

By Senator Baxley

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1 A bill to be entitled
2 An act relating to higher education; amending s.
3 1001.706, F.S.; requiring the Board of Governors to
4 annually report on the intellectual freedom and
5 viewpoint diversity of each institution; requiring
6 institutions to annually conduct a survey of students,
7 faculty, and administrators which assesses specified
8 information; requiring the board to develop and
9 annually deliver a training program for trustees;
10 requiring trustees to participate in such a program
11 within a specified timeframe; providing requirements
12 of the program; expanding certain powers and duties
13 relating to accountability to any member of the
14 Cabinet, the presiding officers of the Legislature, a
15 chair of a substantive or appropriations committee
16 with jurisdiction, or a member of the board of
17 trustees of the institution for which an investigation
18 is sought; requiring the Office of the Inspector
19 General to investigate related allegations under
20 specified conditions; amending s. 1004.03, F.S.;
21 requiring the State Board of Education to establish
22 criteria for the review of new facilities and programs
23 at Florida College System institutions for certain
24 purposes; providing that new programs may not be
25 approved unless they meet certain requirements;
26 amending s. 1004.28, F.S.; making technical changes;
27 specifying that university boards of trustees must
28 annually report certain information to the
29 Legislature; amending s. 1004.70, F.S.; authorizing

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30 the board of trustees to prescribe that a Florida
31 College System institution direct-support organization
32 must comply with a certain condition in order to use
33 certain services at such institutions; providing that
34 certain state appropriations to direct-support
35 organizations may be pledged only for capital
36 projects; requiring each board of trustees to annually
37 report to the Legislature certain information relating
38 to state appropriations transferred within a certain
39 timeframe to any direct-support organization;
40 prohibiting the board of trustees from transferring
41 any funds to any direct-support organization that does
42 not meet certain requirements; prohibiting the board
43 from permitting the use of state funds for travel
44 expenses by such organizations; prohibiting
45 organizations from giving any gift to a political
46 committee for any purpose; amending s. 1008.32, F.S.;
47 requiring the Commissioner of Education to report
48 certain findings to the State Board of Education;
49 requiring the board to require the district school
50 board or Florida College System institution board of
51 trustees to document compliance; amending s. 1008.322,
52 F.S.; requiring the Chancellor of the State University
53 System to report certain findings to the Board of
54 Governors; requiring the board to require a university
55 board of trustees to document compliance; amending s.
56 1011.45, F.S.; specifying that unexpended funds in a
57 university operating budget may be carried forward,
58 subject to Legislative approval; amending s. 1013.40,

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59 F.S.; deleting a prohibition against Florida College
60 System institutions expending public funds for the
61 acquisition of additional property without specific
62 approval by the Legislature; prohibiting institutions
63 and direct-support organizations from constructing,
64 accepting, or purchasing property or facilities under
65 certain conditions; providing an exception; amending
66 s. 1013.78, F.S.; prohibiting universities and
67 university direct support organizations from
68 constructing, accepting, or purchasing property under
69 certain conditions; providing an exception; reenacting
70 s. 1010.09, F.S., relating to direct-support
71 organizations, to incorporate the amendment made to s.
72 1004.70, F.S., in a reference thereto; reenacting s.
73 1001.73(3), F.S., relating to a university board
74 empowered to act as trustee, to incorporate the
75 amendment made to s. 1013.78, F.S., in a reference
76 thereto; reenacting s. 1001.64(6), F.S., relating to
77 Florida College System institution boards of trustees
78 and related powers and duties, to incorporate the
79 amendment made to s. 1004.03, F.S., in a reference
80 thereto; providing an effective date.

81

82 Be It Enacted by the Legislature of the State of Florida:

83

84 Section 1. Paragraphs (j) and (k) are added to subsection
85 (3), and paragraph (f) is added to subsection (5) of section
86 1001.706, Florida Statutes, to read:

87 1001.706 Powers and duties of the Board of Governors.—

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88 (3) POWERS AND DUTIES RELATING TO ORGANIZATION AND
89 OPERATION OF STATE UNIVERSITIES.—

90 (j) The Board of Governors shall annually report, by
91 September 1 of each year, on the intellectual freedom and
92 viewpoint diversity of each institution through an objective,
93 nonpartisan, and statistically valid survey that enables
94 comparison among institutions over time. Each institution shall
95 conduct an annual survey of students, faculty, and
96 administrators which assesses the extent to which competing
97 ideas, perspectives, and claims of truth are presented and the
98 extent to which members of the university community feel safe
99 and supported in exploring and articulating their beliefs and
100 viewpoints on campus and in the classroom.

