s. 396(a)(1) and (g)(1)(C). CPB is also responsible for the national system of public radio. *Id.*

<sup>2</sup> 47 U.S.C. s. 396(k)(3) and (6).

<sup>3</sup> Corporation for Public Broadcasting, *FY 2012 Television Community Service Grant General Provisions and Eligibility Criteria*, at 4 (2012), available at [http://www.cpb.org/stations/grants/tv/generalprovisions/cpb\\_12TV\\_CSG\\_GeneralProvisions.pdf](http://www.cpb.org/stations/grants/tv/generalprovisions/cpb_12TV_CSG_GeneralProvisions.pdf). [hereinafter *TCSG 2012*]. Although other grants are administered by CPB, the Television Community Service Grant is the primary source of federal funding for public television. Corporation for Public Broadcasting, *Appropriation Request and Justification for FYs 2012 and 2014*, at 6 (Feb. 2011), available at [http://www.cpb.org/appropriation/justification\\_12-14.pdf](http://www.cpb.org/appropriation/justification_12-14.pdf).

<sup>4</sup> Section 1001.26(1), F.S. The Florida PBS also includes public radio. *Id.*

<sup>5</sup> Section 1001.26(2)(c), F.S. Educational television and radio stations owned by a district school board, a Florida College System institution board of trustees, a university board of trustees, and the board of trustees for the Florida School for the Deaf and the Blind may also request Public Education and Capital Outlay funds. Section 1013.18, F.S.

<sup>6</sup> Section 1001.26(1)(a) and (2)(c), F.S.

<sup>7</sup> Florida Department of Education, *Legislative Bill Analysis for SB 120* (2012). Florida PBS stations include WBCC-TV Cocoa Beach, WDSC-TV Daytona Beach, WGCU-TV Fort Myers, WUFT-TV Gainesville, WJCT-TV Jacksonville, WLRN-TV Miami, WPBT-TV Miami, WMFE-TV Orlando, WFSU/WFSG-TV Panama City, WSRE-TV Pensacola, WFSU-TV Tallahassee, WUSF-TV Tampa, WEDU-TV Tampa, and WXEL-TV West Palm Beach. Florida Department of Education, *Florida Public Television Stations*, [http://www.floridaknowledgenetwork.org/PB/TV\\_Stations\\_text.asp](http://www.floridaknowledgenetwork.org/PB/TV_Stations_text.asp) (last visited Jan. 17, 2012)[hereinafter *Florida PBS*]. According to DOE, WFSU-TV Tallahassee and WFSU/WFSG-TV Panama City are treated as one station for funding purposes. Telephone interview with Program Analyst, Florida Department of Education (Jan. 17, 2012).

<sup>8</sup> Florida Department of Education, *Legislative Bill Analysis for SB 120* (2012); Telephone interview with Program Analyst, Florida Department of Education (Jan. 17, 2012).

southeastern Florida.<sup>9</sup> The 2011-12 General Appropriations Act provided a total of \$3,996,811 in General Revenue for PBS television stations. This appropriation was vetoed by the Governor.<sup>10</sup>

## **BECON-TV**

Broward Education Communications Network (BECON-TV) is owned and operated by the School Board of Broward County and provides educational programming to the south Florida community. BECON-TV is licensed by FCC as a full-power, noncommercial educational television station.<sup>11</sup> BECON-TV is not included in the national or Florida PBS and, as such, does not receive state or CPB funding for educational television.<sup>12</sup> BECON-TV received line item appropriations in 2006 (\$250,000) and 2011 (\$21,000). Both appropriations were vetoed by the Governor.<sup>13</sup>

### **Effect of Proposed Changes**

The bill expands eligibility for state funding for educational television to include television stations that are owned and operated by a school board and licensed by the Federal Communications Commission (FCC) as full-power educational television stations as of January 1, 2012. Funds provided to such stations must be used for educational television, e.g., curriculum-based instructional programming, citizen's participation programming, music and fine arts programs, coverage of public hearings and governmental meetings, and other public interest programming. Funds may not be provided to full-power educational broadcast stations that provide programming designed to further the principles of a particular religion.

Currently, DOE may provide state funding for educational television to stations that receive federal funding from CPB or new stations that are not CPB-funded, but meet CPB's qualifications for funding. New television stations have been unable to demonstrate that they meet CPB's qualifications because CPB only awards grants to prior grant recipients. Thus, if a station is not already receiving CPB funding, it is not CPB-qualified.

In addition to meeting CPB's funding qualifications, new stations must also demonstrate that they will reach a new audience or provide a "significant new program service" as defined by State Board of Education rule. DOE interprets state law as authorization to limit further expansion of the PBS after achieving statewide coverage. Florida's 14 PBS television stations already provide 99 percent coverage to the state. Furthermore, the state board has not adopted a rule defining "new program service." Therefore, no criteria exist for determining if a station provides a "significant new program service." Thus, new stations have been unable to meet existing eligibility criteria for state funding for educational television. By expanding eligibility for state funding for educational television to school board owned and operated full-power educational television stations, the bill enables these stations to bypass existing eligibility requirements.

