

**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.)

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Prepared By: The Professional Staff of the Committee on Higher Education

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BILL: CS/SB 938

INTRODUCER: Committee on Higher Education and Senator Flores

SUBJECT: Postsecondary Education Affordability

DATE: March 25, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Graf	Klebacha	HE	<b>Fav/CS</b>
2.			AED	
3.			AP	

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 938 reduces costs associated with postsecondary textbooks and tuition and fees, and requires an evaluation of policies to improve college affordability.

Additionally, the bill establishes a new sales tax exemption for textbooks required for courses offered by Florida College System institutions, state universities, and independent colleges and universities that are eligible to participate in either the William L. Boyd, IV, Florida Resident Access Grant or the Access to Better Learning and Education Grant Program.

The bill takes effect July 1, 2015.

**II. Present Situation:**

The Legislature has established several mechanisms to maintain higher education access and affordability through strategies to keep the costs associated with instructional materials and tuition and fees low.

**Instructional Materials**

Florida College System (FCS) institutions and state universities must post on their websites, not less than 30 days prior to the first day of class for each term, a list of each textbook required for

each course for the term.<sup>1</sup> The list must include the International Standard Book Number (ISBN) for each required textbook and specific information necessary to identify the specific textbook required for each course.<sup>2</sup>

The State Board of Education (SBE) and the Board of Governors for the State University System of Florida (BOG) must adopt policies, procedures, principles, and guidelines for implementation by FCS institutions and state universities that further efforts to minimize the costs of textbooks for students attending such institutions while maintaining the quality of education and academic freedom.<sup>3</sup> The policies, procedures, and guidelines must provide for the following:<sup>4</sup>

- That textbook adoptions are made with sufficient lead time to bookstores so as to confirm availability of the requested materials and ensure maximum availability of used books.
- That, in the textbook adoption process, the intent to use all items ordered, is confirmed by the course instructor or academic department offering the course before the adoption is finalized.
- That a course instructor or the academic department offering the course, determines, before a textbook is adopted, the extent to which a new edition differs significantly and substantively from earlier versions and the value of changing to a new edition or the extent to which an open access textbook may exist and be used.
- That the establishment of policies shall address the availability of required textbooks to students who are otherwise unable to afford the cost, including consideration of the extent to which an open-access textbook may be used.
- The course instructors and academic departments are encouraged to participate in the development, adaptation, and review of open-access textbooks, especially open-access textbooks for high-demand general education courses.

### **Preeminent State Research University Institute for Online Learning**

In 2013, the Legislature authorized state research universities that meet all 12 of the academic and research excellence standards for designation as a preeminent state research university, as verified by the BOG, to establish an institute for online learning.<sup>5</sup> The institute must establish a robust offering of high-quality, fully online baccalaureate degree programs at an affordable cost.<sup>6</sup> Currently, only Florida State University and University of Florida meet the academic and research excellence standards for the preeminent state research university designation,<sup>7</sup> with University of Florida meeting all 12 of the standards.<sup>8</sup> In January 2014, the University of Florida

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<sup>1</sup> Section 1004.085(3), F.S.

<sup>2</sup> *Id.*

<sup>3</sup> Section 1004.085(3)-(4), F.S.

<sup>4</sup> Section 1004.085(3)-(4), F.S.

<sup>5</sup> Section 1001.7065(4), F.S.

<sup>6</sup> *Id.*

<sup>7</sup> Florida Board of Governors of the State University System of Florida, *Strategic Planning Committee Agenda: Approval of Preeminent State Research University Benchmark Plans (Nov. 20, 2013)*, available at [http://www.flbog.edu/documents\\_meetings/0184\\_0752\\_5480\\_399%20SPC%20Packet.pdf](http://www.flbog.edu/documents_meetings/0184_0752_5480_399%20SPC%20Packet.pdf), at 36 of 122.