101 (k) The Board of Governors shall develop and annually
102 deliver a training program for trustees which addresses the role
103 of university boards of trustees in governing institutional
104 resources and protecting the public interest. Each trustee must
105 participate within 1 year of his or her appointment to a
106 university board. The program must include information on
107 trustee responsibilities relating to the following:

108 1. Meeting the statutory, regulatory, and fiduciary
109 obligations of the board;

110 2. Establishing internal process controls and
111 accountability mechanisms for the institution's president and
112 other administrative officers;

113 3. Oversight of planning, construction, maintenance,
114 expansion, and renovation projects that impact the university's
115 consolidated infrastructure, physical facilities, and natural
116 environment, including its lands, improvements, and capital

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117 equipment;

118 4. Establishing policies that promote college
119 affordability, including ensuring that the costs of university
120 fees, textbooks, and instructional materials are minimized
121 whenever possible;

122 5. Creating and implementing institutionwide rules and
123 regulations;

124 6. Upholding institutional ethics and avoiding conflicts of
125 interest;

126 7. Following best practices for board governance;

127 8. Addressing current national and state issues in higher
128 education; and

129 9. Considering any other information that the Board of
130 Governors deems necessary or appropriate.

131 (5) POWERS AND DUTIES RELATING TO ACCOUNTABILITY.—

132 (f) If the Board of Governors, any member of the Cabinet,
133 the presiding officer of either house of the Legislature, a
134 chair of a substantive or of an appropriations committee with
135 jurisdiction, or a member of the board of trustees of the
136 institution for which an investigation is sought determines that
137 a state university board of trustees is unwilling or unable to
138 address substantiated allegations made by any person relating to
139 waste, fraud, or financial mismanagement at the state
140 university, the Office of the Inspector General shall
141 investigate such allegations.

142 Section 2. Section 1004.03, Florida Statutes, is amended to
143 read:

144 1004.03 Program approval.—

145 (1) The Board of Governors shall establish criteria for the

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146 review and approval of proposed new programs at state
147 universities to ensure the well-planned development,
148 coordination, and operation of the State University System and
149 to avoid wasteful duplication of facilities or programs. The
150 Board of Governors shall submit an annual report to the
151 President of the Senate, the Speaker of the House of
152 Representatives, and the Governor listing the reviews conducted
153 and the results of each review.

154 (2) The State Board of Education shall establish criteria
155 for the review and approval of new facilities and programs at
156 Florida College System institutions to ensure the well-planned
157 development, coordination, and operation of the Florida College
158 System and to avoid duplication of facilities or programs.
159 ~~which criteria include, but are not limited to, the following:~~

160 ~~(a)~~ New programs may not be approved unless they are
161 consistent with the state master plan adopted by the State Board
162 of Education and are sufficiently different from existing
163 programs, or unless access to existing programs is sufficiently
164 limited to warrant initiation of a new program. The proposal
165 must include an explanation supporting the conclusion that it is
166 more cost effective or otherwise in the best interest of the
167 state to initiate a new program rather than meet the demand ~~the~~
168 ~~same objectives cannot be met~~ through the use of educational
169 technology or collaboration with other institutions.

170 ~~(b) Unnecessary duplication of programs offered by~~
171 ~~independent institutions shall be avoided.~~

172 ~~(c) Cooperative programs, particularly within regions,~~
173 ~~should be encouraged.~~

174 ~~(d) New programs may be approved only if they are~~

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175 ~~consistent with the state master plan adopted by the State Board~~
176 ~~of Education.~~

177 Section 3. Paragraph (b) of subsection (2) of section
178 1004.28, Florida Statutes, is amended to read:

179 1004.28 Direct-support organizations; use of property;
180 board of directors; activities; audit; facilities.—

181 (2) USE OF PROPERTY.—

182 (b) The board of trustees, in accordance with regulations
183 and guidelines of the Board of Governors, shall prescribe by
184 regulation conditions with which a university direct-support
185 organization must comply in order to use property, facilities,
186 or personal services at any state university, including that
187 personal services must comply with s. 1012.976. Such regulations
188 shall provide for budget and audit review and oversight by the
189 board of trustees, including thresholds for approval of
190 purchases, acquisitions, projects, and issuance of debt.