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<sup>9</sup> Florida Department of Education, *Legislative Bill Analysis for SB 120* (2012).

<sup>10</sup> Specific Appropriation 93, s. 2, ch. 2011-69, L.O.F. The amount allocated to each station is \$307,447. This amount is distributed to the 14 PBS TV stations in 13 shares because WFSU-TV Tallahassee and WFSU/WFSG-TV Panama City are treated as one station for funding purposes. Telephone interview with Program Analyst, Florida Department of Education (Jan. 17, 2012).

<sup>11</sup> BECON-TV, *About BECON*, <http://www.becon.tv/about-becon> (last visited Jan. 15, 2012). Generally speaking, educational broadcast stations are licensed only to noncommercial or nonprofit educational organizations upon a showing that the proposed stations will be used primarily to serve the educational needs of the community; for the advancement of educational programs; and to furnish a nonprofit and noncommercial television broadcast service. 47 C.F.R. s. 73.621(a).

<sup>12</sup> BECON-TV holds the same type of FCC license as stations qualifying for federal CPB funds; however, it is not a prior grantee of such funds. Thus, it has been unable to gain entry into the national PBS or "meet CPB qualifications," as required by state law for the purpose of receiving state PBS funding. *See TCSG 2012, supra*, note 3 at 4-5.

<sup>13</sup> Specific Appropriation 124, s. 2, ch. 2006-25, L.O.F.; Specific Appropriation 91A, s. 2, ch. 2011-69, L.O.F. The 2006 appropriation was vetoed by then Governor Crist, and the 2011 appropriation was vetoed by Governor Scott. *Id.*

B. SECTION DIRECTORY:

**Section 1.** Amends s. 1001.25, F.S., relating to educational television; authorizes school board owned full-power educational television stations licensed by the FCC as of January 1, 2012, to receive state funding for educational television if certain requirements are met.

**Section 2.** Amends s. 1001.26, F.S., relating to Florida's public broadcasting system; authorizes school board owned full-power educational television stations licensed by the FCC as of January 1, 2012, to receive state funding for educational television if certain requirements are met.

**Section 3.** Provides an effective date of July 1, 2012.

**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:

None.

D. FISCAL COMMENTS:

Based upon FCC data regarding Florida television stations licensed as full-power educational television stations, there are four Florida television stations with this type of license that are not already receiving state funding for educational television.<sup>14</sup> BECON-TV is the only such station that is school board owned and does not provide religious programming. Thus, BECON-TV is the only station that qualifies for funding under the bill.<sup>15</sup>

Appropriations for public television and radio stations were vetoed for FY 2011-12, including \$3,996,811 for Florida's 14 PBS television stations.<sup>16</sup> The total appropriation was to be divided into 13 shares equaling \$307,447 because WFSU-TV Tallahassee and WFSU/WFSG-TV Panama City are

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<sup>14</sup> Email, Federal Communications Commission, Television Licensing Staff (Oct. 28, 2011).

<sup>15</sup> BECON-TV, *About BECON*, <http://www.becon.tv/about-becon> (last visited Jan. 15, 2012); Email, Federal Communications Commission, Television Licensing Staff (Oct. 28, 2011). BECON-TV is the only one of these four stations that is school board owned. *Id.* The websites of the three other stations indicate that they provide at least some religious programming. WTGL-TV Leesburg, <http://www.tv45.org/> (last visited Jan. 17, 2012); WJEB-TV Jacksonville, <http://www.wjeb.org/> (last visited Jan. 17, 2012); WTCE-TV Fort Pierce, <http://www.wtce.tv/> (last visited Jan. 17, 2012).

<sup>16</sup> SB 2000, General Revenue funds in Specific Appropriation 93. Correspondence to the Secretary of State, May 26, 2011. *See* [http://www.flgov.com/wp-content/uploads/budget/sb\\_2000\\_vetomessage.pdf](http://www.flgov.com/wp-content/uploads/budget/sb_2000_vetomessage.pdf).

treated as one station for funding purposes.<sup>17</sup> If the same amount is appropriated in FY 2012-13, the addition of one station to the current funding pool would reduce funding to approximately \$285,486 per eligible television station.

### **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 January 25, 2012, the K-20 Competitiveness Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment:

- Removed the requirement that full-power educational broadcast stations provide service to a new audience or new programming in order to receive state funding and instead required that such stations be school board owned and operated.
- Prohibited full-power educational television stations which provide religious programming from receiving state funds. The bill stated that such stations must be “nondenominational” without defining the meaning of this term.
- Required stations to hold a full-power educational broadcast license as of January 1, 2012, rather than as of July 1, 2012. This change eliminates the possibility that additional stations might obtain such a license between the present and July 1, 2012, and become eligible for state funding.
- Added provisions requiring that funds received by full-power educational broadcast stations be used for educational television programming.

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<sup>17</sup> Specific Appropriation 93, s. 2, ch. 2011-69, L.O.F.; Telephone interview with Program Analyst, Florida Department of Education (Jan. 17, 2012).