<sup>8</sup> Florida Board of Governors of the State University System of Florida, *Advisory Board for the Institute for Online Learning: Agenda and Meeting Materials (Aug. 23, 2013)*, available at [http://www.flbog.edu/about/taskforce/doc/online\\_advisory/FINAL08232013AdvisoryBoard.pdf](http://www.flbog.edu/about/taskforce/doc/online_advisory/FINAL08232013AdvisoryBoard.pdf), at 26 of 108; Florida Board of Governors of the State University System of Florida, *Strategic Planning Committee Agenda (Sep. 27, 2013)*, available at [http://flbog.edu/documents\\_meetings/0219\\_0734\\_5468\\_199%20SPC%20Packet%20w%20repl.pdf](http://flbog.edu/documents_meetings/0219_0734_5468_199%20SPC%20Packet%20w%20repl.pdf), at 2 of 88.

began offering online courses through the university's institute for online learning.<sup>9</sup>

### **Tuition and Fees**

Under Florida law, "tuition" is defined as "the basic fee charged to a student for instruction provided by a public postsecondary educational institution in this state."<sup>10</sup> A student who is classified as a "resident for tuition purposes" is a student who qualifies for the in-state tuition rate.<sup>11</sup> An "out-of-state fee" is "the additional fee for instruction provided by a public postsecondary education institution in this state, which fee is charged to a student who does not qualify for the in-state tuition rate."<sup>12</sup>

### ***Workforce Education Postsecondary Fees***

A student who enrolls in workforce education postsecondary programs is charged tuition and other fees, unless the student is eligible for an exemption or a waiver.<sup>13</sup> The Legislature establishes the standard tuition and out-of-state fee per contact hour. Since July 1, 2014, for programs leading to a career certificate or an applied technology diploma, the standard tuition is \$2.33 per contact hour for residents and nonresidents. The out-of-state fee for such programs is \$6.99 per contact hour.<sup>14</sup> For adult general education programs, a block tuition of \$45 per half year or \$30 per term is assessed.<sup>15</sup>

Each district school board and each FCS System institution board of trustees are authorized to adopt tuition and out-of-state fees that vary no more than 5 percent below of 5 percent above the combined total of the standard tuition and out-of-state fees.<sup>16</sup>

### ***Florida College System Institution Student Fees***

A student who enrolls in a college credit course, a college preparatory course, or an educator preparation institute (EPI) program at a FCS institution is charged tuition and other fees, unless the student is eligible for an exemption or a waiver.<sup>17</sup> The Legislature establishes the standard tuition and out-of-state fee per credit hour. Since July 1, 2014, the standard tuition per credit hour for residents and non-residents enrolled in advanced and professional, postsecondary vocational, developmental education, and EPI programs is \$71.98. The out-of-state fee for such programs is \$215.94 per credit hour.<sup>18</sup> For baccalaureate programs, the tuition per credit hour for resident students is \$91.79 per credit hour.<sup>19</sup> The sum of tuition and out-of-state fee per credit

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<sup>9</sup> Florida Board of Governors of the State University System of Florida, *Strategic Planning Committee Agenda* (Sep. 27, 2013), available at [http://flbog.edu/documents\\_meetings/0219\\_0734\\_5468\\_199%20SPC%20Packet%20w%20repl.pdf](http://flbog.edu/documents_meetings/0219_0734_5468_199%20SPC%20Packet%20w%20repl.pdf), at 14 of 88.

<sup>10</sup> Section 1009.01(1), F.S. Additionally, the definition of tuition states that "[a] charge for any other purpose shall not be included within this fee." *Id.*

<sup>11</sup> Section 1009.21(1)(g), F.S.

<sup>12</sup> Section 1009.01(2), F.S. Additionally, the definition of out-of-state fee states that "[a] charge for any other purpose shall not be included within this fee." *Id.*

<sup>13</sup> Sections 1009.22(1)-(2), 1009.25, and 1009.26, F.S.

<sup>14</sup> Section 1009.22(3)(c), F.S.

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

<sup>16</sup> Section 1009.22(3)(d), F.S.

<sup>17</sup> Sections 1009.23(1)-(2)(a), 1009.25, and 1009.26, F.S.

<sup>18</sup> Section 1009.23(3)(a), F.S.