191 Beginning ~~No later than~~ July 1, 2019, the transfer of a state
192 appropriation by the board of trustees to any direct-support
193 organization may ~~only~~ include only funds pledged for capital
194 projects. ~~Beginning July 1, 2019, and annually thereafter,~~ Each
195 university board of trustees shall report annually to the
196 Legislature the amount of state appropriations transferred to
197 any direct-support organization during the previous fiscal year,
198 the purpose for which the funds were transferred, and the
199 remaining balance of any funds transferred.

200 Section 4. Subsection (3) and paragraph (d) of subsection
201 (4) of section 1004.70, Florida Statutes, are amended to read:

202 1004.70 Florida College System institution direct-support
203 organizations.—

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204 (3) USE OF PROPERTY.—

205 (a) The board of trustees is authorized to permit the use
206 of property, facilities, and personal services at any Florida
207 College System institution by any Florida College System
208 institution direct-support organization, subject to the
209 provisions of this section.

210 (b) The board of trustees is authorized to prescribe by
211 rule any condition with which a Florida College System
212 institution direct-support organization must comply in order to
213 use property, facilities, or personal services at any Florida
214 College System institution, including a condition that personal
215 services must comply with s. 1012.976. Such rules must provide
216 for budget and audit review and oversight by the board of
217 trustees, including thresholds for approval of purchases,
218 acquisitions, projects, and issuance of debt. Beginning July 1,
219 2019, the transfer of a state appropriation by the board of
220 trustees to any direct-support organization with a fund balance
221 of greater than \$50 million may include only funds pledged for
222 capital projects. Each Florida College System institution board
223 of trustees shall report annually to the Legislature the amount
224 of state appropriations transferred to any direct-support
225 organization during the previous fiscal year, the purpose for
226 which the funds were transferred, and the remaining balance of
227 any funds transferred.

228 (c) The board of trustees may not transfer any funds to,
229 and may not permit the use of property, facilities, or personal
230 services at any Florida College System institution by, any
231 Florida College System institution direct-support organization
232 that does not provide equal employment opportunities to all

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233 persons regardless of race, color, national origin, gender, age,
234 or religion.

235 (d) The board of trustees may not permit the use of state
236 funds for travel expenses by any Florida College System
237 institution direct-support organization.

238 (4) ACTIVITIES; RESTRICTIONS.—

239 (d) A Florida College System institution direct-support
240 organization is prohibited from giving, either directly or
241 indirectly, any gift to a political committee as defined in s.
242 106.011 for any purpose ~~other than those certified by a majority~~
243 ~~roll call vote of the governing board of the direct-support~~
244 ~~organization at a regularly scheduled meeting as being directly~~
245 ~~related to the educational mission of the Florida College System~~
246 ~~institution.~~

247 Section 5. Subsection (2) of section 1008.32, Florida
248 Statutes, is amended to read:

249 1008.32 State Board of Education oversight enforcement
250 authority.—The State Board of Education shall oversee the
251 performance of district school boards and Florida College System
252 institution boards of trustees in enforcement of all laws and
253 rules. District school boards and Florida College System
254 institution boards of trustees shall be primarily responsible
255 for compliance with law and state board rule.

256 (2) (a) The Commissioner of Education may investigate
257 allegations of noncompliance with law or state board rule and
258 determine probable cause. The commissioner shall report
259 determinations of probable cause to the State Board of Education
260 which shall require the district school board or Florida College
261 System institution board of trustees to document compliance with

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262 law or state board rule.

263 (b) The Commissioner of Education shall report to the State
264 Board of Education any findings by the Auditor General that a
265 district school board or Florida College System institution is
266 acting without statutory authority or contrary to state law. The
267 State Board of Education shall require the district school board
268 or Florida College System institution board of trustees to
269 document compliance with the law.

270 Section 6. Subsection (3) of section 1008.322, Florida
271 Statutes, is amended to read:

272 1008.322 Board of Governors oversight enforcement
273 authority.—

274 (3) (a) The Chancellor of the State University System may
275 investigate allegations of noncompliance with any law or Board
276 of Governors' rule or regulation and determine probable cause.
277 The chancellor shall report determinations of probable cause to
278 the Board of Governors, which may require the university board
279 of trustees to document compliance with the law or Board of
280 Governors' rule or regulation.