<sup>19</sup> Section 1009.23(3)(b)1., F.S.

hour for non-resident students must not be more than 85 percent of the sum of tuition and out-of-state fee at a state university nearest to the FCS institution.<sup>20</sup>

Each FCS system institution board of trustees must establish tuition and out-of-state fees, which may vary no more than 10 percent below and 15 percent above the combined total of the standard tuition and fees.<sup>21</sup>

### *State University Student Fees*

A student who enrolls in a college credit course at a state university is charged tuition and other fees, unless the student is eligible for an exemption or a waiver.<sup>22</sup> The amount of resident undergraduate tuition per credit hour is established by the Legislature. Since July 1, 2014, the resident undergraduate tuition is \$105.07 per credit hour for lower-level and upper-level coursework at a state university.<sup>23</sup>

The Board of Governors, or the board's designee, is authorized to establish tuition for graduate and professional programs, and out-of-state fees for all programs.<sup>24</sup> The sum of tuition and out-of-state fees assessed to nonresident students must be sufficient to offset the full instructional cost of serving such students.<sup>25</sup> However, adjustments to out-of-state fees or tuition for graduate programs and professional programs must not exceed 15 percent in a year.<sup>26</sup>

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

CS/SB 938 addresses higher education access and affordability mechanisms by modifying requirements for instructional materials and tuition and fees. The bill also seeks to promote public awareness regarding higher education costs to assist students and their parents in making informed decisions.

Specifically, the bill:

- Requires the Board of Governors of the State University System of Florida (BOG) and the State Board of Education (SBE) to identify strategies and initiatives to maintain college affordability for all Floridians and annually report on the boards' college affordability efforts to the Governor, President of the Senate, and Speaker of the House of Representatives.
- Modifies current law<sup>27</sup> regarding a postsecondary educational institution's responsibility to post textbook information online by requiring each Florida College System (FCS) institution and state university to prominently post on the institution's website for course registration, a hyperlink to lists of required and recommended textbooks and instructional materials for at least 90 percent of the courses and course sections offered by the institution. The bill also changes the deadline for posting the textbook information online from at least 30 days before

<sup>20</sup> Section 1009.23(3)(b)2., F.S.

<sup>21</sup> Section 1009.23(4), F.S.

<sup>22</sup> Sections 1009.24(1)-(2), 1009.25, and 1009.26, F.S.

<sup>23</sup> Section 1009.24(4)(a), F.S.

<sup>24</sup> Section 1009.24(4)(b), F.S.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> Section 1004.085(4), F.S.

the first day of class for each term to at least 14 days before the first day of student registration for each term.

- Specifies modifications to postsecondary educational institutions' policies and procedures for instructional materials.
- Specifies reporting requirements for FCS institutions; state universities; president of a college or university, or his or her designee; Chancellor of the Florida College System, and the Chancellor for the State University System regarding college affordability efforts, and textbooks and instructional materials costs and selection process.
- Exempts textbooks, for use in postsecondary educational institutions, from sales tax.
- Provides definitions of textbooks and instructional materials.
- Establishes caps for tuition and out-of-state workforce education fees, FCS institution fees, and state university tuition per credit hour.
- Requires FCS institutions and state universities to notify students and the public about any institutional boards of trustees meeting regarding votes on proposed increases in tuition and fees; and provides specifications and timelines for such notifications.

## **Instructional Materials**

### ***Sales Tax Exemption***

The bill exempts from sales tax, textbooks that are required or recommended for use in FCS institutions, state universities, and independent colleges and universities that are eligible to participate in either the William L. Boyd, IV, Florida Resident Access Grant (FRAG) or the Access to Better Learning and Education (ABLE) Grant Program.

Florida levies a six percent sales and use tax on the sale or rental of most tangible personal property, admissions, rentals of transient accommodations, rental of commercial real estate, and a limited number of services. Chapter 212, F.S., contains statutory provisions authorizing the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. There are currently more than 200 exemptions.<sup>28</sup> Sales tax is added to the price of the taxable goods or service and collected from the purchaser at the time of sale.

In addition to the state tax, s. 212.055, F.S., authorizes counties to impose eight local discretionary sales surtaxes on all transactions occurring in the county subject to the state tax imposed on sales, use, services, rental, admissions, and other transactions by ch. 212, F.S., and on communications services as defined in ch. 202, F.S.<sup>29</sup> The discretionary sales surtax is based on the rate in the county where the taxable goods or services are sold, or delivered into, and is levied in addition to the state sales and use tax of six percent.

To obtain the sales tax exemption for textbooks, the bill requires students to provide a physical or an electronic copy of their student identification number and an applicable course syllabus or the list of required and recommended textbooks and instructional materials.

<sup>28</sup> See Office of Economic and Demographic Research, The Florida Legislature, Florida Tax Handbook (2014).

<sup>29</sup> The tax rates, duration of the surtax, method of imposition, and proceed uses are individually specified in s. 212.055, F.S. General limitations, administration, and collection procedures are set forth in s. 212.054, F.S.

The bill authorizes the executive director of the Department of Revenue to adopt emergency rules before permanent rules are adopted regarding the sales tax exemption for required and recommended textbooks. The bill specifies that the emergency rules must remain in effect for 6 months after the adoption of such rules and may be renewed during the pendency of procedures to adopt permanent rules. The emergency rulemaking will facilitate the implementation of the sales tax exemption without delay. The bill sets July 1, 2018 as the expiration date for the sales tax exemption rulemaking.

### ***Preeminent State Research University Institute for Online Learning***

The bill excludes instructional materials, in addition to textbooks, from the tuition for an online degree program offered through a preeminent state research university's institute for online learning.

### ***Textbook Affordability***

The bill promotes public awareness about textbook and instructional material costs by requiring each Florida College System (FCS) institution and state university to prominently post on the institution's website for course registration, a hyperlink to lists of required and recommended textbooks and instructional materials for at least 90 percent of the courses and course sections offered by the institution. The bill also changes the deadline for posting the textbook information online from at least 30 days to at least 14 days before the first day of class for each term. Such information will help students with financial planning for course registrations.

Additionally, the bill:

- Requires that the lists of required and recommended textbooks include new and used retail price and rental price, if applicable, for a required or recommended textbook or instructional materials for purchase at an institution's designated bookstore or other specified vendor. The lists must also include website or other contact information for the bookstore.
- Requires institutions that are unable to provide the specified information on textbooks within the specified timeframe (i.e., at least 14 days before the first day of student registration for each term) by the 2015 fall semester, to provide the required information to students at least 60 days before the first day of classes. The bill requires institutions to submit quarterly reports to the applicable board, the BOG or the SBE, to document institutions' efforts to comply with the specified requirements by 2016 fall semester.
- Requires postsecondary institutions to consult with school districts regarding textbooks and instructional materials used for dual enrollment courses (e.g., the length of time that textbooks and instructional materials remain in use and the cost associated with digital materials).
- Requires regular cost-benefit analyses to help students receive the highest quality product at the lowest available price.
- Requires the policies, procedures, and guidelines that are adopted by the BOG and the SBE to include instructional materials in addition to textbooks; and requires state universities and FCS institutions to annually send to the BOG or SBE, as applicable, electronic copies of the institutional policies regarding textbooks and instructional materials, which must be available on the boards' websites.
- Requires each FCS institution and state university to annually report specified textbook and instructional material information to the Chancellor of the Florida College System or the

Chancellor of the State University System, as applicable (e.g., cost of undergraduate textbooks and instructional materials by course and course section, textbook and instructional material selection process for high-enrollment courses as determined by the chancellors, and specific initiatives to reduce the cost of textbooks and instructional materials). The chancellors must compile the information and report to the Governor, President of the Senate, and Speaker of the House of Representatives by December 31 of each year.

### ***Definitions***

The bill defines a “textbook” as any required or recommended manual of instruction or instructional materials in any branch of study. Additionally, the bill defines “instructional materials” as educational materials, in either printed or digital format, which are required or recommended for use within a course.