281 (b) The Chancellor of the State University System shall
282 report to the Board of Governors any findings by the Auditor
283 General that a university is acting without statutory authority
284 or contrary to state law. The Board of Governors shall require
285 the university board of trustees to document compliance with the
286 law.

287 Section 7. Section 1011.45, Florida Statutes, is amended to
288 read:

289 1011.45 End of year balance of funds.—Unexpended amounts in
290 any fund in a university current year operating budget shall be

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291 carried forward and included as the balance forward for that
292 fund in the approved operating budget for the following year,
293 subject to Legislative approval.

294 Section 8. Section 1013.40, Florida Statutes, is amended to
295 read:

296 1013.40 Planning and construction of Florida College System
297 institution facilities; property acquisition.—

298 (1) The need for Florida College System institution
299 facilities shall be established by a survey conducted pursuant
300 to this chapter. The facilities recommended by such survey must
301 be approved by the State Board of Education, and the projects
302 must be constructed according to the provisions of this chapter
303 and State Board of Education rules.

304 (2) A ~~No~~ Florida College System institution ~~may expend~~
305 ~~public funds for the acquisition of additional property without~~
306 ~~the specific approval of the Legislature.~~

307 (3) ~~No facility may be acquired or constructed by a Florida~~
308 ~~College System institution or its direct-support organization~~
309 may not construct, accept, or purchase property or facilities if
310 such facility requires general revenue funds will be required
311 for operation or maintenance upon project completion or in
312 subsequent years of operation, unless prior approval is granted
313 by ~~received from~~ the Legislature, based upon a determination
314 that sufficient operation and maintenance funds are available
315 for the useful life of the facility.

316 Section 9. Section 1013.78, Florida Statutes, is amended to
317 read:

318 1013.78 Approval required for certain university-related
319 facility acquisitions.—

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320 (1) ~~A No~~ university or university direct-support
321 organization may not shall construct, accept, or purchase
322 property or facilities if general revenue for which the state
323 will be asked for operating funds will be required for operation
324 or maintenance upon project completion or in subsequent years of
325 operation, unless there has been prior approval is for
326 construction or acquisition granted by the Legislature, based
327 upon a determination that sufficient operation and maintenance
328 funds are available for the useful life of the facility.

329 (2) Legislative approval shall not be required for
330 renovations, remodeling, replacement of existing facilities, or
331 construction of minor projects as defined in s. 1013.64, except
332 to the extent required pursuant to s. 1010.62.

333 Section 10. For the purpose of incorporating the amendment
334 made by this act to section 1004.70, Florida Statutes, in a
335 reference thereto, section 1010.09, Florida Statutes, is
336 reenacted to read:

337 1010.09 Direct-support organizations.—

338 (1) School district and Florida College System institution
339 direct-support organizations shall be organized and conducted
340 under the provisions of ss. 1001.453 and 1004.70 and rules of
341 the State Board of Education, as applicable.

342 (2) State university direct-support organizations shall be
343 organized and conducted under the provisions of s. 1004.28 and
344 rules of the Board of Governors, as applicable.

345 Section 11. For the purpose of incorporating the amendment
346 made by this act to section 1013.78, Florida Statutes, in a
347 reference thereto, subsection (3) of section 1001.73, Florida
348 Statutes, is reenacted to read:

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349 1001.73 University board empowered to act as trustee.-

350 (3) Nothing herein shall be construed to authorize a
351 university board of trustees to contract a debt on behalf of, or
352 in any way to obligate, the state; and the satisfaction of any
353 debt or obligation incurred by the university board as trustee
354 under the provisions of this section shall be exclusively from
355 the trust property, mortgaged or encumbered; and nothing herein
356 shall in any manner affect or relate to the provisions of s.
357 1013.78; and any mortgage, lease, or other agreement entered
358 into pursuant to this section is subject to the provisions of s.
359 1010.62.

360 Section 12. For the purpose of incorporating the amendment
361 made by this act to section 1004.03, Florida Statutes, in a
362 reference thereto, subsection (6) of section 1001.64, Florida
363 Statutes, is reenacted to read:

364 1001.64 Florida College System institution boards of
365 trustees; powers and duties.-

366 (6) Each board of trustees has responsibility for the
367 establishment and discontinuance of program and course offerings
368 in accordance with law and rule; provision for instructional and
369 noninstructional community services, location of classes, and
370 services provided; and dissemination of information concerning
371 such programs and services. New programs must be approved
372 pursuant to s. 1004.03.

373 Section 13. This act shall take effect July 1, 2019.