### **College Affordability**

The bill promotes strategies to maintain college affordable for all Floridians by requiring BOG and SBE to identify strategies and initiatives that must include consideration of the following:

- The impact of tuition and fee increases at state colleges and universities, including graduate, professional, medical, and law schools.
- The total cost of fees, including orientation fees, to a student and family at a state university and a state college.
- The cost of textbooks and instructional materials for all students. To determine the best methods to reduce costs, BOG and SBE must consult with students, faculty, bookstores, and publishers, at a minimum, consider specified options (e.g., purchasing e-textbooks in bulk, expanding the use of open-access textbooks and instructional materials, rental options for textbook and instructional materials, and supporting efficient used book sales, buy-back sales, student-to-student sales, and the cost of instructional materials for dual enrollment students to school districts).

BOG and SBE must annually, by December 31, report on the boards’ college affordability efforts to the Governor, President of the Senate, and Speaker of the House of Representatives.

### **Tuition and Fees**

The bill caps tuition and out-of-state fees for workforce education at no more than 5 percent above the combined total of standard tuition and out-of-state fees. For FCS institutions, tuition must not exceed \$91.79 per credit hour and the tuition and out-of-state fees must not be more than 15 percent above the combined total of standard tuition and out-of-state fees. For state universities, the resident undergraduate tuition for lower-level and upper-level coursework must not exceed \$105.07 per credit hour. Establishing tuition caps rather than a set tuition amount per credit hour may allow postsecondary institutions to charge lower tuition than currently established. The bill prohibits adjustments to the resident tuition for graduate program and professional programs which is set on July 1, 2015.

The bill requires FCS institutions and state universities to notify students and the public about any institutional boards of trustees meeting regarding votes on proposed increases in tuition and fees. The notice must be posted on the institutions’ website homepage 28 days before the

scheduled meeting of the institutions' boards of trustees. Additionally, the notice must specify the date and time of the meeting, and clearly outline the tuition and fee details and the rationale for the proposed increase. The tuition and fee information may help students and their families plan for higher education at public postsecondary institutions within the state.

The bill takes effect July 1, 2015.

#### **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:

The Revenue Estimating Conference has determined that CS/SB 938 will result in a recurring reduction of state general revenue funds and local government revenue of \$35.7m and \$8.0m, respectively.<sup>30</sup>

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

#### **VI. Technical Deficiencies:**

None.

#### **VII. Related Issues:**

None.

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<sup>30</sup> Florida Office of Economic & Demographic Research, *Revenue Impact Results* (March 13, 2015), available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2015/pdf/impact0313.pdf>, at 236-238.



**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 212.08, 1001.7065, 1004.085, 1009.22, 1009.23, and 1009.24.

This bill creates section 1004.084 of the Florida Statutes.

**IX. 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 on March 23, 2015:**

The committee substitute maintains the original substance of SB 938 with the following modifications:

- Extends sales tax exemption for textbooks to also include recommended textbooks, in addition to required textbooks, for use in public postsecondary educational institutions and nonpublic postsecondary educational institutions that are eligible to participate in the William L. Boyd, IV, Florida Resident Access Grant or the Access to Better Learning and Education Grant.
- Authorizes the executive director of the Department of Revenue to adopt emergency rules before permanent rules are adopted regarding the sales tax exemption and specifies that the emergency rules must remain in effect for 6 months after the adoption of such rules.
- Modifies responsibilities of the Board of Governors (BOG) and the State Board of Education (SBE) regarding methods to make textbooks and instructional materials affordable by requiring the BOG and the SBE to consult with students, faculty, bookstores, and publishers in determining the best methods to reduce costs.
- Expands the definition of “textbooks” to include instructional materials.
- Expands the definition of “instructional materials” to include required and recommended educational materials for use within a course.
- Removes from the BOG’s and the SBE’s policies, procedures, and guidelines for textbooks and instructional materials a requirement that textbooks and instructional materials for an undergraduate course remain in use for a minimum of three years in that course.
- Modifies the public postsecondary educational institutions’ notification requirements regarding boards of trustees meeting by limiting such notifications to the boards of trustees meetings regarding votes on proposed increases in tuition or fees and changing the requirement for posting of such information from 30 days to 28 days before such meetings occur.

**B. Amendments:**

None.